

Update of Review of Regulatory Bodies competences and remedies

Findings of IRG-Rail members' survey

27 MAY 2019

INTRODUCTION

Background

1. EU legislation (directive 2001/14/EC) required Member States to establish an independent rail regulatory body (RB) to oversee the application of rules to ensure efficient management and fair and non-discriminatory use of rail infrastructure, and to act as an appeal body. The competences of regulatory bodies were further developed and detailed in Directive 2012/34/EC (the Recast). Domestic legislation on independent rail regulation in EU member countries must comply with the above provisions.
2. To have a better overview of the regulatory landscape across European countries, the IRG-Rail Emerging Legislative Proposals working group (ELP working group) conducted an initial mapping exercise of regulatory competences in 2017. At the IRG-Rail plenary, the working group agreed to update the information on regulatory bodies' competences and gather data on the remedies available to regulatory bodies.
3. An initial questionnaire was circulated to all IRG-Rail working group members in 2017 in order to gather information on the competences and functions of each regulatory body. In 2019, it was updated and circulated again, asking regulatory bodies to provide information on the remedies they use and their enforcement powers. Further details are outlined below.

Competences

4. The table with information on regulatory bodies' competences can be found in Annex 1. This shows the various responsibilities of the different regulatory bodies.

Remedies

5. The table in Annex 2 provides an overview of the type of remedies used by regulatory bodies when making decisions.
6. It is important to note that at this stage some information provided in this report reflects some regulatory bodies' preliminary views and the report will be updated in the future as necessary to better specify and reflect any changes to the regulatory landscape in relevant countries.

Question 1 - What kind of remedies do you use?

7. Findings showed that the type of remedies used by regulatory bodies to address particular issues concerning the exercise of their competencies in the area of rail regulation is varied, and ranges from formal decisions requiring parties to do or cease to do something, to sending informal letters, developing guidance documents, exercising mediation, etc.
8. Most regulatory bodies can impose fines or financial penalties. Some can also make recommendations or use soft measures such as producing guidance documents to clarify areas of regulation.
9. Details of the remedies used by regulatory bodies are outlined in the table below

<i>Austria</i>	Fines, directions to do or cease to do something, guidance/mediation, superseding notification, declaring null and void (e.g. suspension of excessive charges).
<i>Belgium</i>	In certain areas (those listed in Article 56.1 of Directive 2012/34), any necessary measure, including conservatory measures and fines (source: Art. 63, § 3 of the Belgian Railway Code).
<i>Croatia</i>	Directions to do or cease to do something.
<i>Czech Republic</i>	Imposing fines, decisions about capacity allocation, changes in network statement, Temporary Capacity Restrictions authorizations.
<i>Denmark</i>	Guiding letters, statements and decisions.
<i>Finland</i>	Decisions, penalty payments.
<i>France</i>	When settling a dispute, any appropriate measure to correct any discrimination or distortion of competition. When necessary for the resolution of the dispute, the decision can define any technical and financial conditions, set the modalities to access the network or the service facilities as well as the supply of services in a non-discriminatory, transparent and proportionate manner (article 1263-2 of the Transport Code).
<i>Germany</i>	Any measures necessary to remedy or prevent infringements (Section 67 of ERegG).
<i>Greece</i>	Recommendations, administrative penalties and fines.
<i>Hungary</i>	Measures including obliging the entity that committed the infringement to pay the legal expenses; imposing fines, issuing directions to perform certain activity and prohibiting unlawful activity. In special circumstances, possible to use a warning instead of above mentioned sanctions.
<i>Italy</i>	Measures range from the provision of guidance and the issuing of opinions, to the adoption of decisions and directions to do or cease to do something, including accepting and enforcing commitments, to the carrying out of checks and inspections, to proposing to the competent

	authorities the suspension, revocation of concessions or public service contracts, to the issuing of fines.
<i>Kosovo</i>	Penalties.
<i>Lithuania</i>	Warning, binding decisions (by which RB may order to stop unlawful actions or in case of failure to act order to take appropriate actions etc.), financial sanctions (penalties) for non-compliance with the RB decisions.
<i>Netherlands</i>	Variety of instruments to influence the market like market scans and opinions, but also guidance, monitoring, talks, (deeds of) commitment, orders under periodic penalty payment, binding indications and penalties.
<i>Norway</i>	No predefined list of remedies specified under Norwegian Railway Regulation – concrete assessments of individual cases determine the type of remedies.
<i>Poland</i>	Administrative fines, directions to do or cease to do something.
<i>Romania</i>	Corrective measures and if they are not respected, fines, directions to do or cease to do something, guidance etc.
<i>Slovakia</i>	Corrective measures and if they are not respected, to fine.
<i>Slovenia</i>	Decisions, recommendations, guidelines, non-binding opinions
<i>Spain</i>	Any action to remedy the situation and power to decide on own initiative on appropriate measures, issuing directions and resolving complaints.
<i>Sweden</i>	Fines, directions to do or cease to do something.
<i>Switzerland</i>	Recommendations, directions to do or cease to do something, decisions, fines.
<i>United Kingdom</i>	Fines, directions to do or cease to do something, guidance documents, code of practice, etc

10. The following example illustrates how regulatory powers can be used. In Spain, the regulatory body started an ex-officio procedure to review the situation of train drivers. The findings of the regulatory body's investigation showed that:
- The incumbent who employed around 97% of all the train drivers, with much better employment conditions than those offered by private operators, had failed to train sufficient train drivers for its own operations for several years. Thus, when the incumbent decided to organize a selection process, many of the train drivers employed by other railway undertakings left their companies to attend the selection process and, eventually, joined the incumbent. As a result, between 17 and 40% of train drivers moved from their companies to the incumbent. This caused strong operational problems for these undertakings that could not replace their train drivers easily as the training process lasted more than a year.
 - In consequence, CNMC adopted a decision imposing the following obligations on the incumbent:
 - i) to publish annually its train drivers' requirements in order to ensure that sufficient training is carried out;

- ii) to announce any selection process 3 months in advance of its launch, and;
 - iii) In the case that more than 20% of a company's train drivers move out, the incumbent must grant access to traction services, with charges related to costs, for over three months.
- <https://www.cnmc.es/novedades/2018-01-10-la-cnmc-fija-condiciones-renfe-para-que-sus-empresas-competidoras-puedan>

Question 2 - Do you have a published enforcement policy, setting out the type of enforcement action you can take, and how you intend to use these powers?

