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Independent Regulators' Group – Rail

IRG-Rail

Annual Report 2020

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Foreword by the IRG-Rail Chairman for 2020

As Chair of IRG-Rail for 2020, I am pleased to present the IRG-Rail Annual Report outlining the group's activities during that year.

2020 was undoubtedly the year of the COVID-19 outbreak, which has significantly impacted the transport sector. IRG-Rail, as an international organisation active in the transport sector, was of course also impacted by the crisis. In the well-known context of global uncertainty and of severe travel restrictions, IRG-Rail remained committed throughout the year to continuing its activities as swiftly as possible, and to adapt those activities to ensure their relevance considering the major crisis faced by the rail sector.

Two of the IRG-Rail working groups, i.e. the Market Monitoring Working Group and the Emerging Legislative Proposals Working Group, monitored the impact of the crisis on the rail sector and the measures taken by governments to address that impact, and IRG-Rail issued a statement in May 2020, setting out the position of the European rail regulators on the recovery from the COVID-19 crisis.

Both at the level of working groups and at the level of the Plenary Assembly meetings and preparatory meetings, the usual physical meetings were replaced by videoconferences, and thanks to everyone's efforts, this has enabled IRG-Rail Members to keep up with their work and cooperation.

Besides the COVID-19 crisis, 2020 was also the time, for IRG-Rail, to elaborate and adopt a new four-year Strategy Document. Thanks to the efforts of all Members and to the important coordination work carried out by the IRG-Rail Vice-Chair's team, the Strategy Document 2021-2024 was adopted at the November Plenary after several months of preparation. This is an important document for the organisation, as it sets out the main strategic goals to be pursued in the coming years, and the measures IRG-Rail will pursue to reach those goals.

Those measures are of two kinds. Firstly, the document identifies issues likely to play an important role in the rail sector and, therefore, in the future work of IRG-Rail. Among those issues, smart and sustainable mobility, finding new solutions for capacity management and multimodality are areas that IRG-Rail will continue to study and work on to increase its expertise and provide the

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sector with reliable and clear views on the key challenges to come. Secondly, some of the measures are also organisational in nature and geared toward strengthening the IRG-Rail network as it matures. In that respect, during 2020, IRG-Rail Members have already started working at improving IRG-Rail's efficiency.

During 2020, the Group also carried out its activities pursuant to its 2020 Work Programme, with the Working Groups having notably submitted several public papers that were all adopted by the Plenary Assembly. Among others, the Group published an updated Report on monitoring of exemptions granted under Article 2 Paragraph 2 of Implementing Regulation (EU) 2017/2177; an Overview of International Passenger Service; and an Overview of Charges and charging principles for Freight Terminals. The Group also updated its report on the state of development of the TTR project and its pilots, and continued to follow the project closely, notably by starting to participate as observer in the TTR Steering Committee.

The Group also published its eighth Annual Market Monitoring Report, an important instrument for enhancing market transparency, setting directions for the activities of Regulatory Bodies and encouraging market participants to improve their services.

2020 was therefore a special year for the Group, with projects designed to increase the organisation's efficiency, and progress made in the cooperation on regulatory challenges in railways, in the promotion of sustainable and effective competition in the railway sector, and in exchanging with the sector's stakeholders.

Throughout the duration of my mandate as Chair, I worked in close cooperation with Ms Maria-Theresia Röhsler, the IRG-Rail Vice-Chair for 2020, and wish to hereby warmly thank her and her team for their continued support. I also wish to thank Mr Nikola Popović for his candidacy as Vice-Chair for 2021, and I wish them both success in their capacities as IRG-Rail Chair and Vice-Chair for 2021.

