

Ninth Annual Market Monitoring Working Document

April 2021



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List of country abbreviations and regulatory bodies

Country	Country abbreviation	Participating regulatory bodies
Austria	AT	Schienen-Control GmbH
Belgium	BE	Regulatory Body for Railway Transport and for Brussels Airport Operations
Bulgaria	BG	Railway Administration Executive Agency
Czech Republic	CZ	Transport Infrastructure Access Authority
Croatia	HR	HAKOM
Denmark	DK	Jernbanenaevnet
Estonia	EE	Estonian Competition Authority
Finland	FI	Finnish Transport and Communications Agency (Traficom)
France	FR	Autorité de Régulation des Transports
Germany	DE	Bundesnetzagentur
Greece	GR	Regulatory Authority for Railways
Hungary	HU	Rail Regulatory Body
Ireland	IE	Commission for Railway Regulation
Italy	IT	Autorità di Regolazione dei Trasporti
Kosovo*	KS*	Railway Regulatory Authority
Latvia	LV	State Railway Administration
Lithuania	LT	Communications Regulatory Authority of the Republic of Lithuania
Luxembourg	LU	Institut Luxembourgeois de Régulation
Netherlands	NL	Autoriteit Consument & Markt
Norway	NO	Statens jernbanetilsyn
Poland	PL	Urząd Transportu Kolejowego
Portugal	PT	AMT - Autoridade da Mobilidade e dos Transportes
Republic of North Macedonia	MK	Macedonian Railway Regulatory Agency
Romania	RO	Consiliul Național de Supraveghere din Domeniul Feroviar
Serbia	RS	Directorate for Railways
Slovakia	SK	Transport Authority

IRG - rail

Independent
Regulators' Group - Rail

Slovenia	SI	AKOS
Spain	ES	Comisión Nacional de los Mercados y la Competencia
Sweden	SE	Transportstyrelsen
Switzerland	CH	Rail Transport Commission RailCom
United Kingdom	UK	Office of Rail and Road

Kosovo (KS)*: This designation is without prejudice to positions on status and is in line with UNSCR 1244 (1999) and the ICJ Opinion on the Kosovo declaration of independence.

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Introduction



Participating countries

AT - Austria
BE - Belgium
BG - Bulgaria
HR - Croatia
CZ - Czech Republic
DK - Denmark
EE - Estonia
FI - Finland
FR - France
DE - Germany
GR - Greece
HU - Hungary
IE - Ireland
IT - Italy
KS - Kosovo*



LV - Latvia
LT - Lithuania
LU - Luxembourg
NL - Netherlands
NO - Norway
PL - Poland
PT - Portugal
RO - Romania
RS - Serbia
SK - Slovakia
SI - Slovenia
ES - Spain
SE - Sweden
CH - Switzerland
UK - United Kingdom

1. Introductory remarks

This Working Document complements the ninth IRG-Rail Market Monitoring Report¹ and provides country-specific data, as well as further context to the results presented in the Main Report. The aim of this report is to provide more detailed analysis on the developments in the monitored countries.

Structure of the working document

The structure of this document follows that of the Main Report, with chapters on the network characteristics of the railway market (Chapter 2), Track Access Charges (Chapter 3), railway undertakings and European rail traffic (Chapter 4), before analysing the rail freight (Chapter 5) and the rail passenger (Chapter 6) markets.

This year's report also includes an additional focus on the impact of the coronavirus (COVID-19) pandemic on European railway markets during the first half of 2020 (this focus is entirely included in the Main Report).

Finally, the Working Document also includes a summary of the important regulatory decisions taken in 2019 (Chapter 7).

All data provided in tables and figures within this Working Document are available on the IRG-Rail website².

¹ The ninth IRG-Rail Market Monitoring Report can be found here [link towards the Report].

² The data are available here [link towards the data].

