**Independent Regulators’ Group – Rail
IRG–Rail
Subgroup Charges for Service Facilities**

**An overview of**

**Charging practices for access to service facilities and rail-related services in the IRG-Rail member states**

**27 November 2017**

Introductory remarks

This overview document covers the following countries who are members of IRG-Rail: **Austria, Belgium, Bulgaria, Croatia, Finland, France, Germany, Greece, Hungary, Italy, Norway, Poland, Portugal, Romania, Slovenia, Spain, Sweden and the United Kingdom**. The IRG-Rail working subgroup “Charges for service facilities” created this document to provide an overview of charging practices for passenger stations, intermodal freight terminals, marshalling yards with gravity hills, maintenance facilities and refueling facilities by regulatory bodies. The working subgroup would like to highlight that charging practices are prone to change among the members of IRG-Rail. Further work is needed to get a better understanding of the topic and to develop common approach for charging of service facilities.

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1. **Introduction**
2. **Main purpose and structure of the paper**

This paper provides an overview of the charging practices for access to services supplied in some of the service facilities within the IRG-Rail members’ states. In 2016 the subgroup created a questionnaire to capture the charging practices of the operators of service facilities among the IRG-Rail members’ railway networks. Eighteen members replied to this questionnaire and this paper aims at comparing and analysing their responses. The members completed the questionnaire in 2016 and updated their answers in 2017.

After this introduction, the second section (II) of this paper covers the general questions in the questionnaire on accounting separation obligations and the powers of regulatory bodies in this respect. The purpose is to find out how many countries have transposed the provision of Article 13 of Directive 2012/34/EU (the Recast) into their national law. Furthermore, the second section of this paper analyses the different powers of regulatory bodies in relation to the regulation of charges for service facilities.

The third section (III) is the core of the paper and provides a summary of the answers related to charges for access to services supplied by category of service facility. We use the same definitions for service facilities as agreed in the IRG-Rail market monitoring group, as follows: passenger stations, intermodal freight terminals, marshalling yards with gravity hills, maintenance facilities and refuelling facilities. These service facilities were selected because they are the most common service facilities within the IRG-Rail members and the regulatory bodies have the most experience in regulating them. The aim of using the same definitions as the market monitoring group is to facilitate comparison across IRG-Rail members with regard to the assessed data. The definitions used in this paper are not legal definitions and therefore have no legal perspective whatsoever.

The following table contains the definitions of the investigated service facilities as presented in Annex I of the IRG-Rail market monitoring report for the year 2015:

|  |  |
| --- | --- |
| Passenger stations | Facilities where passengers can embark and disembark a passenger train. Stations not in use are excluded. |
| Intermodal freight terminals  | Facilities in rail freight transport which are specifically built for intermodal transport (container, swap bodies, semitrailer).  |
| Marshalling yards with gravity hills  | Facilities for the formation, sorting, rearranging, solving and treatment of trains and which use gravity as a means of formation or rearrangement of trains.  |
| Maintenance facilities | Facilities where rolling stock is maintained. Maintenance is the set of activities designed to keep rolling stock in operation. This includes both, heavy and light maintenance. |
| Refuelling facilities | Station for refuelling for locomotives and multiple units |

Table 1: Definitions of service facilities from the market monitoring report for the year 2015

As some service facilities are either not present or not regulated in certain countries, all members have not been able to answer all questions.

Finally, the Annex to this paper provides additional information for each participating IRG-Rail member and lists the decisions of the IRG-Rail members in the last three years (2015-2017) on charges for access to service facilities and supply of rail-related services.

1. **Background**

The Recast provides the basis for access to and charging for services supplied in service facilities, referred to in point 2 of Annex II. Several areas of the Recast are very important for setting the legal basis for charges in service facilities:

* Annex II No. 2 enumerates a list of service facilities and sets the framework for regulation.
* Article 13 sets the obligations, operators of service facilities have to fulfil regarding access, independence and accounting separation.
* Article 31 paragraph 7 provides the charging principle for service facilities: *“The charge imposed for track access within service facilities referred to in point 2 of Annex II, and the supply of services in such facilities, shall not exceed the cost of providing it, plus a reasonable profit.”*

According to Article 64 of the Directive 2012/34/EU, member states were supposed to finalise the transposition of this legal basis for charges in service facilities into their national laws, regulations and administrative provisions by 16th June 2015.

In this context it is important to mention the regulation of Article 13 (3) and the Annex VIII of the Directive 2012/34/EU. Article 13 (3) foresees the obligation when the operator is under direct or indirect control of a body or firm which is also active and holds a dominant position in national railway transport services markets for which the facility is used, to organize itself in such a way that it is independent of this body or firm in organizational and decision-making terms as a mean to guarantee full transparency and non-discrimination of access to the service facilities. The second paragraph of Article 13 (3) stipulates for all service facilities that the operator and the body or firm shall have separate accounts for all service facilities referred to in point 2 of Annex II. The Annex VIII regulates accounting separation information that the regulator is entitled to receive upon request. Finally, based on the mandate in Art 13 (9) of the Directive 2012/34/EU, the European Commission has finalized the implementing act on Access to Service Facilities and Rail-related Services.

In September 2017 the Implementing Regulation on Access to Service Facilities proposed by the EU Commission got a positive vote in SERAC and is expected to be published by the end of 2017. In Article 2 the implementing act includes provisions for circumstances when operators of service facilities can request to be exempted from the application of all, or some, of the provisions of the regulation. For example service facilities without strategic importance may ask for exemption from duties described in the Implementing Regulation. However, the exemptions do not include information on charges for access to service facilities and charges for rail-related services supplied therein. Following, all service facility operators have to publish information on charges.

1. **General questions and role of the regulatory body**
2. **General questions**

The Recast was transposed into national laws in all member states. However, although Norway implemented the Recast into national law on 1 January 2017, it has not yet transposed any of the implementing acts from the Recast. This is because the Recast is yet to be implemented into the EEA Agreement.

In most of the countries that responded to the questionnaire, the charges for service facilities are published on the website of the service facility operator or in the network statement of the infrastructure manager. In Belgium however, the service facility operator publishes the station charges only on its website. In Italy, the network statement of the infrastructure manager contains the charges for service facilities that belong to the infrastructure manager. In the Netherlands only the infrastructure manager and incumbent Nederlandse Spoorwegen (NS) publish the charges of the service facilities and in Romania the infrastructure manager publishes on its website only the charges of the most relevant service facilities it manages (e.g. certain intermodal freight terminals) and provides a link to the website in the network statement. Public information on charges of service facilities is scarce in Portugal. In Greece, the charges for service facilities are not published at all.

The table below presents the current situation concerning the accounting separation requirements for service facilities by the IRG-Rail members. This table compares how IRG-Rail members have transposed and applied the provisions of Article 13 (3) of the Recast. The table presents the answers to the question of whether service facilities referred to in Annex II point 2 of the Directive 2012/34/EU are under the obligation of implementing accounting separation (column 1), whether there is a requirement when the service facility is managed by a dominant railway undertaking or by an infrastructure manager (column 2), whether the requirement applies for each service supplied in a service facility referred to in Annex II (column 3) and, finally, whether there exists an obligation of implementing a regulatory accounting (column 4). For the understanding of the following paragraphs, regulatory accounting means a separate accounting system or a special set of accounting rules.