11. Most regulatory bodies do not have a published enforcement policy setting out the type of enforcement action they can take. Regulators who have published their enforcement policy include Greece, Italy and the UK. In Italy, the conduct of sanctioning proceedings, in particular, are the object of ad hoc regulation. In Denmark, the regulator has an enforcement policy, but it is an internal document.
12. In other countries, enforcement rules and applicable sanctions are set out in law. This is the case in Hungary, Kosovo, Romania, Slovakia and Switzerland. In Lithuania, there is a Government resolution on the Description of Procedures for Investigation of Complaints received by the Railway Transport Market Regulator. In Romania, enforcement rules and applicable sanctions are set out also in Regulations or Instructions published by the Romanian National Railway Supervision Council.
13. Norway has published information on the process for addressing complaints to the regulator rather than specific details on enforcement actions. In the UK, following consultation of industry parties, the regulatory body has developed and published a detailed policy that sets out the ORR's enforcement policy as economic regulator for the mainline railway, including the penalties statement required by domestic legislation.
https://orr.gov.uk/_data/assets/pdf_file/0018/4716/economic-enforcement-statement.pdf

Question 3 - Do you have the power to make enforcement decisions/orders, or directions, for current issues? Any restrictions?

14. All regulatory bodies confirmed that they have the necessary powers to make enforcement decisions or issue directions under their domestic legislation, including ordering parties to change their processes, introducing new measures, etc. Decisions of regulatory bodies can be challenged and are subject to judicial review.
15. Regulatory bodies, for example, have enforcement powers for making directions to the IM in relation to charges. In particular, the Belgian regulatory

body issued a decision regarding shunting charges changing the infrastructure manager's calculation formula and imposing a fine. The regulator in the Czech Republic cannot impose fines for instance where the service facility operator does not publish the requested information about the service facility.

<i>Austria</i>	Yes
<i>Belgium</i>	Yes, in the same areas as those listed in Article 56.1 of Directive 2012/34). (source: Art. 63, § 3 of the Belgian Railway Code). Example: Under decision D-2015-11-S "Your Shunts", the new shunting charges formula was abolished and replaced with the former formula. A fine was also imposed. (https://www.regul.be/en/d-2015-11-s-2/)
<i>Bulgaria</i>	
<i>Croatia</i>	Yes
<i>Czech Republic</i>	Yes, RB can make enforcement decisions concerning issues in most cases within its competences, but may not impose fines in all cases.
<i>Denmark</i>	Yes, the RB can make enforcement decisions concerning issues within its competences as RB according to the directive.
<i>Finland</i>	Yes
<i>France</i>	Yes
<i>Germany</i>	Yes
<i>Greece</i>	Yes
<i>Hungary</i>	Yes, the regulatory body can specify the requirements of performing certain activities and prohibit unlawful activities. There are no restrictions.
<i>Italy</i>	Yes
<i>Kosovo</i>	Yes
<i>Latvia</i>	
<i>Lithuania</i>	Yes
<i>Luxembourg</i>	
<i>Netherlands</i>	Yes
<i>North Macedonia</i>	
<i>Norway</i>	Yes. Power to make enforcement decisions/orders. Examples of previous decisions include us ordering: i) changes in a contract on access to a station, ii) the infrastructure manager to implement measures in order to ensure a due process when reallocating train paths that become available and iii) the infrastructure manager to pay back infrastructure charges considered to have been levied in breach of the regulation. There are no explicit restrictions on the RB competences to make enforcement decisions in the sense that legislation does not list what the RB may not order. However, when making concrete assessments the RB must respect the principle of proportionality.

<i>Poland</i>	Yes, if irregularities are found as a result of an investigation/inspection.
<i>Romania</i>	Yes, the RB has the power to make enforcement decisions concerning issues within its competencies. Decisions are binding and subject only to judicial appeal.
<i>Slovakia</i>	Yes – by national legislation
<i>Slovenia</i>	Yes – no restrictions
<i>Spain</i>	Decisions are binding and subject only to judicial appeal, and (after the 2018-law amendment) the RB has competence for all kind of issues. However, competence to impose fines is very limited, and maximum fines are very low.
<i>Sweden</i>	Yes
<i>Switzerland</i>	Yes
<i>United Kingdom</i>	Yes - for example, the determination every five years on what the mainline infrastructure manager should deliver in respect of its role in operating, maintaining and renewing its network and how the funding available should be best used to support this.

Question 4 - Do you have the power to make enforcement decisions/orders or directions, for likely future issues? Any restrictions?

16. Many regulatory bodies have the power to make decisions or take measures in relation to issues that may arise in the future, in order to change the future behaviour of an offending party and deter non-compliance with its obligations.
17. In Austria, Belgium, Croatia, Denmark, France, Greece, Italy, Kosovo, Norway, Romania, Slovakia, Switzerland and the UK, regulatory bodies can issue ex-ante decisions or give opinions, produce guidelines or statements to correct or prevent some future and likely behaviour that may create discrimination or not comply with legislation.
18. In Belgium, for instance the regulatory body provided advice on the closure of the safety system Memor-Krokodil and its potential impact on the rail freight market. <https://www.regul.be/en/1703-2/>

Penalties

19. Penalties are an important element of the regulatory bodies' toolkit. EU legislation (Directive 102/34/EU) states that regulatory bodies must be able to enforce their decisions with the appropriate penalties including fines. The survey explores the type of penalties that can be imposed on industry parties.

Question 5 - Do you have the power to impose financial penalties on infrastructure managers and/or operators? If so - what is the maximum fine? Are there any restrictions (cases when you cannot fine)?

20. In most countries regulatory bodies have the power to impose financial penalties, and the same penalty regime and the same penalty levels generally apply to both the infrastructure manager and operators. However, in Germany, the regulatory body is not allowed to impose “bussgelder”. It can only impose a penalty that aims at forcing the undertaking to stop the violation, rather than a fine because the violation took place. According to the German administrative law any misdemeanour needs a clear and precise description such as “if an operator does not respect XY the authority can impose a fine up to the amount of ...”. In telecoms, energy and postal the German regulatory body has identified several infringements as misdemeanour but not in railways.
21. In Norway, the regulatory body can currently impose financial penalties for failure to comply with its decisions/orders, but not as a reaction to the underlying conduct. It has recently been proposed to introduce broader powers to impose financial penalties.
22. In Belgium, with regard to fining operators, this is limited to operators of service facilities. In the UK, fines can only be introduced in relation to current or past issues and not for likely future breaches.
23. The level of fines is set on the basis of the nature, severity and duration of the offence. Caps for financial penalties vary significantly across EU countries. They range from €2000 in Kosovo to maximum €2 million in Belgium or 10% of turnover in the Netherlands and in the UK.
24. Details of fines that can be imposed by regulatory bodies can be found in the table below:

<i>Austria</i>	Up to €36,000. For not obeying / ignoring a notification by SCK (Schienen-Control Kommission) IM/operators can be fined a max. of 7.000 Euros.
<i>Belgium</i>	Up to €100,000 per day. Total fine cannot exceed €2 million or 3% of turnover.
<i>Croatia</i>	Not allowed – no powers
<i>Czech Republic</i>	Yes, up to 387 000 € (10 million CZK)
<i>Denmark</i>	No absolute limit defined – but likely to be set at a level to prevent any profit connected to the specific occurrence of non-compliance
<i>Finland</i>	No maximum limit defined. Extent and nature of the breached obligation, party’s ability to pay and other criteria are taken into account when considering the amount.