02

Network characteristics of the railway market



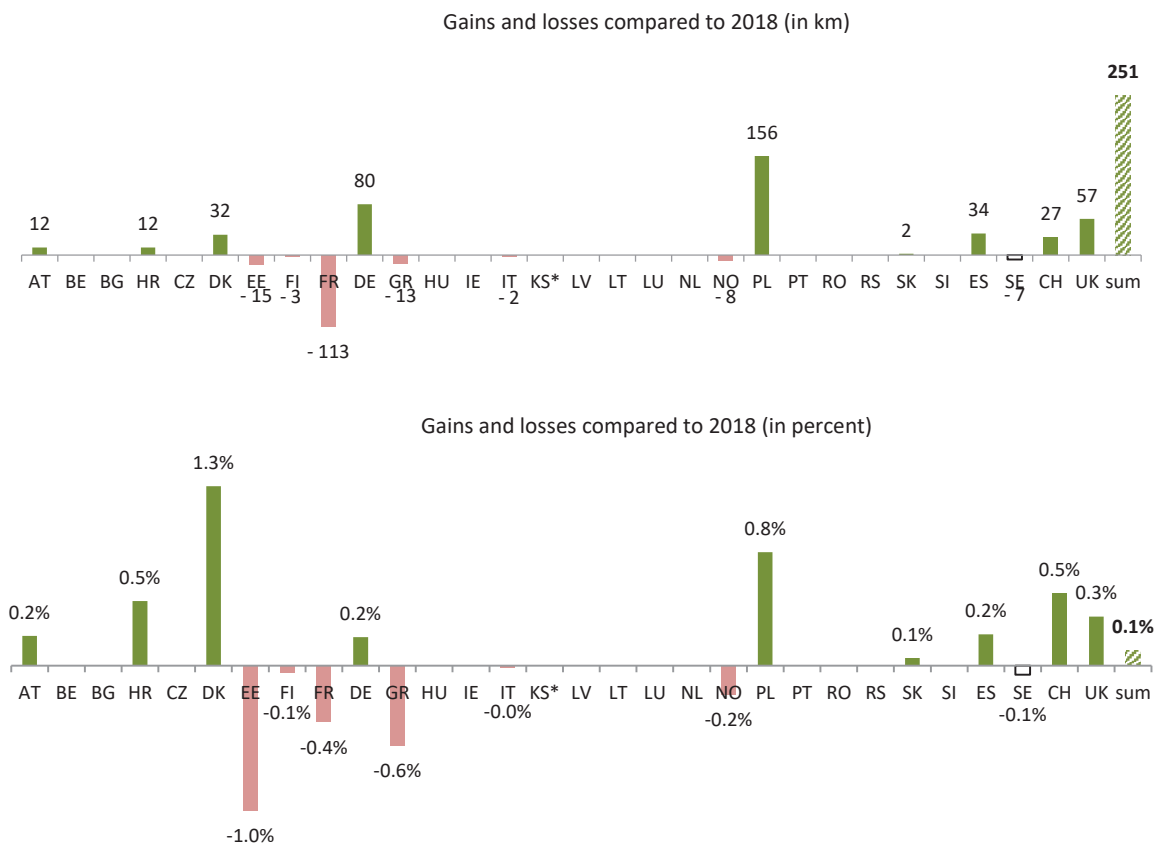
2. Network characteristics of the railway market

2.1. Total route length

Total route length across participating countries increased by 251 km in 2019 compared to the previous year. This represents a marginal increase of 0.1%.

Compared to 2018, ten countries reported an increase in total route length. The only country to report a relative increase above 1% was Denmark (+1.3%). This was due to the expansion of light rail track near Aarhus. Meanwhile, Greece, France, Norway, Finland and Sweden all reported small decreases in total route length in 2019³.

FIGURE 1 - EVOLUTION OF TOTAL ROUTE LENGTH (IN KM AND IN %) BETWEEN 2018 AND 2019



³ Some statistical review of incorrect data may partly explain evolutions presented in the chart. This is the case for Estonia where track length actually increased in 2019 by 6 km.