Serge Drugmand – IRG-Rail Chair 2020, Director of the Belgian Regulatory Body for Transport

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I. Who we are

1. Goals of IRG-Rail

1. The “Independent Regulators’ Group – Rail”, IRG-Rail, was established on 9 June 2011 by the rail regulators of 15 European countries¹ with the aim of enhancing and promoting cooperation among national independent rail Regulatory Bodies. The group has grown in number and currently consists of Regulatory Bodies from 31 European countries.
2. The overall purpose of IRG-Rail is to facilitate the creation of a single, competitive, efficient and sustainable internal railway market in Europe, by acting as a platform for cooperation, sharing of best practice on regulatory issues and promotion of a consistent application of the European regulatory framework.
3. IRG-Rail has already become an important player, which is recognized by key stakeholders, including European institutions and sector organizations. Through the publication of position papers, inputs to legislative proposals and harmonized regulatory principles and practices, IRG-Rail continues to prove its competence and efficiency.
4. The Group’s objectives are to:
 - enable effective and sustainable competition in the provision of passenger and freight rail transport;
 - proactively contribute to the development and application of the European regulatory framework for railways;
 - express the common position of European rail Regulatory Bodies regarding the most important emerging issues in the EU rail market.
5. On the basis of an open and transparent dialogue with all relevant parties, notably the European Commission, the European Parliament and the main stakeholders, IRG-Rail, composed of regulatory professionals from all around Europe, strives to contribute its views, experience and efforts to the sustainable development of a single competitive European rail market.

¹ Austria, Croatia, Denmark, Estonia, France, the Former Yugoslav Republic of Macedonia, Germany, Hungary, Latvia, Luxembourg, the Netherlands, Norway, Sweden, Switzerland and the United Kingdom.

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2. Our Structure

Plenary Assembly

6. The Plenary Assembly is composed of all IRG-Rail Members represented by their respective heads or representatives of their heads. It is convened at least once a year, and usually twice a year. Before each Plenary Assembly meeting, a Network Meeting is organized to prepare for the Plenary Assembly.
7. The Plenary Assembly is the forum for discussion and monitoring of the activities of IRG-Rail, and it takes all decisions aimed at pursuing IRG-Rail's objectives and related to the functioning of IRG-Rail. More precisely, the main tasks of the Plenary Assembly are to:
 - take the necessary decisions to comply with IRG-Rail's objectives;
 - approve relevant documents;
 - admit new Members and/or exclude Members;
 - approve any amendments to the Memorandum of Understanding;
 - adopt and/or amend its own rules of procedure and/or working arrangements;
 - approve the annual Working Programme and monitor its progress;
 - appoint its Chair and Vice-Chair.

Chairperson

8. IRG-Rail is represented by a Chair and a Vice-Chair, who are both appointed for a term of one year. Each year, the Plenary Assembly elects a representative amongst its Members' heads to be the IRG-Rail's Vice-Chair during the following year, and Chair the year after.
9. Apart from representing IRG-Rail, the Chair or the Vice-Chair convenes ordinary and extraordinary meetings of the Plenary Assembly and submits the draft multi-annual Strategy Document and the draft annual Work Programme to the Plenary Assembly for approval.

Strategy Committee

10. A Strategy Committee was set up in 2016 and consists of representatives of the Member Regulatory Bodies, including those of the current, previous and next chair of IRG-Rail. It is entrusted with identifying key strategic issues that are likely to impact on the role or activities

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of the Regulatory Bodies or on the rail sector and with assisting in the preparation of the annual Working Programme.

Working Groups and Sub-Groups

11. The Working Groups and Sub-Groups are the forum for developing, debating and encouraging Members' positions and views on regulatory issues.
12. They report and submit for approval to the Plenary Assembly draft documents, e.g. position papers or discussion papers, reports or guidelines, concerning the topics falling within their remit. Once approved, the documents are published on the IRG-Rail website, or in the Members' Area section, as the case may be.
13. The table below summarises the scope of activity of the IRG-Rail Working Groups and Sub-Groups:

Working Groups and Sub-Groups	Scope
Access Working Group	<ul style="list-style-type: none">- Focuses on all aspects of access to railway infrastructure with respect to market barriers, access restrictions, promotion of competition, needs of passengers and freight customers and improved rail performance.
Access to Services Facilities Sub-Group	<ul style="list-style-type: none">- Addresses all issues regarding access to service facilities including additional and ancillary services supplied in these facilities.- Seeks to develop a common understanding of service facilities and non-discriminatory access conditions.
Charges Working Group	<ul style="list-style-type: none">- Seeks to develop a common understanding of charging principles across the European rail sector and looks into recommendations based on European legislation, taking into account national practices.
Charges for Service Facilities Sub-Group	<ul style="list-style-type: none">- Compares charging practices among the IRG-Rail Members in order to get an overview of general European charging practices for service facilities.- Seeks to develop a common understanding of notions related to service facilities' charging.