|  |
| --- |
| Questions on Accounting Separation |
|  | Accounting separation required for all service facilities referred to in point 2 in Annex II | Accounting separation required, if service facility is operated or managed by dominant RU or an IM? | Accounting separation required when the service facility operator offers more than one service? | Regulatory accounting obligatory |
| Austria | ✓[[1]](#footnote-2) | ✓ | **×** | **×** |
| Belgium | ✓ | ✓ | ✓ | **×** |
| Bulgaria | ✓ | ✓ | ✓ | ✓ |
| Croatia | ✓ | ✓ | ✓ | ✓ |
| Finland | ✓ | **×** | ✓, except if belongs to IM | ✓ |
| France | ✓ | ✓, for RU (dominant or not) and SNCF Réseau | **×** | **×** |
| Germany | ✓ | ✓ | **×** | ✓ exemptions possible |
| Greece | **×** | **×** | ✓ | **×** |
| Italy | ✓[[2]](#footnote-3) | ✓, if dominant RU | ✓, under some conditions (see footnote 2 and text) | ✓, under some conditions (see footnote 2 and text) |
| Netherlands | **×**[[3]](#footnote-4) | ✓, if dominant RU | **×** | **×** |
| Norway | **×** | ✓, if dominant RU | **×** | **×** |
| Poland | **×** | ✓ | **×** | **×** |
| Portugal | **×** | ✓ | **×** | **×**[[4]](#footnote-5) |
| Romania | ✓ | ✓ | ✓, if dominant RU | ✓, if dominant RU |
| Slovenia | ✓ | ✓ | ✓ | ✓ |
| Spain | **×** | ✓, if dominant RU | ✓, if dominant RU | ✓ |
| Sweden | ✓, if dominant RU | ✓, for Annex II p. 2 services if dominant RU | ✓, for Annex II p. 2 services if dominant RU | ✓ |
| UK | ✓ | ✓ | ✓ | ✓ |

Table 2: Answers on accounting separation

Please note that the questionnaire makes no difference between an accounting separation requirement and the requirement of producing separate accounts. Article 6 of the Recast provides that Member states shall ensure the separation of accounts between transport service businesses and the operation of railway infrastructure and between freight and passenger services. Concerning service facilities, Article 13 (3) of the Recast states that an operator of a service facility referred to in Annex II point 2 and the body or firm controlling it shall have separate accounts, including separate balance sheets and profit and loss accounts. In Austria and Sweden for instance, this obligation only applies in the case where the body or the firm holds a dominant position in national railway transport services markets for which the facility is used whereas in French legislation, all service facilities under the control of a railway undertaking shall have separate accounts. This difference of interpretation of Article 13 (3) shows the heterogeneity of situations across IRG-Rail members in the way account separation is achieved. Besides some IRG-Rail members consider that those two provisions – on accounting separation and on the production of separate accounts – correspond to two different levels of duties for the operators. Such differences, if they exist, are not reflected in the questionnaire and therefore are not discussed in this paper.

In many countries an accounting separation is required when an operator of a service facility offers more than one service. In France, the accounting separation is mandatory when the operator of a service facility is included in an organisation operating rail services (freight and/or passenger) or in SNCF Réseau – the infrastructure manager. In Italy, it depends on the concerned service and the type of service provider; accounting separation is required if, for example: the concerned service is access to passenger stations; if the service provider is a body or firm which is also active and holds a dominant position in national railway transport services market for which the facility is used; or the service provider has significant market power[[5]](#footnote-6). In Spain and Sweden separate accounts are only necessary if the service facility operator is directly or indirectly owned by a dominant railway undertaking – and in Sweden this only applies to Annex II point 2 services. In the UK, Article 13 (3) has been fully transposed into domestic legislation. The regulatory body has powers to request any relevant party to provide accounting information to allow it carrying out audits to verify compliance with accounting separation provisions.

Further questions in the questionnaire deal with accounting separation if the service facility operator is owned by a dominant railway undertaking or an infrastructure manager. In the Recast there is no definition of “dominant railway undertaking”.

Furthermore, an accounting separation for service facility operator is requested in some countries, if the service facility operator is owned by an infrastructure manager. This is foreseen in about half of the IRG-Rail members (eleven countries[[6]](#footnote-7)). This is the case for example in Belgium or Bulgaria. In ten countries there is an obligation for a regulatory accounting system[[7]](#footnote-8). However, half of the countries do not have a regulatory accounting system.

1. **Powers of the regulatory body**

The charging principles as well as the powers of the regulatory bodies vary among the IRG-Rail members. All regulatory bodies have the authority to investigate the charging principles for service facilities, but make use of this authority very differently. The following table deals with two main issues regarding the process of setting charges. The first column refers to any consultation between at least the service facility operator and the applicants. The following columns relate to the powers of regulatory bodies in relation to charges for access to service facilities and rail-related services. In order to reflect the very different situations among IRG-Rail members, the table below distinguishes between a non-binding ex-ante advice, a legally-binding ex-ante opinion[[8]](#footnote-9) and a legally-binding ex-post decision. Ex-post decisions provided on applied charges could arise from ex-officio procedure or from handling of a complaint lodged by applicants.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Consultation process in setting charges for service facilities | Regulatory body involved in consultation  | Does regulatory body provide  | Legal basis for adviceon charges or principles |
| Ex-ante advice (non binding) | Ex-ante opinion (binding) | Ex-post decision |
| Austria | **×** | N/A | **×** | ✓[[9]](#footnote-10) | ✓ |  |
| Belgium | **×** | N/A | **×** | **×** |
| Bulgaria | ✓ | ✓ | ✓ | ✓ | ✓ | Article 7, paragraph 1, point 11 from the Railway Transport Act |
| Croatia | **×** | N/A | ✓ | **×** | **×** |  |
| Finland | **×** | N/A | ✓ | ✓[[10]](#footnote-11) | ✓ | General legislation applied to authorities |
| France | ✓ | **×** | **×** | ✓ | ✓ | Railway reform law, Art. 2133-5 of the Transport Code. |
| Germany | **×** | N/A | **×** | ✓ | ✓ | §§ 72(5), 73 (1-3); 66 (4); § 68(3) and § 67(1)ERegG[[11]](#footnote-12) |
| Greece | **×** | N/A | **×** |  |
| Italy | ✓**,** if the SF is operated by the IM | **×** | **×** | ✓[[12]](#footnote-13) | ✓[[13]](#footnote-14) | Measure 41, ART Dec 96/2015 |
| Netherlands | **×** | N/A | **×** | ✓ | ✓ |  |
| Norway | ✓ | **×** | ✓[[14]](#footnote-15) | **×** | ✓ |  |
| Poland | **×** | **×** | **×** | **×** | ✓ | N/A |
| Portugal | **×** | N/A | **×** | **×** | ✓ | Art. 56 of decree-law 217/2015 |
| Romania | ✓ | **×** | **×** | **×** | ✓ | National law 2012/2016 |
| Slovenia | ✓ | **×** | **×** |  |
| Spain | ✓[[15]](#footnote-16) | ✓[[16]](#footnote-17) | ✓ | **×** | ✓ | Art. 100 38/2015 Law[[17]](#footnote-18) |
| Sweden | ✓[[18]](#footnote-19) | **×** | **×** | **×** | ✓ | Railway Act (2004:519), chapter 8 |
| UK | ✓ | ✓ | **×** | ✓[[19]](#footnote-20) | ✓ | Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016.Art 14 |

Table 3**:** Questions on Consultation and binding advices

In nine countries a consultation for charges for service facilities is conducted. In France for example the charges, that are directly published in the network statement (mainly charges for service facilities owned by SNCF Réseau), are discussed during the consultation on the network statement. SNCF Gares & Connexions (buildings) and SNCF Réseau (platforms) could conduct a specific consultation on the passenger station statement. In Sweden the infrastructure manager charges (mainly track access in service facilities) are part of the consultation process for the network statement. For services facilities and operative services supplied by competitive service providers in open markets (e.g. maintenance and fuel) charges in Sweden are the result of supply and demand. A cost share model for services in passenger stations was developed in 2005/2006 in co-operation between the service provider and railway undertakings. In Spain there is a legal obligation for consultation for those charges for access to service facilities mentioned in Article 98 of the Railway Act, but the detailed principles, especially regarding the deadlines relevant for the consultation, remain to be developed. In Poland the regulatory body is not aware of any consultation, but it is possible that the infrastructure manager conducts consultation with railway undertakings.