<i>France</i>	Up to 3% of total turnover, and up to 5% in the case of repeat offence.
<i>Germany</i>	Not allowed.
<i>Greece</i>	Up to 15% of total annual turnover during the current or previous year.
<i>Hungary</i>	Up to 5% of the known net income of the offending party. If no data is available, maximum HUF10 million.
<i>Italy</i>	Upon implementation of the 4th Railway Package, the ordinary regime applying to all sectors regulated by ART (up to 10% of turnover for defaulting implementation and up to 1% of turnover for failure to provide/provision of incorrect or false information) has been reduced, for the rail sector only, as follows: up to 1% of turnover with a cap at €1 million for infringements concerning access and use of railway infrastructure and related services; between € 100.000 and 500.000 for defaulting implementation of ART's decisions; between € 50.000 and € 250.000 for failure to provide/defaulting provision of information; all sanctions can be doubled in case of reiteration.
<i>Kosovo</i>	Maximum €2,000
<i>Latvia</i>	
<i>Lithuania</i>	Up to € 15,000 (for failing to comply with regulatory body's decision).
<i>Netherlands</i>	Up to €900,000 or 10% of turnover.
<i>Norway</i>	No power yet.
<i>Poland</i>	Up to 2% of turnover of infrastructure manager or operator over previous year. Up to €20,000 if in relation to failure to provide information. No financial penalty if effects of offence have been removed and obligation complied with.
<i>Portugal</i>	
<i>Romania</i>	<p>The fine is:</p> <p>a) Between 0,1% to 0,4% of the turnover if:</p> <ul style="list-style-type: none"> - the parties failed to comply with the regulatory body's decision; - the IM do not respect the deadline for publishing the NS <p>b) Between 10.000 – 20.000 lei for any trading of infrastructure capacity, including the exclusion from the further allocation of capacity;</p> <p>c) Between 0,04% to 0,1% of the turnover for providing inaccurate, incomplete, information and when obstructing the inspection of the RB</p> <p>Comminatory fines</p> <ul style="list-style-type: none"> - up to 3% of the average daily turnover, for each day of delay since the date established by decision, in order to determine an undertaking: complying with the measures disposed by decision, providing the required information/documents and submitting to the inspection.
<i>Slovakia</i>	From €1,000 to €15,000 with possibility to double the fine.
<i>Slovenia</i>	Between €3,000 and €20,000
<i>Spain</i>	If parties failed to comply with the regulatory body's decision, fine 1) Between € 6,301 and €125,000 if safety of users or rail traffic is at risks.

	2) Between €751€ and € 6,300€ in other cases (ie vast majority).
<i>Sweden</i>	No maximum limit defined.
<i>Switzerland</i>	If party fails to comply with decision, up to CHF 100,000 or CHF 20,000 for failure to comply with information request.
<i>United Kingdom</i>	Up to 10% of Infrastructure manager's or operator's turnover.

Question 6 - Do you have the power to fine infrastructure managers/operators if they have failed to comply with your enforcement decision - including failure to pay a penalty?

25. Not all regulatory bodies have the power to fine the relevant industry parties (infrastructure manager or operator) if they have failed to comply with the regulatory body's decision, including if they have refused to pay the penalty mentioned in that decision. In some cases, the maximum level of the fine is equivalent to the maximum amount of penalty that can be imposed by the regulatory body (Austria).
26. In some Member States, this is the only case where fines can be issued by the regulatory body to the infrastructure manager or operator that has failed to comply with a decision (including formal information request). This is the case in Croatia, Finland, Germany Lithuania, Poland, Spain and Switzerland.
27. In other countries, the regime envisages additional penalties (Austria, Belgium, Denmark, Hungary, Poland, and Spain). For instance in Belgium there is an automatic levying of interest set at a minimum of 5% of the fine. In Poland, the regulatory body can impose an additional fine of €5,000 for each day of delay. In Spain, periodic fines can be introduced of up to 10% of the previous fine.
28. Full details can be found in Appendix 2.

APPENDIX 1: COMPETENCES

	Name of regulatory body	Are you also National Safety Authority?	Are you also Licensing authority?	Are you also Enforcement body of passenger rights?	Are you also competition authority?	Regulator of other transport modes - if so which?	Regulator of other sectors – if so which ones	Date established	How are you funded?	Governance structure (ie Board, Executive Committee)
Austria	Schienen-Control GmbH (SCG), Schienen-Control Kommission (SCK)	No	No	No. However, the Agency for Passenger Rights (APF) is a statutory independent arbitration board. It not only shares its offices with SCG, it is also headed by SCG's managing director who also acts as independent arbiter. However, it is funded directly by the Republic of Austria, whereas SCG is funded by set contributions from RUs. .	Yes	No. The apf, the Agency for Passenger Rights (see above line 6), in its function as an enforcement body, audits compliance with passenger rights in rail, bus, air and ship transport.	No	1999	Industry	SCG is a limited company. It is owned by the Republic of Austria (100%). SCG is headed by a managing director. A supervisory board provides oversight. The Minister of Transport, Innovation and Technology acts as proprietor's representative. As such he/she sits on the supervisory board and has the authority to give directives ONLY in administrative matters. The minister cannot however influence decisions of the Kommission (SCK) which is not under discretionary power of any kind.
Belgium	Service de Régulation du Transport ferroviaire et de l'Exploitation de l'Aéroport de Bruxelles-National	No	No	No	No	Regulator of Brussels Airport (the RB is the independent supervisory authority provided in Article 11 of Directive 2009/12 on airport charges)	No	2004	IMs, RUs and airlines	The RB has a director and a deputy director. A minister is responsible for disciplinary matters for the management
Bulgaria	Railway Administration Executive Agency	Yes	Yes	Yes	No			2002	Ministry of Transport	Executive Director
Croatia	Croatian Regulatory Authority for Network Industries	No	No	Yes	No	No	Yes – Electronic telecomm/ Post	2009	Industry	Council -appointed by Parliament, consisting of five members, including

	Name of regulatory body	Are you also National Safety Authority?	Are you also Licensing authority?	Are you also Enforcement body of passenger rights?	Are you also competition authority?	Regulator of other transport modes - if so which?	Regulator of other sectors – if so which ones	Date established	How are you funded?	Governance structure (ie Board, Executive Committee)
										the President and Deputy President. Members of the Council are appointed by the Croatian Parliament upon proposal of the Government of the Republic of Croatia. Executive Director Executive Director is appointed by the HAKOM's Council
Czech Republic	Transport Infrastructure Access Authority	No	No	No	No	Yes – airport charges, motorways (toll)	No	2017	State budget	Chairman nominated by the government.
Denmark	Danish Rail Regulatory Body (Jernvanenaevnet)	No	No	Yes, we can require operators to comply if we come across patterns of non-compliance and we have done so on several occasions. But individual conflicts between passengers and RU's are dealt with by a special board (Ankenævnet for Bus, Tog og Metro)	No	No	No	2010	State budget resp Finance Act	Independent Board composed of Chair and six members and a permanent secretary.
Estonia										
Finland	Finnish Rail Regulatory Body (an independent function at Traficom: Transport and Communications Agency)	No (but Traficom is)	No (but Traficom is)	No (but Traficom is)	No	No (but Traficom is)	No (but Traficom is also telecom regulator)	2006	State Budget + Fees	Head of rail regulatory body
France	ARAFER	No	No	No	No	Buses and Motorways	Buses and motorways	2010	Dedicated tax for ARAFER	"College" (Board) having the legal powers for opinion and dispute resolution
Germany	BundesnetzAgentur (BNetzA) (Rail division)	No	No	No	No	No	Electricity/ gas/ telecom/ Post	2006	Federal budget	1 President 2 Vice-presidents
Greece	Regulatory	Yes	Yes	Yes	No	No	No	2010	State budget	Five-Member Management Board