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Emerging Legislative Proposals Working Group	- To promote a single European rail market, the working group discusses regulatory issues with the EU Commission on a regular basis, contributing to the development of primary and secondary legislative proposals.
Market Monitoring Working Group	- Collects and analyses data on the transport and rail sectors and drafts an annual Market Monitoring Report, an important instrument for setting direction to the activities of the Regulatory Bodies and stimulating market participants to improve their activities.

Multimodality Task Force

14. To explore issues related to multimodality in transport further, a task force was set up in 2018 in Turin, on a voluntary, opt-in basis for Members. The task force studies intermodal competition, interoperability of infrastructure and services, and related regulatory issues. It focuses on the collection of case studies.

II. Activities in 2020

1. Statement on the Recovery from the COVID-19 Crisis

15. Under the coordination of the IRG-Rail Chairman, a statement was issued in May 2020, setting out the position of the European rail regulators on the recovery from the COVID-19 crisis.
16. The IRG-Rail Members reaffirmed their commitment to regulatory cooperation across borders and to the coordination and consistency of administrative processes. They also emphasised that unilateral restrictions to rail markets should be only temporary in nature and pledged to continue to monitor the markets and uphold the principles of proportionality and non-discrimination, striking a balance between emergency measures and the need to safeguard fair competition in rail markets as well as a level playing field across transport modes.
17. The Statement was adopted at the May 2020 Plenary Assembly meeting, then published on the IRG-Rail website and sent to the EU institutions and to stakeholders.

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2. Four-year Strategy

18. Under the coordination of the IRG-Rail Vice-Chair, IRG-Rail established its strategy for the years 2021 to 2024, a strategy structured around the three following objectives:
 - Promote effective and efficient regulation applied consistently across Europe
 - Promote a resilient, open and sustainable European railway sector
 - Promote best regulatory practice for the benefit of passengers and rail freight users.
19. The Strategy Document is important to allow the stakeholders to know IRG-Rail's priorities in the coming years, and to show them IRG-Rail's continued willingness to adapt to the market developments and accompany such developments.
20. The document also forms the framework under which the Group's next work programmes will be elaborated.

3. Working Groups and Sub-Groups

Introduction: The IRG-Rail 2020 Work Programme

21. The IRG-Rail Work Programme is prepared each year by the IRG-Rail Chair and the Working Groups Co-Chairs, and adopted by the Plenary Assembly. It may be amended during the year by the Plenary Assembly at the request of the Strategy Committee or of an IRG-Rail Member.
22. Like the previous editions, the 2020 Work Programme was designed to enable IRG-Rail to pursue, through the work of its working groups, its aims of promoting a consistent approach to the European regulatory framework for railways.
23. All the papers issued by the IRG-Rail working groups and mentioned below were approved by the IRG-Rail Plenary Assembly in November 2020. They are available on the IRG-Rail [website](#).