Consultation on charges for service facilities has become an important part in setting the charges and only in Spain, the regulatory body is actively involved in the consultation process for those charges for access to service facilities mentioned in Article 98 of the Railway Act. In Spain the regulatory body has to monitor the consultation process avoiding practices against regulatory framework[[20]](#footnote-21). In the UK, the regulatory body is only active in setting and consulting on charges for stations.

In eight countries, like Austria, Finland, France, Germany or the Netherlands, the regulatory body can give ex-ante binding advice. In the UK, the regulatory body provides binding opinion for a subset of passenger stations and light maintenance depot charges. At stations where the infrastructure manager is responsible for maintenance, repair and renewal (which include both those managed by railway undertakings and those directly managed by the infrastructure manager) the long term charge is regulated and set by the regulatory body for each control period. At stations where the infrastructure manager is not responsible for maintenance, repair and renewal and there is a long term charge, the regulatory body regulates the charge through its approval of the Station Access Agreement. The UK regulatory body regulates light maintenance depot charges through its approval of Depot Access Agreement between the depot facility owners and those parties interested in using the service facility. If the Dutch regulator, ACM, notes that the charges are not cost oriented, he can reject the proposal put forward by the service facility operator and advise on how to change the charging. When necessary this advice can be given in the form of binding opinion. Finally, in France, the regulatory body shall give a binding opinion on charges submitted by the service facility operator for the period they choose. National legislation foresees that service facility operators shall publish charges that have been approved by the regulatory body at least three months before the beginning of the working timetable. In Italy the regulatory body can give ex-ante binding opinion for services provided by the infrastructure manager. For the other service facility, ex-ante opinion is not required.

In five countries, e.g. Poland, Romania, Portugal, Italy and Sweden, the regulatory body can provide ex-post decisions only. In Italy the regulatory body can give ex-post decision for services provided by the infrastructure manager. For the other service facility operators, an ex-post decision by the regulatory body is not required. In Croatia, the regulatory body can only give a non-binding advice. In Belgium, Greece and Slovenia, regulatory bodies do not give opinion and decision at all.

1. **Computation of charges in IRG-Rail member countries**
2. **Presenting the results of the questionnaire**

The majority of IRG-Rail members are using the same charging principles for service facilities and rail-related services based on Article 31 (7) of the Recast. Only in four countries, Germany, France, The Netherlands and Slovenia, different charging principles for different service facilities are used. The law of some IRG-Rail members requires that different charging principles be applied.

This is the case for example in Germany for passenger stations, where different charging principles are applied based on the specific nature of the station. For instance, passenger stations for public service (PSO) contracts in Germany are handled differently when the state-owned infrastructure manager owns the stations. In this case charges are supposed to increase at the same rate as the funding provided for the PSOs through the federal regionalization funds. Additionally, special rules to prevent discrimination and ensure appropriate prices and transparency (§ 63 Abs.2 ERegG) apply for maintenance facilities. In France, the use of different charging principles is only partly foreseen by law. The decree 2012-70 lists exhaustively the services supplied that are regulated and for which the provisions of Article 31 (7), transposed in the same decree, apply.

The application of charging principles in Italy depends on various elements, such as the extent of market power of the service facility operator[[21]](#footnote-22); the applicable regulation is set by ART in its decision n° 96/2015 as described above. A service facility operator, characterized by a significant market power, has to comply with some obligations on (i) the length of the regulatory period (5 years); (ii) the estimation of a reasonable profit (for the first regulatory period, the reference is the WACC); (iii) the regulatory accountability.

Even though most countries apply the same charging principles for all service facilities, this overview focuses on the following service facilities:

1. Passenger stations
2. Intermodal freight terminals
3. Marshalling yards with gravity hills
4. Maintenance facilities
5. Refuelling facilities

The following table shows how many countries provided answers for each type of service facility. It shows that most countries regulate passenger stations, but few countries consider regulating refuelling facilities yet:

|  |  |
| --- | --- |
| Type of Service facility | No of Answers |
| Passenger stations | 18 |
| Intermodal freight terminals | 14 |
| Marshalling yards with gravity hills | 15 |
| Maintenance facilities | 16 |
| Refuelling facilities | 14 |

Table 4: Answers from the countries for the different service facilities

Within the determination of charges of service facilities operational (OPEX) and capital expenditures (CAPEX) are the core cost categories to be considered. These cost categories form the basis for the assessment of the charges in each service facility. For the purpose of following developments on charges for service facilities, operational expenditures are understood in national regulation as all operating costs in Austria, Croatia, France, Germany, Italy, Netherlands and Spain and cover all on-going expenditures. While there is a common understanding and use of OPEX, capital expenditures are understood quite differently: Amortization, depreciation and cost of capital are part of the CAPEX in most IRG-Rail members. In one country insurance is also included in the CAPEX. Amortization is understood as paying off debts or spreading an intangible asset's cost over that asset's useful life. It is similar to depreciation. Depreciation refers to a reduction in the value of a tangible asset over time, due in particular to wear and tear over time. On the question of reasonable profit, some member states are using a weighted average cost of capital (WACC) approach, e.g. France[[22]](#footnote-23), Italy and Austria[[23]](#footnote-24). Germany includes a reasonable profit on equity and determines cost of debt separately. Some countries do not include a method for determining reasonable profit in their regulation yet or are intending to implement such a method. Finally, for parts of or all service facilities, an efficiency target is used for determining the costs in a number of member states as for instance in Bulgaria.

Twelve countries answered that the service facility sector receives subsidies. In the majority of the countries the service facility operator for passenger stations receives subsidies. In some countries intermodal freight terminals (France), maintenance facilities (France) or marshalling yards (Austria) receive public subsidies. The subsidies are taken into account when computing the charges. In the case of investment subsidies, they lower the level of capital used in the computation of charges which leads to a reduction of charges. In some countries, the subsidies cover the costs that are not recovered by charges.

In principle no country uses indexation to determine charges. However there is a contractual requirement for indexation in the UK for station charges. For instance, the station long-term charge (which enables the infrastructure manager to recover the efficient maintenance, renewal and repair expenditure associated with stations) is fixed for the control period. It is levied on a constant annual basis and indexed, annually, to the Retail Prices Index. The German law on PSO contracts sets a price cap for station prices by 1.8 % p.a. In reality the increase can be higher (~ 3% in 2018) due to the possibility to include costs from contracts with other regional authorities. In a number of countries, the service facility operator determines the evolution of its charges. In Austria, for example, it is common for service facility operators to inflate the charges by around 2 % p.a. In the Netherlands the service facility operators may index their charges, provided that the charges do not exceed the cost of the service increased by a reasonable profit. Finally, in France, the decree describing charging principle applied to station services imposes to the operator of stations to take into account productivity for the computation of its charges.

* 1. **Passenger stations**

The questions about passenger station charges have been answered by 18 IRG-Rail members. In the majority of member states all the stations are owned and managed by the infrastructure manager, referring in most cases to the incumbent and former state owned enterprise. Only in Belgium and France the train stations are operated by the incumbent railway undertaking. In Sweden the infrastructure manager manages tracks and platforms in stations, while a separate (not infrastructure manager /railway undertaking) state-owned non-profit company manages all major stations and the rail-related services supplied in those buildings.

In Germany there are numerous privately owned station managers. However DB Station & Services AG operates most stations. DB Station & Services AG, a state owned but privately managed firm, is an independently operating service facility operator. Like the infrastructure manager DB Netz AG, DB Station & Services AG is part of Deutsche Bahn holding. Both enterprises are successors of the former incumbent Deutsche Bundesbahn.