	Name of regulatory body	Are you also National Safety Authority?	Are you also Licensing authority?	Are you also Enforcement body of passenger rights?	Are you also competition authority?	Regulator of other transport modes - if so which?	Regulator of other sectors – if so which ones	Date established	How are you funded?	Governance structure (ie Board, Executive Committee)
	Authority for railways (RAS)									(President, Vice President and three Members), appointed by the Parliament
Hungary	Rail Regulatory Body	No	Yes	Yes	No	No	No	2006	Actors of railway market (supervisory fee, admin fee) state budget	Head of Department
Italy	Autorità di regolazione dei trasporti - ART	No	No	Yes	No	Rail, port, airport and motorway network, local public transport	No	2013	Industry	Independent board composed of chair and 2 members
Kosovo	Railway Regulatory Authority	Yes	Yes	Yes	No	No	No	2010	State budget	Supervisory Board Executive Director
Latvia	Latvia State Railway administration	No	Yes		No	No	No	1999	Own budget	Director
Lithuania	Communications Regulatory Authority of the Republic of Lithuania (RRT)	No	No	No	No	No	Electronic communication, post	2001	Rail regulator – from the market	Director General Council - which is a collegial body of RRT. (In cases provided for in the law, the director must coordinate his decisions with the Council)
Luxembourg	ILR									
Netherlands	Authority for Consumers and Markets; Telecommunications, Transport and Postal Services Department	No	No	No	Yes	Yes, or at least in transport markets: Amsterdam Airport Schiphol; Harbour Pilots; Seaports; Small role in Public Transport in	Electricity, gas, telecoms, postal services, healthcare (partial) and consumer rights www.acm.nl	2004	Ministry of infrastructure and Water management/ ministry of economic affairs and climate policy	Board ACM (3 members, independent)
Northern Macedonia	Railway Regulatory Agency	No	Yes	No	Yes	No	No	2009	Self financing	Management Board. Appointed by Parliament. Director of the RRA chose by public call
Norway	Norwegian Railway Authority, department for market surveillance	Yes - this function is organized in another department within the Authority.	Yes (as per the last reply)	Yes (as per the last reply)	No	No	Other departments within the Authority regulate cableways and amusement devices	1996	By the ministry of transport (Samferdsels-departementet)	The department for market surveillance is led by a director (Mona Ljunggren)
Poland	President of the Office of Rail Transport - UTK	Yes	Yes	Yes	No	No	No	2003	State budget	President Two vice-presidents General Director

	Name of regulatory body	Are you also National Safety Authority?	Are you also Licensing authority?	Are you also Enforcement body of passenger rights?	Are you also competition authority?	Regulator of other transport modes - if so which?	Regulator of other sectors – if so which ones	Date established	How are you funded?	Governance structure (ie Board, Executive Committee)
Portugal	URF Unidade de Regulação Ferroviária	No	No		No			2007	IMTT (ministry)	Director
Romania	Romanian National Railway Supervision Council (RNRSC)	No	No	No	Yes	Within the Romanian Competition Council that activates another regulator for the naval transport	No	2011 The RSNC was established within the Romanian Competition Council in 2011. Before 2011 the RB was part of the Ministry of Transport	State budget, separate budgetary chapter within the Romanian Competition Council	Board composed of 5 independent members : 1 President, 4 members
Slovakia	Transport Authority (NSAT)	Yes	Yes	Yes	No	Civil aviation and inland waterway transport, but only as safety, technical and staff regulator	No	2014, since then as part of the Transport Authority – a legal predecessor established since 2005	Separate budget via budget of Ministry of Transport of the Slovak Republic	Chairman
Slovenia	Agency for Communication Networks and Services of the Republic of Slovenia	No	No	No	No	No	Telecoms, Electronic Media, Radio, Post	2007 (since 2011 in Agency)	Payments from operators and IM	Director of Agency
Spain	Comision Nacional de los Mercados y la Competencia (CNMC)	No	No	No	Yes	Yes, airport charges/ tariffs	Yes- CNMC is the regulator of all the regulated sectors : telecoms, audiovisual, energy, post and transport	2013	State budget	Independent Council, appointed by Parliament divided in two boards: one for competition issues (shared by telecom, energy, postal and transport sectors). The Regulation Board is composed of a President and 5 additional members. Director of Transport Sector and Deputy Director of Rail Sector are appointed by public tender
Sweden	Transportstyrelsen (within transport regulation authority)	Yes	Yes	Yes some of them	No	No	No	2004	The State, from 1 January 2011 even charges	Board General Director
Switzerland	Railways Arbitration Commission RACO	No	No	No	Yes but only for rail sector	No	No	2000	By State contributions and by charges / fees (small part)	Independent committee of five to seven members which are appointed

	Name of regulatory body	Are you also National Safety Authority?	Are you also Licensing authority?	Are you also Enforcement body of passenger rights?	Are you also competition authority?	Regulator of other transport modes - if so which?	Regulator of other sectors – if so which ones	Date established	How are you funded?	Governance structure (ie Board, Executive Committee)
										by the Federal Council
United Kingdom	Office of Rail and Road	Yes	Yes	Yes	Yes	Yes, highways network	No	1993	Rail industry (IM and RUs)	Board Executive directors group

	Are you involved in setting the rail transport strategy?	Are you involved in the award of PSO contracts (direct award or tendering). If yes, how?	Are you involved in monitoring and holding PSO operators to account for meeting their PSO contract obligations?	Do you approve framework agreements? Ex-post or ex-ante?	Performance regime?	Do you review access charges?	Do you review capacity allocation processes?	Do you monitor and/or enforce IM performance?	Are you responsible for setting the IM performance targets for operations, renewal, enhancements
Austria	No	No	No	Yes	Yes	Yes	Yes. SCG acts as monitor in case of conflict	In the context of <>	No
Belgium	No, the RB is not involved in the rail transport strategy. Nevertheless, the RB could theoretically provide advice and studies on railway transport markets to the Transport Minister.	No	No	The RB approves FAs for services using specialized infrastructure which requires substantial and long-term investment ex ante. For other FAs, the RB provides an opinion ex-ante.	Yes	Yes	Yes	No	No
Bulgaria	Yes	Yes		Yes	Yes	Yes			
Croatia	No	No	No	No	No	Yes	Yes	Yes, in some aspects. We monitor the application of network statement, we can deal with complaints regarding NS etc.	No
Czech Republic	No	No	No	No	Yes	Yes, only maximum charges calculated from direct costs	Yes	No	No
Denmark	No	Yes, but only so that we can deal with complaints concerning the competent authority decisions to make direct awards (instead of tenders)	No	No	There is a performance regime set by the IM. We can deal with complaints concerning the performance scheme	Yes	We can deal with complaints concerning the allocation process	Yes, in some respects. I.e. we monitor the network statement. We can deal with complaints concerning traffic control and planning of renewals and maintenance. We can monitor whether IM's cooperate sufficiently.	No
Estonia									
Finland	No	No	No	No	No	Yes	Yes	No	No
France	No	Yes, under article 5.4 ter, 3 bis and 4 bis of PSO Regulation. See also article L. 2121-17 of the Code of transports	No	Yes	No	Yes		ARAFER issues a reasoned opinion on the performance agreement concluded between the IM and the State.	
Germany	No	No	No	Yes – ex ante	Yes	Yes	Yes	No	No

