

IRG-Rail (18) 6

Independent Regulators' Group – Rail

IRG-Rail

Working Programme 2019

IRG-Rail is the network of independent rail Regulatory Bodies comprising 31 European countries. The overall aim of IRG-Rail is to facilitate the creation of a single, competitive, efficient and sustainable internal railways market in Europe. IRG-Rail acts as a platform for cooperation, sharing of best practices on regulatory issues and promotion of a consistent application of the European regulatory framework.

This IRG-Rail paper is published under the responsibility of IRG-Rail. The opinions expressed and arguments employed herein by member Regulatory Bodies do not necessarily reflect the official views of their respective governments.

I. Introduction

Since its establishment in 2011, IRG Rail has played an increasingly important role as a platform for cooperation, information exchange and development of best regulatory practices among national railway regulators.

In the present setting, continued efforts are needed to address current and new challenges arising from the European regulatory framework and recent market developments.

On the one hand, the railway sector is moving towards a greater degree of competition, deriving from the opening of domestic passenger markets and from other key measures concerning rail infrastructure and related service facilities stemming from recent changes in the EU regulatory framework.

On the other hand, digitalization and new mobility needs continue to change the transport landscape, calling for an integrated approach to multimodality. In this context, a Task Force on Multimodality was set up in 2018 within IRG Rail, aiming at laying the ground for a more comprehensive debate on regulatory issues arising from the integration of different transport modes.

Against this background, this document outlines the IRG Working Programme for 2019, focusing on the following priority areas:

- improvement of IMs' rail capacity allocation, congested infrastructure management and performance measurement;
- further exploring the development of the service facility template and of the common portal as well as monitoring the application of the exemptions granted under Implementing Regulation (EU) 2017/2177;
- implementation of the Fourth Railway Package into national legislations and application of EU implementing regulations and delegated acts;
- assessment of the application of cost component and infrastructure charging principles as well as the charging implications of the opening of the domestic passenger market;
- review of charging for service facilities, with a focus on rail stations and maintenance facilities, aiming at supporting the opening of the domestic passenger markets;
- the annual market monitoring with a focus on the competitive situation in the rail passenger and freight transport service markets in each country.

Alongside, the Task Force on multimodality will continue its work and carry out a case study on intermodal and multimodal competition under the passenger perspective, by taking coach stations as the infrastructure of reference.

II. Working Programme 2019

1. ACCESS WORKING GROUP

The objectives of the Access Working Group are to focus on all aspects of access to railway infrastructure with respect to market barriers, access restrictions, the promotion of competition, the needs of passenger and freight customers and improved rail performance. For 2019 the activities will focus on three main subjects which will be allocated to three work streams.

Main activities

a) The TTR project and its pilots

Railway stakeholders are working on the relevant project of the Redesign of the International Timetabling (TTR), aimed at creating a new process for the allocation of capacity. TTR started in 2015 and will become operational in 2025 at the latest. The Working Group Access delegated some of its members to take part as observers in the TTR pilot board meetings and in the three pilot projects where TTR is being tested, namely:

- RFC2 Rotterdam - Antwerpen;
- RFC3 Munich - Verona;
- RFC4 Mannheim - Miranda de Ebro.

A new Pilot project for TT 2021 will start soon with regard to the main lines of the Austrian network (OBB Infra) and the representatives of Working Group Access will be asked to join as observers the specific TTR core teams.

Deliverables

- Participation to the relevant TTR meetings (pilots and pilot board) by the representatives of Working Group Access as observers.
- Report on the state of development of the TTR project and its pilots.

b) Performance figures of RFCs (KPIs)

In November 2017 the Members of IRG-Rail agreed on a list of Key Performance Indicators (KPIs) that should encourage both infrastructure managers and railway undertakings to increase performance on rail freight corridors. In relation to this topic, IRG-Rail will continue the collection of data on KPIs concerning rail freight corridors, with a view to progressively increase the coverage of data with respect to the KPIs agreed upon by IRG-Rail's members in November 2017.