The following table shows the operator of the passenger stations in the different IRG-Rail members categorised as: Infrastructure Manager (IM), Railway undertaking (RU) incumbent, a service facility operator (SFO) controlled by the incumbent and “Others”.

|  |  |
| --- | --- |
|  | Passenger station operator |
|  | IM | RU incumbent | SFO controlled by the incumbent) | Others |
| Austria | ✓ | **×** | **×** | **×** |
| Belgium | **×** | ✓ | **×** | **×** |
| Bulgaria | ✓ | **×** | **×** | **×** |
| Croatia | ✓ | **×** | **×** | **×** |
| Finland | ✓ | ✓ | **×** | ✓ |
| France | ✓ | ✓ | **×** | **×** |
| Germany | ✓ | **×** | ✓ | ✓ |
| Greece | ✓ | **×** | **×** | ✓ |
| Italy | ✓ | **×** | ✓[[24]](#footnote-25) | ✓ |
| Netherlands | ✓ | ✓ | **×** | **×** |
| Norway | ✓ | **×** | **×** | **×** |
| Poland | ✓ | **×** | **×** | ✓ |
| Portugal | ✓ | **×** | **×** | ✓ |
| Romania | ✓ | **×** | **×** | **×** |
| Slovenia | ✓ | **×** | **×** | **×** |
| Spain | ✓ | ✓[[25]](#footnote-26) | **×** | **×** |
| Sweden | ✓ | **×** | **×** | ✓ |
| UK | ✓ | **×** | **×** | ✓ |

Table 5: Overview of market structure for passenger stations in the
different IRG-Rail member states

The following table shows whether the cost of access to platforms is allocated to the infrastructure according to point 1 of the Annex II or to the service facility according to point 2 of the Annex II.

|  |
| --- |
| Platforms and tracks allocation to infrastructure or service facility |
|  | Infrastructure | Service facility |
| Austria[[26]](#footnote-27) |  | X |
| Belgium | X |  |
| Bulgaria | X |  |
| Croatia | X |  |
| Finland | X |  |
| France |  | X[[27]](#footnote-28) |
| Germany[[28]](#footnote-29) | X | X |
| Greece |  | X |
| Italy | X |  |
| Netherlands | X |  |
| Norway | X |  |
| Poland | X |  |
| Slovenia | X |  |
| Portugal | X |  |
| Romania | X |  |
| Spain |  | X |
| Sweden | X |  |
| UK | X |  |

Table 6: Overview per country of the allocation of costs for platforms in passenger station

In most IRG-Rail members, like the UK, Belgium, Finland, Poland and Sweden, the cost for access to platforms is included in point 1 of the Annex II (minimum access package). In contrast, in Austria, France, Germany, Greece and Spain, the platforms are considered, for the access requirements and the charging principles, to be relative to point 2 of the Annex II (service facility).

On the question of what does “cost of providing a service” mean in the majority of the IRG‑Rail member states, like in Belgium, Finland, Greece, Norway, Sweden and the Netherlands, there is no legal definition of this concept in their national law. In Austria and Germany there is no legal definition of this term, but it is understood by regulatory bodies as referring to operational expenditures (OPEX) and capital expenditures (CAPEX). For France, decree n°2003-194 foresees that charges for passenger stations (and the platforms) should be fixed in order to cover operating and maintenance costs, amortization and depreciation costs[[29]](#footnote-30) and the cost of capital. In Croatia this means that all costs for which a link with the service provided are included. In Italy it is understood by the regulatory body as fully distributed costs[[30]](#footnote-31).

In France, Italy and Germany amortization, deprecation and the cost of capital are included in the CAPEX, while in Austria only depreciation and cost of capital are included. In Croatia no capital costs are included. In the Netherlands CAPEX also includes insurance costs.

In France, the UK and Italy, the operational expenditure taken into account for the computation of charges includes an efficiency target[[31]](#footnote-32). In France, this efficiency target is determined by the passenger station operator SNCF Gares & Connexions (for the buildings) and SNCF Réseau (for the platforms).

* 1. **Intermodal freight terminals**

14 countries answered questions relating to freight terminals. In five countries, the ownership and management of the facility are split between the infrastructure manager and other operators. In five countries the incumbent operator owns and operates all the intermodal freight terminals. The market structure differs widely among IRG-Rail members. While in some countries, like the Netherlands and Sweden, there is a competitive market, there are other member states where a duopoly exists, like in Croatia.

The following table shows the characteristics of the operators of intermodal freight terminals across IRG-Rail members. It highlights that, in most cases, intermodal freight terminals are neither operated by an infrastructure manager nor by the incumbent operator.

|  |
| --- |
| Intermodal freight terminal operator |
|  | IM | RU incumbent | Other |
| Austria | X |  | X |
| Croatia |  | X | X |
| France |  |  | X |
| Germany | X |  | X |
| Italy | X | X | X |
| Netherlands |  |  | X |
| Norway[[32]](#footnote-33) | X | X | X |
| Poland |  |  | X |
| Portugal | X |  | X |
| Romania |  |  | X |
| Slovenia |  |  | X |
| Spain | X |  | X[[33]](#footnote-34) |
| Sweden |  |  | X |
| UK |  |  | X |

Table 7: Overview of the operator of intermodal freight terminals
in each IRG-Rail member state

The cost for providing a service for intermodal freight terminals differs among member states. In Austria, Croatia, Germany and Spain OPEX and CAPEX are used for determining the charges. Some countries, like Finland, France, the Netherlands and Sweden, have no methods for determining charges in national law. For instance, in France, Article 31 (7) is transposed without further explanations on how to evaluate the cost of providing this service except the need for the service facility operator to establish a link between the cost and the service provided. In Italy, if the service facility operator has a significant market share, a fully distributed costing is used.

* 1. **Marshalling yards with gravity hills**

The questions for charges in relation to marshalling yards were answered by 15 countries. In nine countries the infrastructure manager is the only owner of marshalling yards with gravity hills. In around half of the cases the infrastructure manager delegates the management of the facility or the supply of marshalling services to the incumbent or to other railway undertakings. Only in Germany not all marshalling yards with gravity hills are owned by the infrastructure manager.

Diagram 1: No of marshalling yards with gravity hills per country

Five countries, Spain, Italy[[34]](#footnote-35), Norway, Portugal and the UK, do not have any marshalling yards with gravity hills. In four countries (Belgium, Croatia, Slovenia and the Netherlands) there is only one marshalling yard per state. In Finland, France and Austria there are less than 10 yards. In Germany (71 yards), in Poland (30 yards) and in Sweden (13 yards) more than 10 yards exist.

In three countries, Austria, Croatia and Germany, OPEX und CAPEX are used for determining the cost of providing a service. In five countries, e.g. Finland, France, Sweden, there is no definition of methods and principles on how charges are calculated concerning marshalling yards with gravity hills. In Austria all operating costs are used as OPEX. In France, charges are determined thanks to an historical level of turnover (2012) inflated since. Croatia does not include any capital cost or reasonable profit in the determination of charges of marshalling yards with gravity hills. In the Netherlands there is no information available on further principles or methods for calculating the cost of providing services in such service facility.

* 1. **Maintenance facilities**

The questions concerning maintenance facilities were answered by 16 countries. In the majority of the countries the maintenance facilities are owned by the incumbent or another railway undertaking. In only a minority of countries the infrastructure manager is the only owner and operator of maintenance facilities. The following table shows the governance of maintenance facilities in IRG-Rail members.

|  |
| --- |
| **Operator of maintenance facilities** |
|  | IM | RU incumbent | Other |
| Austria |  | X | X |
| Belgium |  | X | X |
| Croatia |  | X | X |
| Finland |  | X | X |
| France |  | X | X[[35]](#footnote-36) |
| Germany | X | X | X |
| Italy | X | X | X |
| Netherlands |  | X | X |
| Norway | X |  | X |
| Poland | X | X | X |
| Portugal |  | X | X |
| Romania |  | X | X |
| Slovenia |  |  | X |
| Spain |  | X | X[[36]](#footnote-37) |
| Sweden[[37]](#footnote-38) |  | (X)[[38]](#footnote-39) | X |
| UK[[39]](#footnote-40) |  |  | X |

Table 8: Overview of the operator of maintenance facilities in each member state

In six countries, Austria, Belgium, Croatia, France, Finland and Spain, the market is dominated by the incumbent railway undertaking. In other countries like the Netherlands, Slovenia, Sweden and the UK there is competition in the maintenance market. In Sweden for example, maintenance services are provided in competition by dedicated maintenance companies in all service facilities.