	Are you involved in setting the rail transport strategy?	Are you involved in the award of PSO contracts (direct award or tendering). If yes, how?	Are you involved in monitoring and holding PSO operators to account for meeting their PSO contract obligations?	Do you approve framework agreements? Ex-post or ex-ante?	Performance regime?	Do you review access charges?	Do you review capacity allocation processes?	Do you monitor and/or enforce IM performance?	Are you responsible for setting the IM performance targets for operations, renewal, enhancements
Greece	No	No	No	Yes –ex ante	Yes	No	No	No	No
Hungary	No	No	No	Yes ex ante	Yes	Yes	Yes	No	
Italy	No	No	Yes, insofar as they concern accounting obligations, quality standards and passengers' rights	No	Yes, within the NS proceedings	Yes	Within the framework of complaints	Yes	ART sets efficiency targets
Kosovo	No	No		No	Yes	Yes	No	No	No
Latvia	Yes	Yes	No	No	No		No		
Lithuania	No	No	No	No	No	Yes	Yes	No	No
Luxembourg									
Netherlands	No	Yes, ex ante approval of charges and conditions of rail related services for regional PSOs	Yes, partially for those provisions of the PSO that are related to the implementation of the Recast directive	Yes, ex ante for FA > 5 years and ex post for all FA. However no FA exist in NL	Yes, ex officio or after complaint	Yes, ex ante, ex officio or after complaint	Yes, ex officio or after complaint	No	No
Northern Macedonia	Yes	Yes		Yes	Yes	Yes			
Norway	No	We are not the awarding body. However, we do consider it part of our role to provide input on the tender documents and procedure in order to facilitate effective competition	No	We do not approve agreements as such, but may handle complaints or make decisions on our own initiative	As per the last reply.	Yes, we may make such reviews on the basis of complaints or on own initiative	As per the last reply.	No	No
Poland	No	No	No	No	No	Yes	Yes	No	No
Portugal	No	No		Yes	Yes	Yes			
Romania	No., not involved in the strategy. The RB can provide recommendations, issue studies within its monitoring function. and propose legislative amendment of the transport law	No	No	Yes	We check performance regime part of the NS and the infrastructure contract	Yes	Yes	The RB issues a reasoned opinion on the activity contract signed between the IM and the Ministry of Transport, checks the NS	No, only supervising.
Slovakia	No	No	No	Yes – ex ante	Yes	Yes	Yes	No	No, RB only supervising it
Slovenia	No	No	No	Yes – ex ante	Yes	Yes	Yes	No	No
Spain	No	No	No	No. The IM just has the obligation to inform us	No	Yes, However, on charges approval we only have advisory	Yes	No, about the IM, we only monitor its independence and	No

	Are you involved in setting the rail transport strategy?	Are you involved in the award of PSO contracts (direct award or tendering). If yes, how?	Are you involved in monitoring and holding PSO operators to account for meeting their PSO contract obligations?	Do you approve framework agreements? Ex-post or ex-ante?	Performance regime?	Do you review access charges?	Do you review capacity allocation processes?	Do you monitor and/or enforce IM performance?	Are you responsible for setting the IM performance targets for operations, renewal, enhancements
				about the framework agreement they reach		competences insofar as they are approved by the legislator (which is sovereign). This is because, in our constitutional system, rail charges are considered taxes, and therefore must be approved by law. The government has started to plan a reform following an EC infringement procedure		impartiality; the charges approval; and the Network Statement approval	
Sweden	No	No	Split with NCA	No	No	Yes	Yes	Monitor	No
Switzerland	No	No	No	Yes – ex post	No	Only those for additional services	Yes	No	No
United Kingdom	Yes (indirectly)	No	No	Yes – ex ante	Yes	Yes – every five years	Yes	Yes (monitor)	No

APPENDIX 2: REMEDIES

	Remedies	Enforcement decisions - Directions			Penalties		
	What kind of remedies do you use	Do you have a published enforcement policy, setting out the type of enforcement action you can take, and how you intend to use these powers?	Do you have the power to make enforcement decisions/orders, or directions, for current or past issues? Any restrictions?	Do you have the power to make enforcement decisions/orders or directions, for likely future issues? Any restrictions?	Do you have the power to impose financial penalties on infrastructure managers? If so - what is the maximum fine? Are there any restrictions (cases when you cannot fine)?	Do you have the power to impose financial penalties on operators? If so, what is the maximum fine? Are there any restrictions (cases when you cannot fine)?	Do you have the power to fine infrastructure managers/operators if they have failed to comply with your enforcement decision - including failure to pay a penalty ?
Austria	Fines, directions to do or cease to do something, guidance/mediation, superseding notification, declaring null and void (e.g. suspension of excessive charges)	No	Yes	Yes, we examine the draft for the network statement. Otherwise deal with issues ex-post (complaints etc)	Yes. Railway act sets max. fine at 36.000 Euros	Yes. Railway act sets max. fine at 36.000 Euros	Yes. In case IM/operator factually deny access despite contractual obligation or superseding notification, the max fine is 36.000 Euros. For not obeying/ignoring a notification by SCK (Schienen-Control Kommission) IM/operators can be fined a max. of 7.000 Euros
Belgium	In certain areas (those listed in Article 56.1 of Directive 2012/34), the RB is entitled to take any necessary measure, including conservatory measures and fines (soucre: Art. 63, § 3 of the Belgian Railway Code).	No	Yes, in the same areas as those mentioned above (i.e. those listed in Article 56.1 of Directive 2012/34). (soucre: Art. 63, § 3 of the Belgian Railway Code). Example: In our decision D-2015-11-S "Your Shunts", we decided that the new shunting charges formula was abolished and replaced with the former formula. We also imposed a fine. (https://www.regul.be/en/d-2015-11-s-2/)	On likely future issues, the RB only has the power to give opinions. (soucre: Art. 62, § 2 and 63, § 1 of the Belgian Railway Code). Example: advice A-2016-06-S on the closedown of the safety system Memor-Krokodil and its potential impact on the market of rail freight (https://www.regul.be/en/1703-2/).	Yes, in the same areas as those mentioned above (i.e. those listed in Article 56.1 of Directive 2012/34). The maximum fine is of 100,000 EUR per day, and the total of the fine cannot exceed 2 million euros or 3% of the IM's turnover. There are no restrictions as to cases where the RB cannot fine. (soucre: Art. 63, § 3 and Art. 64 of the Belgian Railway Code). Example: In our decision D-2015-11-S "Your Shunts", we decided that the new shunting charges formula was abolished and replaced with the former formula. We also imposed a fine. (https://www.regul.be/en/d-2015-11-s-2/)	Yes, the rule is the same for operators as for IMs. Because of the scope of the provision, however, only IM and operators of a service facility are concerned (soucre: Art. 63, § 3 and Art. 64 of the Belgian Railway Code).	If the IM/operator fails to pay a fine, interest apply, with a minimum of 5% of the fine. This is automatic and is thus not really a power of the RB.
Bulgaria							