Access Working Group

24. The Access Working Group concentrated on three main subjects in 2020.

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25. Firstly, the Group continued its work on the Redesign of the International Timetabling Process (“TTR”) project launched by RailNetEurope (RNE) and Forum Train Europe (FTE). The Group has continued to engage and exchange with RNE on the project and its pilots and provide views from a regulatory perspective, as well as with the European Commission and other stakeholders with regard to market needs. The Group also updated its [report on the state of development of the TTR project and its pilots](#).
26. The second subject on which the group worked in 2020 is the monitoring of Rail Freight Corridors. Although some activities of the group in that area have been impacted by the COVID-19 crisis, for example with the cancellation of the IRG-Rail forum scheduled for September 2020, the group has continued its monitoring of the Rail Freight Corridors, using the Key Performance Indicators (KPIs) adopted by IRG-Rail in 2017. The IRG-Rail Members also contributed to the evaluation process carried out by the European Commission.
27. Thirdly and finally, the group examined some of the national practices for the planning and monitoring of Temporary Capacity Restrictions. The group prepared and issued an internal report on the current national practices and regulatory control relating to renewal planning and scheduled or unscheduled maintenance, following the implementation into national legislation of article 56, paragraph 1, letter (i) of directive 2012/34/EU, also with reference to the application of Annex VII of the directive and the management of congested infrastructure.

Access to Service Facilities Sub-Group

28. The Access to Service Facilities Sub-Group also worked on three topics in 2020.
29. Firstly, the group reviewed the European Court of Justice’s judgment of 10 July 2019 in the case C-210/18 determining that passenger platforms are an element of the railway infrastructure. The group examined the judgment and organised a workshop to enable Members to share their experiences on the treatment of passenger platforms and related services, and discuss the consequences of the judgment.
30. Secondly, the group provided IRG-Rail Members with an internal overview of the classification of tracks in the main maritime and inland port(s) in different European countries.

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31. Thirdly and finally, the group continued its monitoring of the exemptions granted under Article 2, paragraph 2 of Implementing Regulation (EU) 2017/2177 on access to service facilities and rail-related services and updated its [report](#) on the subject.

Charges Working Group

32. Continuing to develop IRG-Rail's understanding of charging principles across the European rail sector by exchanging and organising information on charging issues, the Charges Working Group concentrated mainly on two subjects in 2020.
33. The group analysed the current practices for international passenger services and issued an [Overview of International Passenger Services](#).
34. The group also continued its activities on the charging practices for the Minimum Access Package in Europe and updated for the fifth time its [Overview of Charging Practices for the Minimum Access Package in Europe](#), taking into account all recent changes to national legislations and adding to the overview an in-depth analysis of direct cost criteria and market segments.
35. Besides, the group also initiated an update of the paper on market segmentation and mark-ups originally it issued in [2016](#), and will continue this updating process in 2021.

Charges for Service Facilities Sub-Group

36. Continuing its work aimed at developing a common understanding of the EU charging principles for service facilities and at developing common positions thereon, the Charges for Service Facilities Group concentrated on two topics in 2020.
37. The Group issued an [Overview of Charges and charging principles for Freight Terminals](#), compiling and analysing data from 19 IRG-Rail Member countries, and information on 41 terminals in 15 countries.
38. The Group also started preparing a workshop on reasonable profit that will take place in 2021, where Members will be able to exchange their experiences in determining the WACC and CAPM calculations for charges for the Minimum Access Package as well as charges for service facilities.

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Emerging Legislative Proposals Working Group

39. In the context of the Covid-19 crisis, the Emerging Legislative Proposals Working Group monitored the rail-related emergency measures adopted by the IRG-Rail Members' countries, compiling them and ensuring IRG-Rail Members had a global and precise view of the various measures adopted at State level. The Group also analysed and discussed the EU Commission's proposal for a regulation establishing measures for the rail market in view of the pandemic.
40. In line with the topics already identified in its work programme for 2020, the Group held a workshop on the economic equilibrium test to enable Members to exchange on the methodologies they have adopted, and on the tests they have carried out since the entry into force of Implementing Regulation (EU) 2018/1795. In addition, the Group also continued to monitor and exchange on cases on anti-competitive discriminatory practices in the rail sector. A workshop on the subject, focused on distribution of tickets, access to service facilities and rolling stock, and on tendering of public service contracts was held in January 2020 together with the EU Commission and Competition Authorities.
41. The Group also discussed the EU Commission's public consultation on the EU Strategy for a Sustainable and Smart Mobility, allowing IRG-Rail Members to consult each other before responding individually to the consultation.
42. Finally, the Group initiated an overview of ticket distribution systems and will continue to work on this subject in 2021.