In three countries, Austria, Croatia, and Spain, OPEX and CAPEX are used for determining the cost of providing a service. In four countries, e.g. Finland, Sweden, there is no legal definition of methods and principles on how charges are calculated concerning maintenance facilities. In Austria and Spain all operating costs are used as OPEX. In the Netherlands depreciation, insurances and housing are included. Croatia does not include any capital cost or reasonable profit in the determining of charges. In the Netherlands there is no information available on further principles or methods for calculating the cost of providing services. In France, as for all service facilities except passenger stations, the national legislation only refers to the notion of “cost of providing a service” without specifying the way charges have to be computed. SNCF Mobilités, the service facility operator of maintenance facilities, used a normative economic model to compute the charges of access to and use of the maintenance installations[[40]](#footnote-41) due to its lack of knowledge about its actual costs. The French regulatory body has rejected this type of charges computation owing to the absence of any direct link to accrued costs. SNCF Mobilités is currently working on a new methodology for the computation of its charges.

* 1. **Refuelling facilities**

The questions concerning refuelling facilities were answered by 14 countries.

|  |
| --- |
| Operator of refuelling facilities |
|  | IM | RU incumbent | Other |
| Austria |  | X | X |
| Croatia |  | X |  |
| Finland |  | X |  |
| France |  | X | X |
| Germany[[41]](#footnote-42) | X | X | X |
| Italy | X | X | X |
| Netherlands[[42]](#footnote-43) |  | X | X |
| Norway | X | X |  |
| Poland |  | X | X |
| Portugal |  | X | X |
| Romania |  | X | X |
| Spain | X |  |  |
| Sweden |  |  | X |
| UK[[43]](#footnote-44) |  |  | X |

Table 9: Operator of refuelling facilities

Concerning the market structure in refuelling facilities, there is significant competition in the market. In Germany non-incumbent railway undertakings operate about 130 facilities whereas about 180 are operated by DB Energie GmbH, part of DB holding. In many countries, like Sweden and the UK for example, no refuelling facilities are operated by the infrastructure manager. In Austria, Croatia, Norway and Spain, the market for refuelling facilities is dominated by the infrastructure manager or the incumbent railway operator. In contrast, in France half of the refuelling facilities belongs to SNCF Mobilités and half belongs to SNCF Réseau, but only one service facility operator, SNCF Combustible[[44]](#footnote-45), operates those refuelling facilities. The competition in the market may not come only from locally fixed refuelling facilities, but may also come from “on-demand tank trucks”, as they are available in Norway, France or Sweden.

Again, for Austria, Croatia, Spain, and Germany the term “cost of providing a service” corresponds to OPEX and CAPEX. In Finland, France, the Netherlands and Sweden there is no definition in national law. In Italy, a full distributed costing is applied, when the service facility operator holds a significant market share.

Austria, France, Italy and Spain use all operating and capital costs for determining the charges, while Croatia only uses OPEX. For the Netherlands and there is no information available on further principles or methods for calculating the cost of providing services.

1. **Conclusion**

The provisions of the Recast concerning service facilities have been transposed into national law in all countries that answered the questionnaire. Regarding the role of regulatory bodies in influencing or setting the charges or taking part in the consultation process there are significant differences among the different countries. The regulation on accounting separation and regulatory accounting differs significantly among the participating IRG-Rail members.

When regulating the charges for service facilities, some countries require consultation, whilst in other countries there is no obligation to do so. Some regulators give a binding opinion or a decision ex-ante, whilst others take ex-post decisions.

Most member states are using the same charging principles for access to service facilities and rail-related services. Nevertheless there are some differences in charging principles for different service facilities in different countries. The “cost of providing a service” is not defined in the law in many countries, while others understand it as OPEX and CAPEX. While OPEX and CAPEX are a generally accepted concept in economics and regulation, the costs that are allocated to OPEX and CAPEX differ among the IRG-Rail members.

The analysis of the questionnaire’s findings gives an overview on the variety of approaches with IRG-Rail members, but highlights that there does not appear to be a best practice approach at this stage as each country seems to adopt the approach that is more suitable to their own situation. Further work is therefore needed to get a better understanding of the topic and to develop good practices for charging of service facilities.

1. **Annex: Additional information on charging for service facilities from IRG-Rail members**

This Annex shows the number of service facilities per country. For most countries, the numbers reflect the information obtained for the IRG-Rail market monitoring survey for the year 2015. The data was collected but was not published in the IRG-Rail market monitoring report for 2015. The Annex also lists key decisions on charges for Service Facilities per member state from 2015 to 2017.

# **Austria**

|  |
| --- |
| Service facilities in Austria in 2015 |
|  | Incumbent RUand related companies | IM not related to incumbent RU | Other RUnot related toincumbent RU | Non- RUnot related toincumbent RU |
| Passenger stations | 1.095 | 88 | 236 | 0 |
| Intermodal freight terminals | 8 | 1 | 0 | 9 |
| Marshalling yards with gravity hills | 8 | 0 | 0 | 0 |
| Maintenance facilities | 21 | 3 | 15 | 0 |
| Refuelling facilities | 30 | 0 | 12 | 0 |

Table 10: No of service facilities in Austria according to the market monitoring survey of IRG-Rail 2016

The Austrian rail regulatory body has taken two decisions in regulating charges for service facilities in the years 2015 to 2017. The decisions are available on the homepage of Schienen-Control ([http://www.schienencontrol.gv.at/de/veröffentlichungen.html](http://www.schienencontrol.gv.at/de/ver%C3%B6ffentlichungen.html)) in German only:

* Deregulation of the traction power market in 2016: Until 2015 the market for traction current was a monopoly and the railway undertakings had to buy their energy from OEBB-Infrastruktur AG. This changed in the year 2016, and now the railway undertakings purchase their energy from other energy suppliers. However they have to pay for the use of the 16,7 Hz electric network of OEBB-Infrastruktur AG. The regulation of this network falls in Austria under the competence of the rail regulatory body and the use of the 16,7 Hz electric network is seen a service facility. Schienen-Control investigated the charges and did not accept all costs allocated to the energy network. After the investigation the IM had to lower the charges for the use of the electric network.
* Promotion: If a railway undertaking wants to hand out leaflets, it has to pay a rent so that the promotion staff can use the station. The charges were set by the IM and did not reflect cost of the station properly. After an investigation a part of the charges was declared null and void and other parts of the charges were lowered.

# **Belgium**

|  |
| --- |
| Service facilities in Belgium in 2015 |
|  | Incumbent RUand related companies | IM not related to incumbent RU | Other RUnot related toincumbent RU | Non- RUnot related toincumbent RU |
| Passenger stations | 543 | 0 | 0 | 0 |
| Intermodal freight terminals | N/A | N/A | N/A | N/A |
| Marshalling yards with gravity hills | 1 | 0 | 0 | 0 |
| Maintenance facilities | 13 | N/A | N/A | 3 |
| Refuelling facilities | 0 | 0 | 2 | 0 |

Table 11: No of service facilities in Belgium according to the market monitoring survey of IRG-Rail 2016

# **Bulgaria**

|  |
| --- |
| Service facilities in Bulgaria in 2015 |
|  | Incumbent RUand related companies | IM not related to incumbent RU | Other RUnot related toincumbent RU | Non- RUnot related toincumbent RU |
| Passenger stations | 0 | 299  | 0 | 0 |
| Intermodal freight terminals | N/A | N/A | N/A | N/A |
| Marshalling yards with gravity hills |  N/A |  4 | N/A | N/A |
| Maintenance facilities | N/A | N/A | N/A | N/A |
| Refuelling facilities | N/A | N/A | N/A | N/A |

Table 12: No of service facilities in Bulgaria according to the market monitoring survey of IRG-Rail 2016