Deliverables

- Fill in with data the list of KPIs adopted by the Plenary in 2017;
- Propose modifications of the list of KPIs where deemed relevant to avoid redundancies and to optimize the monitoring of RFCs' performance.

c) Congested infrastructure: implementation of article 47 of the recast

The expected growth of rail traffic in the European area and the capacity constraints of the national networks will increase the number of congested infrastructure, especially those along main corridors and within conurbations. The WG access will conduct a survey of how article 47 of directive 2012/34/EU has been implemented in different member states, also taking into account the current practices concerning the implementation of article 31(4).

The Working Group Access will:

- set up a questionnaire on the topic;
- discuss the main issues in the group
- discuss particularly interesting cases in Europe.

Deliverables

- Report on the current practices of member states for implementing article 47 of Directive 2012/34/EU.

Optional activities (subject to available resources)

a) Technical barriers: analysis of regulatory actions which are necessary to solve the priority specific issues which have been selected by the EC, ERA and stakeholders as a result of the analysis of the issues logbook.

The Working Group Access will:

- follow up two meetings with ERA and the EC providing inputs, where requested, and interact with ERA and the EC from a regulatory perspective regarding technical access conditions;
- evaluate which are the possible regulatory measures that can solve/mitigate the impact of the selected priority technical issues;
- highlight the main results by monitoring the state of implementation and sharing the outcomes with ERA and EC.

Deliverables

The WG Co-Chairs (and any other interested member of the group) will follow the dialogue between the EC, ERA, NSAs and the stakeholders on the priority issues which were identified and will inform the other members of the group accordingly. The deliverables will therefore include the participation to at least two meetings with EC/ERA and the sharing of information with all the members of the group and IRG-Rail's Heads and Sub-Heads.

b) Conclusion of the investigation on the European market for the acquisition of rolling stock. The activity will be led by the Spanish RB CNMC.

In 2018 the activity was set up within the Working Group Access. It was agreed to investigate the rolling stock market in each country. The analysis is related to the next forthcoming railway market final opening according to Directive (EU) 2016/2370. The Working Group Access will:

- complete the filling in of the rolling stock questionnaire which was distributed to the members of the group during 2018 for the purpose of gathering the info and data needed for the analyses;
- discuss the main topics within the group;
- highlight best practices in Europe.

Deliverables

- Information document on the outcomes of the investigation on the European market for the acquisition of rolling stock.

2. SUB-GROUP ACCESS TO SERVICE FACILITIES

a) Monitoring of exemptions granted under Article 2 Paragraph 2 of Implementing Regulation (EU) 2017/2177

Article 2 Paragraph 2 of Implementing Regulation (EU) 2017/2177 allows for exemptions from the application of the Implementing Regulation subject to a decision of the relevant Regulatory Body. IRG-Rail has developed and published common decision-making principles for the application of the relevant criteria. On 1st January 2019 the exemptions rules of the Implementing Regulation will come into force and can be applied by the Regulatory Bodies.

The group will monitor the Regulatory Bodies' activities in that regard and report to the Plenary Assembly on the experiences.

Deliverables

- Report on experiences gained from exemptions granted under Article 2 Paragraph 2 of Implementing Regulation (EU) 2017/2177 in the first half of 2019.

b) Contribute to the further development of the Service Facility Template and the Common Portal

Under Implementing Regulation (EU) 2017/2177 the market was called to create a template in cooperation with the Regulatory Bodies. Such a template was published by RNE on 16th May 2018. IRG-Rail has commented on the template in a position paper published on 18th May 2018. In the paper IRG-Rail suggested a revision of the template. Parallel to the template-process the European Commission has commissioned a "Common Portal" that, according to the Implementing Regulation, can be used to publish service facility descriptions. This common portal could potentially replace the template by offering service facility operators a simpler way towards a service facility description than the RNE template. The group intends to follow and foster this process to ensure that the needs of the operators and of the applicants are taken into due account in the development of the tools and procedures for producing and publishing service facility documents.