Market Monitoring Working Group

43. The Market Monitoring Working Group issued its Eighth Annual [Market Monitoring Report](#) early in 2020. In this eighth report, covering the year 2018 and including data from 31 European countries, emphasis has been placed on three topics: i) the competitive situation in the rail passenger and freight markets, ii) barriers to entry in the railway markets, and iii) direct competition in the rail passenger market.
44. IRG-Rail has been publishing Annual Market Monitoring Reports, prepared by its Market Monitoring Working Group, since 2013. Rail market monitoring is a vital instrument for

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enhancing market transparency, setting directions for the activities of Regulatory Bodies and encouraging market participants to improve their services. Benchmarking is becoming a central instrument for improving the performance and, under the right conditions, comparison can act as a stimulus for good practices and innovation.

45. The Market Monitoring Group also started to work on its next annual report, and on an analysis of the impacts of the COVID-19 crisis on the European railway market.

4. Organisational Issues

Representation and Communication

46. IRG-Rail is strongly committed to ensuring that independent rail Regulatory Bodies develop and implement best regulatory practices and is therefore always available for non-Member regulators with the aim of supporting their participation in the working groups' activities and in IRG-Rail. The increased participation brings added value to the Group and helps fostering the development of a single European railway market.
47. As in previous years, the Group's Chair and Vice-Chair had interesting exchanges with some of the main European stakeholders, i.e., in 2020, CER, EPF, EPTO, ERFA, RNE, UIC, UIP, UIRR and UNIFE, to exchange on the most relevant topics for the European rail market with a view to balancing different interests and fostering a better understanding on crucial issues.
48. IRG-Rail also continued to develop close relations with the EU Commission, the EU Agency for Railways (ERA) and the European Network of Rail Regulatory Bodies (ENRRB). In this forum, IRG-Rail continues to report on a regular basis on its past and future activities and to contribute to the discussions.
49. In 2020, IRG-Rail also accepted RNE's invitation to participate in the TTR Steering Committee. This participation is in a strict capacity as observer, and comes in addition to the pre-existing work and avenues of communication with stakeholders involved in the TTR project.
50. IRG-Rail also continued to engage with the sector through the publication of a number of documents reflecting IRG-Rail's positions and analysis on several current rail-related

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issues. All documents published by IRG-Rail in 2020 are available on the Group's [website](#) (see the full list below, in Annex I).

Information about Plenary Meetings, Decisions and Elections

51. In 2020, two Plenary Assembly meetings took place, both via videoconference due to the Covid-19 related restrictions. The first meeting took place on 18 and 19 May, and the second, on 17 and 18 November. Both were hosted by the Belgian Regulatory Body for Transport.
52. A number of decisions were also reached via electronic voting, such as the adoption of a transitory amendment to the IRG-Rail Memorandum of Understanding in view of the United Kingdom having left the EU on 31 January 2020, to allow the Office of Rail and Road (ORR) to continue being to be a Member of IRG-Rail until the reaching of a permanent relationship agreement between the EU and the United Kingdom.
53. From January to December 2020, Mr Serge Drugmand, Director of the Belgian Regulatory Body for Transport, was the IRG-Rail Chair. During that year, Ms Maria-Theresia Röhler, the Managing Director of Schienen-Control GmbH, the Austrian Rail Regulatory Body, served as IRG-Rail Vice-Chair. During the November 2020 Plenary Meeting, Mr Nikola Popović, Member of the Council of HAKOM, the Croatian Rail Regulatory Body, was appointed Vice-Chair for 2021.