# **Croatia**

|  |
| --- |
| Service facilities in Croatia in 2015 |
|  | Incumbent RUand related companies | IM not related to incumbent RU | Other RUnot related toincumbent RU | Non- RUnot related toincumbent RU |
| Passenger stations | 0 | 504 | 0 | 0 |
| Intermodal freight terminals | 1 | 0 | 0 | 4 |
| Marshalling yards with gravity hills | 0 | 1 | 0 | 0 |
| Maintenance facilities | 5 | 0 | 0 | 2 |
| Refuelling facilities | 20 | 0 | 0 | 0 |

Table 13: No of service facilities in Croatia according to the market monitoring survey of IRG-Rail 2016

# **Finland**

|  |
| --- |
| Service facilities in Finland in 2015 |
|  | Incumbent RUand related companies | IM not related to incumbent RU | Other RUnot related toincumbent RU | Non- RUnot related toincumbent RU |
| Passenger stations | N/A | 201 | N/A | N/A |
| Intermodal freight terminals | N/A | N/A | N/A | N/A |
| Marshalling yards with gravity hills | N/A | 2 | N/A | N/A |
| Maintenance facilities | 17 | N/A | N/A | 1 |
| Refuelling facilities | N/A | N/A | N/A | N/A |

Table 14: No of service facilities in Finland according to the market monitoring survey of IRG-Rail 2016

# **France**

|  |
| --- |
| Service facilities in France in 2015 |
|  | Incumbent RUand related companies | IM not related to incumbent RU | Other RUnot related toincumbent RU | Non- RUnot related toincumbent RU |
| Passenger stations | 2.957 (buildings) | 2.957 (with several platforms each) | 0 | 0 |
| Intermodal freight terminals | 0 | 0 | N/A | 0 |
| Marshalling yards with gravity hills | 5 | 0 | 0 | 0 |
| Maintenance facilities | 101 | 0 | 0 | 0 |
| Refuelling facilities | 75 | 0 | 0 | 0 |

Table 15: No of service facilities in France according to the market monitoring survey of IRG-Rail 2016

Since the 1st January 2015, ARAFER has to provide a binding opinion for each service facility referred to in Annex II points 2, 3 and 4, if relevant, and for each timetable. To do so, ARAFER analyzes the charges scheme of the services provided, verifies if the costs taken into account by service facility operators are justified and if the charges are not discriminatory. For passenger stations, in the first instance, the Authority has always provided an unfavourable opinion due to the lack of justification concerning the type and the level of costs taken into account, especially the level of reasonable profit. For marshalling yards, maintenance facilities and refueling facilities, the Authority has also given unfavourable opinions highlighting that hypotheses made by the operators were not sufficiently justified, especially regarding the cost of capital and the operators’ structural costs.

Between 2015 and 2017, ARAFER has taken six *ex-post* decisions concerning charges for service facilities. In 2015, two public transport authorities introduced a dispute about charges in stations against the infrastructure manager (the owner of the platforms) and SNCF Mobilités (the owner of the buildings). Many issues were raised, such as the level of WACC, the general obligation of transparency, performance and productivity commitments and allocation key for the charges. The decisions of ARAFER led to a decrease of charges set by SNCF Mobilités and SNCF Réseau and an improvement in terms of transparency of charges. Both SNCF Réseau and SNCF Mobilités appealed against these decisions. SNCF Mobilités withdrew its appeal and the Court of Appeal in Paris dismissed SNCF Réseau’s claims. In 2016, a new public transport authority complained about the way charges of passenger stations (buildings and platforms) were determined by SNCF Réseau and SNCF Mobilités. Most of the issues raised were in fact already covered by the regulatory body’s decisions published in 2015. These decisions are available on ARAFER’s website[[45]](#footnote-46).

Finally, at the beginning of 2016, ARAFER closed a series of complaints lodged by the French association of rail (AFRA) on the access to and tariffs of intermodal freight terminals and marshalling yards. ARAFER rejected the claims of AFRA considering there was no sufficient proof that SNCF Réseau, SNCF Mobilités, Naviland Cargo and Novatrans had fixed tariffs that were above the cost of providing the service plus a reasonable profit.

# **Germany**

|  |
| --- |
| Service facilities in Germany in 2015 |
|  | Incumbent RUand related companies | IM not related to incumbent RU | Other RUnot related toincumbent RU | Non- RUnot related toincumbent RU |
| Passenger stations | 5.676 | 228 | 764 | 5 |
| Intermodal freight terminals | 51 | 3 | 10 | 58 |
| Marshalling yards with gravity hills | 58 | 1 | 5 | 2 |
| Maintenance facilities | 114 | 10 | 98 | 58 |
| Refuelling facilities | 187 | 9 | 93 | 30 |

Table 16: No of service facilities in Germany according to the market monitoring survey of IRG-Rail 2016

The Federal Network Agency (Bundesnetzagentur) approved charges of a service facility operator for the use of passenger stations by local and regional rail passenger services as well as by long-distance passenger services in 2018. The charges are to be used for orders in 2018. Until then, the charges are still billed according to the existing station pricing system.” (https://www.bundesnetzagentur.de/DE/Service-Funktionen/Beschlusskammern/Beschlusskammer10/BK10\_11\_Laufende\_Verfahren/BK10\_111\_Entgeltregulierung/BK10\_LV\_Entgeltregulierung\_node.html) (in German only.)

# **Greece**

There is information available at the moment on service facilities in Greece.

# **Italy**

|  |
| --- |
| Service facilities in Italy in 2015 |
|  | Incumbent RUand related companies | IM not related to incumbent RU | Other RUnot related toincumbent RU | Non- RUnot related toincumbent RU |
| Passenger stations | 2082 | 352 | 94 | 48 |
| Intermodal freight terminals | 24 | 0 | 0 | 208 |
| Marshalling yards with gravity hills | 0 | 0 | 0 | 0 |
| Maintenance facilities | 63 | 27 | 2 | 147 |
| Refuelling facilities | 146 | 14 | 4 | 4 |

Table 17: No of service facilities in Italy according to data provided within the 2016 RMMS data collection

# **The Netherlands**

|  |
| --- |
| Service facilities in the Netherlands in 2015 |
|  | Incumbent RUand related companies | IM not related to incumbent RU | Other RUnot related toincumbent RU | Non- RUnot related toincumbent RU |
| Passenger stations | 410 | 0[[46]](#footnote-47) | 0 | 0 |
| Intermodal freight terminals | n/a | n/a | n/a | n/a |
| Marshalling yards with gravity hills | 0 | 1 | 0 | 0 |
| Maintenance facilities | n/a | 1 | n/a | n/a |
| Refuelling facilities | n/a | 17 | n/a | n/a |

Table 18**:** No of service facilities in the Netherlands according to the market monitoring survey of IRG-Rail 2016

https://www.acm.nl/en/publications/publication/17086/Clarity-in-advance-for-rail-undertakings-in-regional-rail-tender-processes

# **Norway**

|  |
| --- |
| Service facilities in Norway in 2015 |
|  | Incumbent RUand related companies | IM not related to incumbent RU | Other RUnot related toincumbent RU | Non- RUnot related toincumbent RU |
| Passenger stations | 337 |  |  |  |
| Intermodal freight terminals | 13 | 0 | 1 | 1 |
| Marshalling yards with gravity hills | 0 | 0 | 0 | 0 |
| Maintenance facilities | 1 | 0 | 1 | 6 |
| Refuelling facilities | 14 | 0 | 2 | 14 |

Table 19: No of service facilities in Norway according to the market monitoring survey of IRG-Rail 2016

# **Poland**

|  |
| --- |
| Service facilities in Poland in 2015 |
|  | Incumbent RUand related companies | IM not related to incumbent RU | Other RUnot related toincumbent RU | Non- RUnot related toincumbent RU |
| Passenger stations | 2.718 | 47 | 0 | 4 |
| Intermodal freight terminals | 5 | 0 | 10 | 16 |
| Marshalling yards with gravity hills | 24 | 0 | 0 | 0 |
| Maintenance facilities | N/A | N/A | N/A | N/A |
| Refuelling facilities | 28 | 1 | 71 | 0 |