	Remedies	Enforcement decisions - Directions			Penalties		
	What kind of remedies do you use	Do you have a published enforcement policy, setting out the type of enforcement action you can take, and how you intend to use these powers?	Do you have the power to make enforcement decisions/orders, or directions, for current or past issues? Any restrictions?	Do you have the power to make enforcement decisions/orders or directions, for likely future issues? Any restrictions?	Do you have the power to impose financial penalties on infrastructure managers? If so - what is the maximum fine? Are there any restrictions (cases when you cannot fine)?	Do you have the power to impose financial penalties operators? If so, what is the maximum fine? Are there any restrictions (cases when you cannot fine)?	Do you have the power to fine infrastructure managers/operators if they have failed to comply with your enforcement decision - including failure to pay a penalty ?
Croatia	Directions to do or cease to do something.	No	Yes	Yes	No, but RB can If the IM does not fulfil the obligations from the decision himself, if the enforcement by third persons is not possible or is not suitable for the purpose of the enforcement, the RB shall force the IM to fulfil the obligations from the decision by imposing a fine. A fine by which a natural person is forced to fulfil obligations is adjudicated in a decision in the amount of up to two average annual gross salaries in the Republic of Croatia in the previous year. The fine by which a legal entity is forced to fulfil obligations is adjudicated in a decision to the responsible person of the legal entity in the amount of up to ten average annual gross salaries in the Republic of Croatia in the previous year. An objection against the decision on the fine does not postpone the enforcement of the decision. In case of further non-fulfilment of the obligation, another fine, a higher one, shall be adjudicated within the determined scale. If necessary, the fine may be adjudicated several times.	No, but RB can force the SFO to fulfil the obligations from the decision. The same as for IM in answer above.	No, but RB is entitled to initiate a misdemeanor procedure if IM/operators fail to comply with RB's decision.
Czech republic	Imposing fines, decisions about capacity allocation, changes in network statement, TCRs authorizations.	No	Yes, RB can make enforcement decisions concerning issues almost within its competences, but not in all cases.	No	Yes – 387 000 €	Yes – 387 000 €	Yes, fines, execution.

	Remedies	Enforcement decisions - Directions			Penalties		
	What kind of remedies do you use	Do you have a published enforcement policy, setting out the type of enforcement action you can take, and how you intend to use these powers?	Do you have the power to make enforcement decisions/orders, or directions, for current or past issues? Any restrictions?	Do you have the power to make enforcement decisions/orders or directions, for likely future issues? Any restrictions?	Do you have the power to impose financial penalties on infrastructure managers? If so - what is the maximum fine? Are there any restrictions (cases when you cannot fine)?	Do you have the power to impose financial penalties operators? If so, what is the maximum fine? Are there any restrictions (cases when you cannot fine)?	Do you have the power to fine infrastructure managers/operators if they have failed to comply with your enforcement decision - including failure to pay a penalty ?
Denmark	Guiding letters, statements and decisions	We have an enforcement policy, but as an internal document - not published	Yes, we can make enforcement decisions concerning issues within our competences as RB according to the directive	For future issues, we would issue guiding statements - and typically follow up on it later.	Yes, our decisions can be enforced by weekly penalties - no absolute limit for the size of the penalties. We aim at depriving the possible profit connected to the specific non compliance	Yes, our decisions can be enforced by weekly penalties - no absolute limit for the size of the penalties. We aim at depriving the possible profit connected to the specific non compliance	If the penalties should not work - we can raise the weekly penalties and request our tax authority to collect the penalties. They have a number of efficient measures
Estonia							
Finland	Decisions, penalty payment.	No	Yes	No	Yes, penalty payment if failed to comply with the decision or information request. Maximum level of penalty payment has not been defined. However, the nature and extent of the obligation not been complied with, party's ability to pay and other things affecting on the case shall be taken into account when considering the amount.	Yes, penalty payment if failed to comply with the decision or information request. Maximum level of penalty payment has not been defined. However, the nature and extent of the obligation not been complied with, party's ability to pay and other things affecting on the case shall be taken into account when considering the amount.	Yes, penalty payment if failed to comply the decision.
France	ARAFER has a legal power of dispute settlement. In this context it can take any appropriate measure to correct any discrimination or distortion of competition. Its decision can define any technical and financial conditions to resolve the dispute. If necessary, to settle the dispute, ARAFER can set the modalities to access the network or the service facilities as well as the services provided thereby in a non discriminatory, transparent and proportionate manner (article 1263-2 of the Transport Code)	No	Yes	Yes	Yes, up to 3% of the global turnover in France and 5% in case of recidivism (Transport Code, L 1264-9)	Yes, up to 3% of the global turnover in France and 5% in case of recidivism (Transport Code, L 1264-9)	Yes (Transport Code, article L 1264-7)