Deliverables

- Update on status of Template and Common Portal.

c) Support of Sub-group Charges for Service Facilities

The Sub-group Charges for Service Facilities carries out the drafting of papers that might contain surveys and definitions of certain service facilities and services. In this activity it may be supported by the Sub-group Access to Service Facilities.

Deliverables

- to be decided based on a dialogue between the two Sub-groups Access to Service Facilities and Charges for Service Facilities.

3. EMERGING LEGISLATIVE PROPOSALS WORKING GROUP

In 2019, the focus of the Working Group will continue to be on the implementation and application of the Fourth Railway Package and in particular on providing input in the development of proposed implementing acts. The group will, in cooperation with the Working Groups for charging, access or market monitoring, endeavour to contribute to such process based on evidence from regulatory practice. It will also continue to identify and discuss issues of common concern as they arise. In this regard, the Working Group will:

- monitor and provide input (position papers) to draft implementing acts and soft measures as and when proposed by the European Commission, in particular on the implementing regulation on Regulatory Bodies' common principles and practices for decision making;
- address issues of implementation of EU legislation of common concern raised by members of the Working Groups, in particular specific issues of legal or legislative nature. This will include exchanging information and knowledge on implementation and transposition, reviewing case studies, as well as liaising with other working groups as necessary;
- at the request of other IRG-Rail working groups, provide at short notice assessments on specific questions of legal nature.

Deliverables

- Develop paper(s) on emerging EU implementing regulation or soft measures subject to the Commission's agenda, including a paper on the Commission's proposal for an implementing act on Regulatory Bodies' decision-making criteria, if any;
- Address specific issues of common interest in relation to the implementation of EU legislation; carry out surveys, review case studies and/or hold workshops with stakeholders:
 - Develop paper on the legal framework and issues relating to the classification of certain facilities as service facility or as infrastructure
 - Review the summary of Regulatory Bodies' competences, including the available and required remedies to meet the desired objectives of European and domestic railway policies;
 - Identify and organize a workshop on cases on anti-competitive practices in respect of access to rail networks.

- Report on the state and type of implementation of new accounting transparency provisions under the 4th railway package (e.g. articles 6 (1) and 7d of directive 2012/34/EU).

Additional items subject to available resources:

- report on the legal nature of network statements, including to what extent and under what conditions changes can be made to the network statement;
- Assess concrete issues/questions of legal nature raised by other IRG-Rail Working Groups in short papers:
 - upon request of the Working Group Access - short assessment of issues raised by the Timetabling – TTR – project;
 - upon request of the Working Group Charges - short assessment of issues raised by application of cancellation fees and of legal issues concerning charging mechanisms in the case of international services.

4. CHARGES WORKING GROUP

Directive 2012/34/EU on the allocation of railway infrastructure capacity and the levying of charges for the use of the railway infrastructure requires Regulatory Bodies to ensure non-discrimination on the railway market and, in particular, check whether charging principles are properly applied and separation of accounts is fully respected. In 2019, IRG-Rail will continue to develop an understanding of charging principles across the European rail sector. In particular, it will:

- gather, organize and exchange information on charging issues (e.g. charging principles for the use of infrastructure, incentive regulation, mark-ups for international routes);
- discuss regulatory issues related to the examination of cost components and composition of infrastructure charges, as well as to the assessment of direct costs and mark-ups with a view to developing a common understanding thereof;
- seek to understand the implications for railway charges of the opening of the domestic passenger market.

Deliverables

- Update the European benchmark on railway financing from 2018;

- Meeting with outside stakeholders (e.g. Prime or ERFA) to foster exchange between RBs and the market;
- Specific paper on other charges (e.g. congestion, scarcity, environmental, and cancellation charges).

Subject to availability of data:

- current practices for the calibration of mark-ups for international passenger services.