Table 20: No of service facilities in Poland according to the market monitoring survey of IRG-Rail 2016

# **Portugal**

|  |
| --- |
| Service facilities in Portugal in 2015[[47]](#footnote-48) |
|  | Incumbent RUand related companies | IM not related to incumbent RU | Other RUnot related toincumbent RU | Non- RUnot related toincumbent RU |
| Passenger stations | 0 | 565[[48]](#footnote-49) | 6 | 0 |
| Intermodal freight terminals | 0 | 9 | 0 | 21 |
| Marshalling yards with gravity hills | 0 | 0 | 0 | 0[[49]](#footnote-50) |
| Maintenance facilities | 10 | 0 | 1 | 2 |
| Refuelling facilities | 9 | 0 | 2 | 0 |

Table 21: No of service facilities in Portugal

# **Romania**

Significant changes in the railway sector took place after 1998. In 2018, National Railway Supervision Council will perform a comprehensive market research in order to determine with great accuracy the characteristics of service facilities in Romania.

|  |
| --- |
| Service facilities in Romania in 2015 |
|  | Incumbent RUand related companies | IM not related to incumbent RU | Other RUnot related toincumbent RU | Non- RUnot related toincumbent RU |
| Passenger stations | 895 | N/A | N/A | N/A |
| Intermodal freight terminals | N/A | N/A | N/A | N/A |
| Marshalling yards with gravity hills | N/A | N/A | N/A | N/A |
| Maintenance facilities | N/A | N/A | N/A | N/A |
| Refuelling facilities | N/A | N/A | N/A | N/A |

Table 22: No of service facilities in Romania according to the market monitoring survey of IRG-Rail 2016

# **Slovenia**

|  |
| --- |
| Service facilities in Slovenia in 2015 |
|  | Incumbent RUand related companies | IM not related to incumbent RU | Other RUnot related toincumbent RU | Non- RUnot related toincumbent RU |
| Passenger stations | 271 | N/A | N/A | N/A |
| Intermodal freight terminals | 4 | 0 | 0 | 0 |
| Marshalling yards with gravity hills | 1 | 0 | 0 | 0 |
| Maintenance facilities | 12 | 0 | 0 | 0 |
| Refuelling facilities | N/A | N/A | N/A | 10 |

Table 23: No of service facilities in Slovenia according to the market monitoring survey of IRG-Rail 2016

# **Spain**

|  |
| --- |
| Service facilities in Spain in 2015 |
|  | Incumbent RUand related companies | IM not related to incumbent RU | Other RUnot related toincumbent RU | Non- RUnot related toincumbent RU |
| Passenger stations | 0 | 1.948 | N/A | N/A |
| Intermodal freight terminals[[50]](#footnote-51) |  N/A | 12[[51]](#footnote-52) | N/A | 20[[52]](#footnote-53) |
| Marshalling yards with gravity hills | N/A | N/A | N/A | N/A |
| Maintenance facilities | N/A | N/A | N/A | 160[[53]](#footnote-54) |
| Refuelling facilities |  N/A | 27 | N/A | N/A |

Table 24: No of service facilities in Spain according to the market monitoring survey of IRG-Rail 2016

# **Sweden**

|  |
| --- |
| Service facilities in Sweden in 2015 |
|  | Incumbent RUand related companies | IM not related to incumbent RU | Other RUnot related toincumbent RU | Non- RUnot related toincumbent RU |
| Passenger stations | 0 | N/A | 0 | 130 |
| Intermodal freight terminals | 0 | 0 | 0 | 23 |
| Marshalling yards with gravity hills | 13 | 0 | 0 | 0 |
| Maintenance facilities | 1 | 0 | 2 | 45 |
| Refuelling facilities | 0 | N/A | N/A | N/A |

Table 25: No of service facilities in Sweden according to the market monitoring survey of IRG-Rail 2016

# **United Kingdom**

|  |
| --- |
| Service facilities in United Kingdom in 2015[[54]](#footnote-55) |
|  | Incumbent RUand related companies | IM not related to incumbent RU | Other RUnot related toincumbent RU | Non- RUnot related toincumbent RU |
| Passenger stations |  | 2539 | 57 |  |
| Intermodal freight terminals |  |  | 19 | 19 |
| Marshalling yards with gravity hills[[55]](#footnote-56) |  | N/A | N/A | N/A |
| Maintenance facilities |  | 94 | 47 | 8 |
| Refuelling facilities |  | 3 |  | 1 |

Table 26**:** No of service facilities in the United Kingdom according to the market monitoring survey of IRG-Rail 2016

Between 2015 and 2017, ORR made a number of decisions on charges for Service Facilities, notably the following two:

i) In September 2015 the regulatory body (ORR) directed a station access agreement under section 17 of the Railway Act 1993 for Southend Airport station ([link](http://orr.gov.uk/__data/assets/pdf_file/0020/18902/saa-stobart-aga-southend-airport-station-letter.pdf)). Section 17 is used where the parties cannot agree on the terms of a new agreement. This is an independently owned station operated by Stobart Rail Limited (SRL), and the beneficiary to the agreement was Abellio Greater Anglia Limited (AGA). AGA applied to the regulatory body for directions as it had not been able to agree with STL a revision of the access charge mechanism and revenue share arrangements at the station. AGA disagreed with those arrangements already in place, and wanted to revert to the standard industry model of charging. The charging arrangements already in place at Southend Airport station allow SRL to retain 91% of all ticket sales to and from the station (less season ticket sales), and the arrangements also included a review mechanism. ORR decided that it was appropriate for the agreement to be governed by the same access charge and review provisions that already existed, as set out in the Stobart Station Access Conditions. The reason for this is that the charging arrangements were agreed by the parties (with Department for Transport agreement) following commercial negotiation, and have been enshrined in the contractual arrangements that govern access to the station. ORR did not consider it right to seek to overturn these arrangements, in part because it is contrary to the principle of providing contractual clarity to the parties, and it could put at risk the confidence of third parties to invest in the railway in the future.

ii) The Office of Rail and Road (ORR) also made a decision on an appeal made by DB Schenker Rail (UK) Limited (DBS) on 9 January 2015 under regulation 29 of The Railways Infrastructure (Access and Management) Regulations 2005 (the Regulations). 2. The appeal concerned the refusal by Freightliner Limited (Freightliner) of DBS‘s request for access to, and services at, Freightliner Southampton Maritime Terminal (Maritime Terminal). ORR dismissed the appeal and determined that Freightliner Limited’s refusal to grant DB Schenker Rail (UK) Limited access and services on the terms sought was justified. For more details, please refer to <http://orr.gov.uk/__data/assets/pdf_file/0004/19624/ORR-Decision.pdf>