	Remedies	Enforcement decisions - Directions			Penalties		
	What kind of remedies do you use	Do you have a published enforcement policy, setting out the type of enforcement action you can take, and how you intend to use these powers?	Do you have the power to make enforcement decisions/orders, or directions, for current or past issues? Any restrictions?	Do you have the power to make enforcement decisions/orders or directions, for likely future issues? Any restrictions?	Do you have the power to impose financial penalties on infrastructure managers? If so - what is the maximum fine? Are there any restrictions (cases when you cannot fine)?	Do you have the power to impose financial penalties operators? If so, what is the maximum fine? Are there any restrictions (cases when you cannot fine)?	Do you have the power to fine infrastructure managers/operators if they have failed to comply with your enforcement decision - including failure to pay a penalty ?
Germany	"any measures necessary to remedy or prevent infringements" Section 67 ERegG	No	Yes	No	"any measures necessary to remedy or prevent infringements" Section 67 ERegG	"any measures necessary to remedy or prevent infringements" Section 67 ERegG	Yes (so called "Zwangsgelder")
Greece	Recommendations, administrative penalties and fines	yes, RAS has published its Hearing Regulation which describes the hearing process, enforcement actions, penalties and remedies	Yes	RAS has the power to make suggestions and give directions on its competence issues	Yes - A fine of up to 15% of the culpable enterprise annual turnover during the current or previous use of the infringement. For defining the fine, is taken into account, inter alia, the nature, severity and duration of the infringement.	Yes - A fine of up to 15% of the culpable enterprise annual turnover during the current or previous use of the infringement. For defining the fine, is taken into account, inter alia, the nature, severity and duration of the infringement.	Yes. in case of non-payment of a fine, the Ministry of Finance shall deduct it
Hungary	The regulatory body can - oblige the entity that committed the infringement to pay the legal expenses; - impose a fine; - specify the requirements of performing certain activity; - prohibit the performing of unlawful activity. In special circumstances the regulatory body may use a warning instead of the above mentioned sanctions.	An exhaustive list of applicable sanctions can be found in the railway act	Yes, the regulatory body can - specify the requirements of performing certain activity; - prohibit the performing of unlawful activity. No restrictions.	No	Yes. If data is available regarding the net income of the infrastructure manager: the imposed fine cannot exceed 5% of the net income. If there is no data available: the maximum amount of the fine is 10 million HUF. Restrictions: the statute of limitations	Yes. If data is available regarding the net income of the operator: the imposed fine cannot exceed 5% of the net income. If there is no data available: the maximum amount of the fine is 10 million HUF. Restrictions: the statute of limitations	Yes: a.) Market supervision penalty b.) Administrative penalty
Italy	Fines, directions to do or cease to do something, Guidance, code of practice, proposal to the competent authorities of suspension, revocation of concessions or public service contracts.	Yes. https://www.autorita-trasporti.it/regolamenti/diritti-dei-passeggeri-trasporto-ferroviario/ ; https://www.autorita-trasporti.it/regolamenti/diritti-dei-passeggeri-trasporto-con-autobus/ ; https://www.autorita-trasporti.it/regolamenti/diritti-dei-passeggeri-trasporto-via-mare-e-per-vie-navigabili-interne/ ; https://www.autorita-trasporti.it/wp-content/uploads/2014/01/All.-A-Delibera-n.-57-22-luglio-2015-Concernente-modifica-al-Regolamento-Procedimenti-sanzionatori.pdf .	Yes	No	Yes. 1% of turnover. max €1million. No restrictions.	Yes. 1% of turnover. max €1million. No restrictions.	Yes. Min €100.00, max €500,000.

	Remedies	Enforcement decisions - Directions			Penalties		
	What kind of remedies do you use	Do you have a published enforcement policy, setting out the type of enforcement action you can take, and how you intend to use these powers?	Do you have the power to make enforcement decisions/orders, or directions, for current or past issues? Any restrictions?	Do you have the power to make enforcement decisions/orders or directions, for likely future issues? Any restrictions?	Do you have the power to impose financial penalties on infrastructure managers? If so - what is the maximum fine? Are there any restrictions (cases when you cannot fine)?	Do you have the power to impose financial penalties operators? If so, what is the maximum fine? Are there any restrictions (cases when you cannot fine)?	Do you have the power to fine infrastructure managers/operators if they have failed to comply with your enforcement decision - including failure to pay a penalty ?
Kosovo	Penalty	Law 04/L-063 ,Railway Law	Yes	Yes	Yes ,Maximum 2,000.00	Yes, Maximum 2,000.00	No, just the courts
Latvia							
Lithuania	Warning, binding decisions (by witch RB may order to stop unlawful actions or in case of failure to act order to take appropriate actions and etc.), financial sanctions (penalties) for non-compliance with the RB decisions	We don't have the enforcement policy as such. We have a Government resolution on Description of Procedures for Investigation of Complaints Received by the Railway Transport Market Regulator.	Yes	No	Yes. The RB has a right to impose sanction (financial penalty) up to 15 thousand € RB can only impose such penalty for failure to comply with the previous decision of RB.	The same as with the infrastructure manager	RB has the power to fine infrastructure managers/operators only for the failure to comply with the decision of RB
Luxembourg							
Netherlands	We use a variety of instruments to influence the market, like market scans and opinions, but also guidance, monition talks, (deeds of) commitment, orders under periodic penalty payment, binding indications and penalties.	No, which instrument is appropriate, depends on the particular case	Yes	No	Yes. Maximum fine is € 900.000 or 10% of the turnover	Yes. Maximum fine is € 900.000 or 10% of the turnover	Yes
North Macedonia							
Norway	The Norwegian Railway Regulation is drafted so as to allow concrete assessments in individual cases, and generally does not limit the available remedies to a predefined list.	We have made available information on our activities, priorities, and how to complain to the Authority on our web-pages: https://www.sjt.no/jernbane/markeds-ovrvaking/seksjon/ . The information does however not contain specific information on the enforcement action we can take.	We do have the power to make enforcement decisions/orders. Examples on previous decisions include us ordering: i) changes in a contract on access to a station, ii) the infrastructure manager to implement measures in order to ensure a due process when reallocating train paths that become available and iii) the infrastructure manager to pay back infrastructure charges considered to have been levied in breach of the regulation. There are no explicit restrictions on our competences to make	This is not concretely regulated in Norwegian law. However the legal framework allows for a flexible approach and concrete assessments. To the extent that it is sufficiently substantiated that a certain development will occur in the future, we can in principle make orders to refrain from certain actions. That being said, we would normally approach future developments by means of informal guidance. For the sake of completeness we mention that we may make orders which would oblige	We do not have this power as of today, but there is currently a legal revision going on in Norway which may result in such a competence.	We do not have this power as of today, but there is currently a legal revision going on in Norway which may result in such a competence.	Yes

	Remedies	Enforcement decisions - Directions			Penalties		
	What kind of remedies do you use	Do you have a published enforcement policy, setting out the type of enforcement action you can take, and how you intend to use these powers?	Do you have the power to make enforcement decisions/orders, or directions, for current or past issues? Any restrictions?	Do you have the power to make enforcement decisions/orders or directions, for likely future issues? Any restrictions?	Do you have the power to impose financial penalties on infrastructure managers? If so - what is the maximum fine? Are there any restrictions (cases when you cannot fine)?	Do you have the power to impose financial penalties operators? If so, what is the maximum fine? Are there any restrictions (cases when you cannot fine)?	Do you have the power to fine infrastructure managers/operators if they have failed to comply with your enforcement decision - including failure to pay a penalty ?
			enforcement decisions in the sense that it is not listed what we may not order. However, when making concrete assessments we must respect the principle of proportionality.	entities to do something in the future. For example, we may make decisions ordering changes to the network statement, and have made a decision stipulating for the IM to establish criteria and procedures to be followed in the future.			
Poland	administrative fines, directions to do or cease to do something	No	Yes, if irregularities are found as a result of the inspection	No	Yes, up to 2% of turnover achieved by the IM in the previous calendar year. If the IM has not provided the President of UTK with necessary information for the purposes of regulation and monitoring of the railway transport market, the penalty may not exceed the equivalent of EUR 20.000. Cannot impose the financial penalties if the effects of the violation have been removed by the IM immediately or if IM removed the violation or fulfilled the obligations arising from regulation no. 1371/2007/EC voluntarily. In addition, the President of UTK may impose a financial penalty on the chief of the IM in the amount not exceeding 300% of his monthly salary.	Yes, the same as in case of the infrastructure manager	The President of UTK, taking into account the scope of the violation, the hitherto activity of the entity and its financial capabilities, may impose a financial penalty in the amount equivalent to EUR 5.000 for each day of delay
Portugal							
Romania	Binding decisions by which the RB may order to stop unlawful actions, corrective measures and fines for non-compliance with the decisions	Yes. Law no 202/2016, regulations, instructions	Yes	Yes	Yes. 0,4% of turnover	Yes. 0,4% of turnover	Yes. 0,4% of turnover. and comminatory fine-3% of turnover per day
Slovakia	Corrective measures and if they are not respected, to fine	In national legislation	yes, by the national legislation	The same	yes, from 1000 to 15000 €, with possibility to redouble fine	yes, from 1000 to 15000 €, with possibility to redouble fine	Yes
Slovenia	Decisions, recommendations, guidelines, non-binding opinions	No	Yes, no restrictions	Yes, no restrictions	Yes Between €3,000 and €20,000	Yes Between €3,000 and €20,000	Yes