Should resources allow, the Working Group will address the following topics:

- exchange with EU Commission on understanding of Long Term Cost
- main charging units used among IRG-Rail Members-States
- Incentive Regulation.

SUB-GROUP CHARGES FOR SERVICE FACILITIES

Background

The activity of the Sub-group Charges for Service Facilities is aimed at achieving a better understanding of Directive 2012/34/EU on setting charging for service facilities, and at reflecting and discussing the problems and decisions of the Regulatory Bodies when investigating the charges of service facilities. Purpose of the Working Group is to share good practices and endeavour to provide guidance to Regulatory Bodies, whenever possible.

More specifically, the working group will:

- seek to develop a common understanding of the implementation of EU charging principles for service facilities;
- develop a common position, in particular on the costs for access to service facilities and providing services.

Cooperation

The working group will work together closely with the Working Group Charges and Sub- group Access to Service Facilities. In order to develop a common understanding of the definitions regarding service facilities and of the services offered within these facilities, the Sub-group intends to organise joint meetings with the Sub-group Access to Service Facilities. The deliverables mentioned below will be drafted in cooperation.

Deliverables

In 2019, the Sub-group will continue the above-mentioned work by focusing on the following topics.

- update of the paper on charges for stations including further analysis. This paper was first published by IRG Rail in 2015 and was updated in 2016;
- outline for a first report on charges for maintenance facilities and further work (in cooperation with the Subgroup Access to Service Facilities).
- Paper on the economic approach of charging principles.

Should resources allow, an extra focus will be placed on the following:

- update of the paper on charges for storage sidings to be published by IRG Rail in 2018 for the first time;
- first draft of a paper on charges for freight terminals.

6. MARKET MONITORING WORKING GROUP

The monitoring reports produced by this Group provide annual overviews of the economic conditions and market developments in the railway sector. They also show the development of the European railway market and its competitiveness compared with previous years.

In addition to presenting the main findings of the annual data collection, each annual monitoring report focuses on a specific issue. In 2019, the Working Group will deepen the general description of the competitive situation in the rail passenger and freight transport service markets in each country.

Should resources allow, the Working Group will address the following topics:

- funding of rail in Europe;
- electrification and energy consumption of rail in Europe.

The Working Group will continue to explore the possibility to collect data on intermodal freight issues. As concluded in the November 2017 Plenary, this information is not easily obtainable, however, considering the relevance of this matter, the Working Group will make its best efforts regarding this data collection.

Deliverables:

- Publication at the beginning of 2020 of the eight IRG-Rail market monitoring report, with a focus in deepen the general description of the competitive situation in the rail passenger and freight transport services markets in each country.

Should resources allow, the Working Group will:

- develop an overview paper outlining among others: i) funding volumes; ii) funding sources; iii) funded traffic (passengers vs freight); iv) funded companies (RU vs IM vs Service Facilities Operators) and v) funding objectives;
- develop an overview paper outlining among others: i) the evolution of fuel and electric energy consumption; ii) the ratio of fuel to electric energy; iii) the electrification per country, of passenger and freight traffic lines.

Annex

Working Groups and Sub-groups

	Name	(Co-)Chaired by	Contact person(s)
1	Working Group Access	ACM ART	Coen Timmerman Roberto Piazza
2	Sub-group Access to Service Facilities	Bundesnetzagentur Transportstyrelsen	Christian Wolf Helena Ohman Nikolaisen
3	Working Group Market Monitoring	AMT ARAFER	Teresa Gonçalves Chloé Ramet
4	Working Group Emerging Legislative Proposals	Bundesnetzagentur ORR	Andrea Sanders-Winter Agnès Bonnet
5	Working Group Charges	Belgian Regulatory Body for Railway Transport Bundesnetzagentur	Rudolphe Duterme Max Meulemann
6	Sub-group Charges for Service Facilities	ACM Schienen-Control	Hanne van Beek Andreas Himmel