1. If service facility operator is also infrastructure manager and/or railway undertaking, it must keep separate accounts for business relating to the management of railway infrastructure and/or for business relating to the provision of transport services by railway. [↑](#footnote-ref-2)
2. Italy: Accounting separation is required depending on the services concerned and the typology of operator. [↑](#footnote-ref-3)
3. Netherlands: However we implemented Article 13, section 3 of the Recast in the correct way [↑](#footnote-ref-4)
4. Portugal: There is a regulation on charges, issued by the former regulatory body that requires regulatory accounts. (Reg. IMTT 630/2011). This regulation is no longer in force however the infrastructure manager still produces the accounts. This is being reviewed by the actual regulatory body. [↑](#footnote-ref-5)
5. Significant market power is determined by a triple test (See Measure 37, ART Decision n° 96/2015). [↑](#footnote-ref-6)
6. France: Only for SNCF Réseau regarding obligations imposed on the infrastructure manager. [↑](#footnote-ref-7)
7. In Italy, it might depend if the operator of a service facility has significant market power. [↑](#footnote-ref-8)
8. In this case, charges of service facility operators are in force if and only if the regulatory body delivers a favorable opinion on the charges submitted by the service facility operator. [↑](#footnote-ref-9)
9. Austria: RB has to assess and decide whether draft network statement would infringe the Railway Act. Provisions, including charges, for access to service facilities which are connected with the railway infrastructure [↑](#footnote-ref-10)
10. Finland: Only in specific circumstances. [↑](#footnote-ref-11)
11. Germany: The regulatory body can adopt ex-ante and ex-post measures: ex-ante measures are based on § 72 (5), § 73 (1-3) ERegG, ex-post measures on §66 (4), §68 (3) ERegG; §68(3) and § 67 (1) ERegG refer to measures against railway undertakings or others subdued to the law that are necessary to resolve or to prevent any violation against national and EU law. BNetzA does not give non-binding ex-ante advices as a standard procedure, but all regulatory actions are taken by decisions, which can be based ex-ante or ex-post procedures, upon complaints or on the basis of ex officio investigations. [↑](#footnote-ref-12)
12. Italy: With reference only to the services provided by the IM. [↑](#footnote-ref-13)
13. Italy: for SF operated by the infrastructure manager. [↑](#footnote-ref-14)
14. Norway: The Norwegian regulatory body has the option to give non-binding ex-ante advice to give guidance on the interpretation of the regulations in question. This is a general duty that applies to all the activities of the regulatory body and it is done at the regulatory body’s discretion. The ex-ante guidance that the regulatory body gives does not in itself impose or establish any legal obligations. [↑](#footnote-ref-15)
15. Spain: only for access to service facilities owned by the IM and for those stablished in Art. 98 38/2015 Law. [↑](#footnote-ref-16)
16. Spain: CNMC has to monitor the consultation process avoiding practices against regulatory framework for those charges stablished in art 98 38/2015 Law. [↑](#footnote-ref-17)
17. Spain: Railway Act foresees a compulsory report before the approval of charges (art. 100 38/2015 Law). [↑](#footnote-ref-18)
18. Sweden: Only infrastructure managers that are also service facility operators, since they normally publish their charges for service facilities in their network statements. Other service facility operators do not consult on charges. [↑](#footnote-ref-19)
19. UK: Binding advice for a subset of station and depot charges [↑](#footnote-ref-20)
20. This is applicable only for the case of the service facilities managed by the infrastructure manager, not for those managed by other entities. [↑](#footnote-ref-21)
21. The Italian regulatory body uses three cumulative criteria to determine the relevant market power (significant market power, insufficient role for Antitrust authority and the benefits of regulation outweighs its costs). [↑](#footnote-ref-22)
22. Decree relative to service facilities defines the reasonable profit as the cost of capital (cost of equity and cost of debt) related to the economic assets used to provide access to and services within service facilities. [↑](#footnote-ref-23)
23. The regulation in Austria foresees only the reasonable profit for equity by law and it is the opinion of the regulatory body to use a WACC approach. [↑](#footnote-ref-24)
24. Main operators are not controlled by the railway undertaking incumbent but by its holding company. [↑](#footnote-ref-25)
25. There is an agreement between ADIF and RENFE that allows RENFE to manage the urban passenger stations owned by ADIF. [↑](#footnote-ref-26)
26. Austria: The provisions of directive 2012/34 concerning passenger stations and platforms were transposed in the correct way and the Railway Act without any adaptations. The RB considers that platforms are part of the stations (service facility). [↑](#footnote-ref-27)
27. In France, only the platforms are regulated as a service facility whereas the tracks are included in the minimum access package even if both belong to SNCF Réseau, the infrastructure manager. [↑](#footnote-ref-28)
28. In Germany, the tracks belong to the infrastructure manager DB Netz AG and the platforms belong to DB Station & Services AG. [↑](#footnote-ref-29)
29. In France, these costs are computed net of received subsidies. [↑](#footnote-ref-30)
30. See Measure 41, ART Dec 96/2015. [↑](#footnote-ref-31)
31. In Italy, for main passenger stations an efficiency target is foreseen equal to the inflation rate (see ART decision 84/2016). [↑](#footnote-ref-32)
32. The infrastructure manager Bane NOR SF (Statsforetak) is responsible for the operation of all intermodal freight terminals in Norway (Bane NOR SF is also the owner). The infrastructure manager does however generally not provide services in the terminals itself. Instead, Bane NOR SF uses a framework for licensing operators of service facilities in the terminals. Each license is related to specific services. The number of operators at each terminal is therefore different, and for most cases, there are several operators at each terminal. [↑](#footnote-ref-33)
33. In some of then, the incumbent railway undertaking participate in an important % (around 50% normally) [↑](#footnote-ref-34)
34. In Italy there are 45 marshalling yards (RMMS data) but the yards with gravity hills are not active. [↑](#footnote-ref-35)
35. Only one facility is owned by an alternative railway undertaking in France and is not regulated for the moment. [↑](#footnote-ref-36)
36. Most of the maintenance facilities for locomotives are participated by the incumbent railway undertaking. [↑](#footnote-ref-37)
37. An inventory made by the infrastructure manager in 2014, reports a total of 48 maintenance facilities. A majority of these, 36 workshops (in 20 different locations), were owned by Jernhusen (100% state owned real estate manager). The remaining workshops were owned by; private maintenance companies, public transport authorities, private real estate managers, infrastructure manager, railway undertaking, municipalities and one vehicle manufacturer. In 2014, 15 workshops were operated by Euromaint. The remaining workshops were operated by 10 different (not railway undertaking) companies; Bombardier, Stadler Sweden AB, Alstom, BS Verkstäder AB, Swemaint AB, Mantena Services AB, IBAB, Midwaggon, Motala Train and BS Mekaniska. [↑](#footnote-ref-38)
38. The incumbent railway undertaking only operates one single maintenance facility in Sweden. [↑](#footnote-ref-39)
39. In UK these refer to light maintenance depots which also include refueling facilities [↑](#footnote-ref-40)
40. In France, few services are regulated in maintenance facilities. The decree 2012-70 listing the services that have to be supplied in those facilities mainly refers to the access to the installations and not the use of them. [↑](#footnote-ref-41)
41. Most refueling facilities are owned by DB Energie GmbH and not by DB Netz AG. [↑](#footnote-ref-42)
42. Netherlands: They daily management of a tank plate is in hands of the railway undertaking that use the tank plate the most in a specific geographical area. Hence the management depends on the award of regional public concessions. In one area NS has the daily management. [↑](#footnote-ref-43)
43. UK: Refuelling facilities are located in maintenance facilities [↑](#footnote-ref-44)
44. SNCF Combustible is, since 2017, a directorate within SNCF Mobilités. [↑](#footnote-ref-45)
45. ARAFER, decisions n° 2015-002, 2015-017, 2015-028, 2015-030, 2017-008 and 2017-018. [↑](#footnote-ref-46)
46. This is a joint ownership of the stations between infrastructure manager and Incumbent railway undertaking. In total there are 410 stations. [↑](#footnote-ref-47)
47. Portugal did not participate in the market monitoring in 2016 and provided information for this paper only. [↑](#footnote-ref-48)
48. In the number of the stations in Portugal also the halts are included. [↑](#footnote-ref-49)
49. There are no marshalling yards with gravity hills in Portugal. But there are 10 other marshalling yards. [↑](#footnote-ref-50)
50. The intermodal freight terminals at ports are not included. [↑](#footnote-ref-51)
51. Owned and operated directly by the infrastructure manager. [↑](#footnote-ref-52)
52. 6 are owned and operated by private companies and 14 are operated by private companies (some of them participated by the incumbent railway undertaking) but owned by the infrastructure manager. [↑](#footnote-ref-53)
53. A lot of those maintenance facilities are participated by the incumbent railway undertaking, but they have own legal personality [↑](#footnote-ref-54)
54. This data relates to ownership. All stations are owned by our infrastructure manager. The 57 is Northern Ireland and HS1 stations. [↑](#footnote-ref-55)
55. UK does not have marshalling yards with gravity hills [↑](#footnote-ref-56)