	Remedies	Enforcement decisions - Directions			Penalties		
	What kind of remedies do you use	Do you have a published enforcement policy, setting out the type of enforcement action you can take, and how you intend to use these powers?	Do you have the power to make enforcement decisions/orders, or directions, for current or past issues? Any restrictions?	Do you have the power to make enforcement decisions/orders or directions, for likely future issues? Any restrictions?	Do you have the power to impose financial penalties on infrastructure managers? If so - what is the maximum fine? Are there any restrictions (cases when you cannot fine)?	Do you have the power to impose financial penalties operators? If so, what is the maximum fine? Are there any restrictions (cases when you cannot fine)?	Do you have the power to fine infrastructure managers/operators if they have failed to comply with your enforcement decision - including failure to pay a penalty ?
Spain	<p>On December 2018, an amendment to the Rail Sector Law passed, which gave the CNMC more competences on remedies. Now, we can “take action to remedy the situation”, and “decide on its own initiative on appropriate measures”, as on article 56.9 of the Directive 2012/34/EU.</p> <p>Prior to that amendment, our national law had no equivalent provision. Additionally, CNMC can issue directives and resolve complaints.</p> <p>Due to the novelty of the law amendment, we have not applied it yet. An example of a remedy under the previous law could be the next one about train drivers:</p> <p>The incumbent, with around 97% of all the train drivers and with much better employment conditions than private firms, had not trained enough train operators of its own for several years. Thus, the incumbent decided to organize a selection process, many of the alternative RUs’ train drivers left their companies to assist to the selection process and, eventually, incorporate to the incumbent.</p> <p>Between 17 and 40% of the train drivers left their companies to go the incumbent. This caused strong operational problems on these companies, which could not replace their train drivers easily, because the training process lasts for more than a year.</p>	No		<p>Our decisions are binding and subject only to judicial appeal, and (after the 2018 law amendment) we have competence about all kind of issues.</p> <p>However, our competence to impose fines is very limited, and maximum fines are very low.</p>	<p>Yes, but only if the IM fails to comply with one of our resolutions or fails to comply with an information request.</p> <p>The fine will be:</p> <p>1) Between 6.301€ and 125.000€ if the have put into risk the safety of people or the rail traffic</p> <p>2) Between 751€ and 6.300€ if not (this will be the case in the vast majority of cases)</p> <p>We have just started our first sanction procedure against the IM for failing to comply with a resolution regarding charges (it faces a sanction between 751€ and 6.300€)</p>	<p>Yes, but only if the they fail to comply with one of our resolutions or they fail to comply with an information request.</p> <p>The fine will be:</p> <p>1) Between 6.301€ and 125.000€ if the have put into risk the safety of people or the rail traffic</p> <p>2) Between 751€ and 6.300€ if not (this will be the case in the vast majority of cases)</p>	<p>Yes</p> <p>The CNMC can impose penalty payments when the offender fails to stop with the sanctioned behaviour, with periodic fines (as many times as needed) of up to 10% of the previous fine.</p> <p>On the other hand, there is no provision in our internal law about the consequences of the failure to pay a penalty</p>

	Remedies	Enforcement decisions - Directions			Penalties		
	What kind of remedies do you use	Do you have a published enforcement policy, setting out the type of enforcement action you can take, and how you intend to use these powers?	Do you have the power to make enforcement decisions/orders, or directions, for current or past issues? Any restrictions?	Do you have the power to make enforcement decisions/orders or directions, for likely future issues? Any restrictions?	Do you have the power to impose financial penalties on infrastructure managers? If so - what is the maximum fine? Are there any restrictions (cases when you cannot fine)?	Do you have the power to impose financial penalties on operators? If so, what is the maximum fine? Are there any restrictions (cases when you cannot fine)?	Do you have the power to fine infrastructure managers/operators if they have failed to comply with your enforcement decision - including failure to pay a penalty ?
	<p>In consequence, CNMC adopted a decision imposing the following obligations on the incumbent:</p> <ul style="list-style-type: none"> i) to publish annually its train drivers' necessities, to be sure it trains enough of them; ii) announce any selection process 3 months prior to its start and iii) In the case that more than 20% of a company's train operators leave it, the incumbent will be forced to grant access to traction services, with charges related to costs, for over three months. <p>Link with the decision and the press release (in Spanish): https://www.cnmc.es/novedades/2018-01-10-la-cnmc-fija-condiciones-renfe-para-que-sus-empresas-competidoras-puedan</p> 						
Sweden	Fines. directions to do or cease to do something.	No	Yes	No	Yes. No limit	Yes. No maximum fine.	Yes. No maximum fine.
Switzerland	Recommendations, directions to do or cease to do something, decisions, fines.	National legislation	Yes	Yes	Yes. Only if the IM fails to comply with a decision. Max fine CHF 100 000.-or if IM fails to comply with an information request. Max fine CHF 20 000.-	Yes. Only if they fail to comply with a decision. Max fine CHF 100 000.- or if they fail to comply with an information request. Max fine CHF 20 000.-	Yes
UK	Fines, directions to do or cease to do something, Guidance, code of practice, etc	Yes. Last revised November 2017 Link: https://orr.gov.uk/rail/consultations/policy-consultations-by-topic/economic-regulation/changes-to-orrs-economic-enforcement-policy-and-penalties-statement	Yes - for example, the determination every five years on what the mainline IM should deliver in respect of its role in operating, maintaining and renewing its network and how the funding available should be best used to support this. https://orr.gov.uk/rail/economic-regulation/regulation-of-network-rail/price-controls/periodic-review-2018/publications/final-determination	Yes	Yes. 10% of turnover	Yes. 10% of turnover Cannot fine in cases where the issue is 'likely future' - only current or past	Yes