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Annex I – List of the Documents Published in 2020²

- IRG-Rail (20) 1 - Annual Report 2019
- IRG-Rail (20) 2 - Eighth IRG-Rail Annual Market Monitoring Report
- IRG-Rail (20) 3 - European rail regulators contribute to the recovery from the COVID-19 crisis
- IRG-Rail (20) 4 - Report on the state of development of the TTR project and its pilots
- IRG-Rail (20) 8 - Report on monitoring of exemptions granted under Article 2 Paragraph 2 of Implementing Regulation (EU) 2017/2177
- IRG-Rail (20) 9 - Overview of International Passengers Services
- IRG-Rail (20) 10 - Overview of Charging Practices for the Minimum Access Package in Europe (and Annex)
- IRG-Rail (20) 11 - Overview of Charges and charging principles for Freight Terminals
- IRG-Rail (20) 12 - Strategy Document 2021-2024
- IRG-Rail (20) 13 - Work Programme 2021

² All these documents are available on the IRG-Rail website, the first on the [Annual Reports page](#) and the other ones on the [Position Papers page](#).

Annex II – List of the Members of IRG-Rail

Austria

Schienen-Control GmbH

Belgium

Service de Régulation du Transport Ferroviaire et de l'Exploitation de l'Aéroport de Bruxelles – National
(Regulatory Service for Railway Transport and for Brussels Airport Operations)

Bulgaria

Изпълнителна агенция "Железопътна администрация"
(Executive Agency - Railway Administration)

Croatia

HAKOM – Hrvatska regulatorna agencija za mrežne djelatnosti
(Croatian Regulatory Authority for Network Industries)

Czech Republic

UPDI - Úřad pro přístup k dopravní infrastrukture
(Transport Infrastructure Access Authority)

Denmark

Jernbanenævnet
(Danish Railway Regulatory Body)

Estonia

Konkurentsiamet
(Estonian Competition Authority)

Finland

TRAFICOM – Liikenne- ja viestintävirasto
(Finnish Transport and Communication Agency)

France

ART - Autorité de Régulation des Transports
(Regulatory Authority for Rail, Road and Airport sector)

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Germany

BNetzA - Bundesnetzagentur
(Federal Network Agency)

Greece

RAS - Ρυθμιστική Αρχή Σιδηροδρόμων
(Regulatory Authority for Railways)

Hungary

NKH - Nemzeti Közlekedési Hatóság
(National Transport Authority)

Ireland

CRR – Commission for Rail Regulation

Italy

ART - Autorità di Regolazione dei Trasporti
(Transport Regulation Authority)

Kosovo

ARH - Autoriteti Rregullativ i Hekurudhave
(Railway Regulatory Authority)

Latvia

VDA - Valsts dzelzceļa administrācija
(State Railway Administration)

Lithuania

RRT – Lietuvos Respublikos ryšių reguliavimo tarnyba
(Communications Regulatory Authority)

Luxembourg

ILR - Institut Luxembourgeois de Régulation
(Luxembourg Institute of Regulation)

Netherlands

ACM - Autoriteit Consument & Markt
(Authority for Consumers and Markets)

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Norway

SJT - Statens Jernbanetilsyn
(Norwegian Railway Authority)

Poland

UTK - Urząd Transportu Kolejowego
(Office of Rail Transportation)

Portugal

AMT – Autoridade da Mobilidade e dos Transportes
(Portuguese Authority for Mobility and Transport)

North Macedonia

ARTZU - Agencija Za Regulaciju Tržišta Željezničkih Usluga
(Rail Market Regulatory Agency)

Romania

Romania Consiliul Concurentei
(Railway Supervision Council)

Serbia

Raildir - Direkcija za železnice
(Directorate for Railways)

Slovakia

DU - Dopravný úrad
(Transport Authority)

Slovenia

APEK - Agencija Za Kominikacijska Omrežja In Storitve Republike Slovenije
(Agency for Communications Networks and Services of the Republic of Slovenia)

Spain

CNMC - Comisión Nacional de los Mercados y la Competencia
(National Commission on Markets and Competition)

Sweden

Transportstyrelsen
(Swedish Transport Agency)

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Switzerland

SKE - Schiedskommission im Eisenbahnverkehr
(Railways Arbitration Commission)

United Kingdom

ORR - Office of Rail and Road