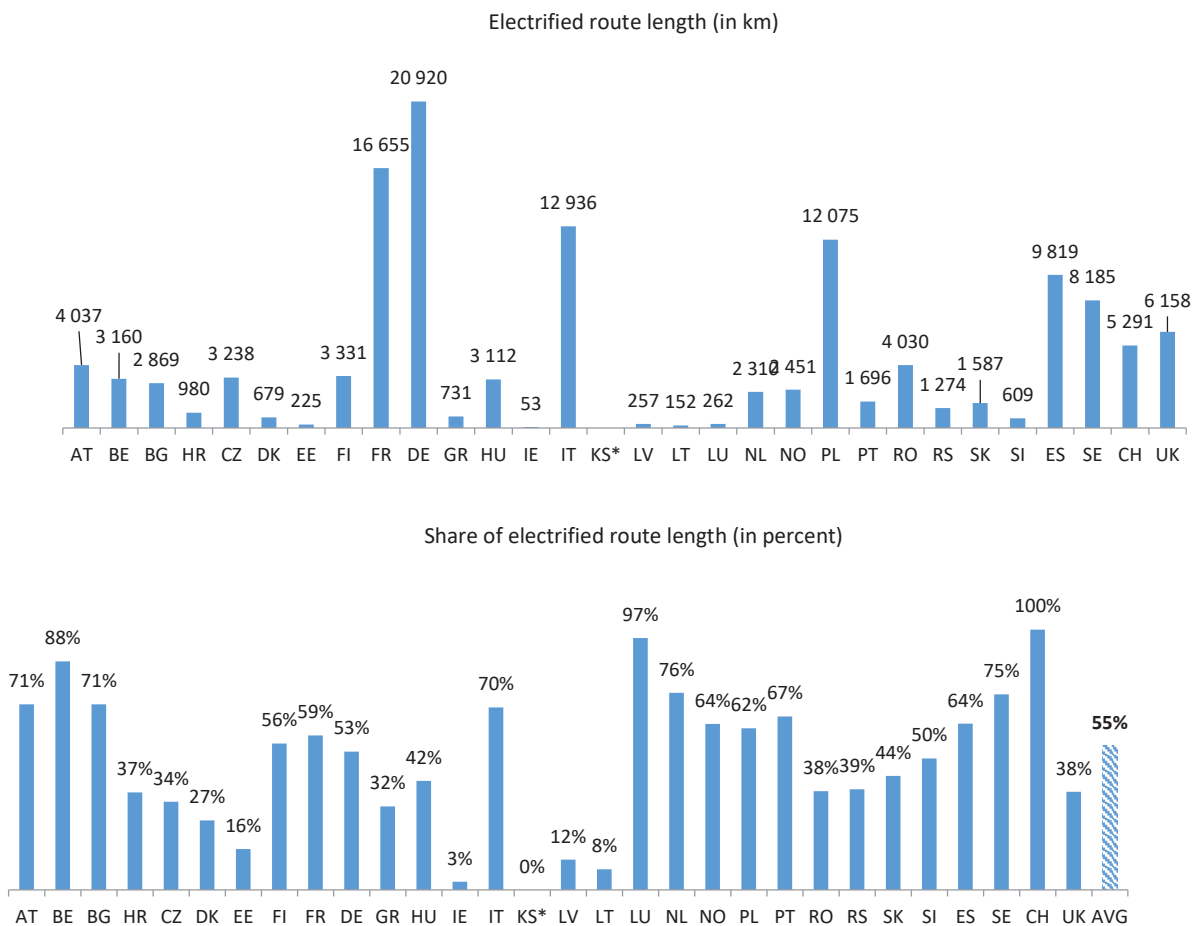
2.2. Electrified route length

The level of electrification of the railway network differs significantly between countries. Switzerland is the only participating country with a fully electrified network, while Kosovo has the only network where no tracks are electrified. Overall, 55% of the total route for participating countries is electrified.

Many countries have seen small increases in the length of electrified route since 2018 with the largest increases in Poland (+206 km), Germany (+137 km) and Spain (+114 km). These changes are indicative of investment in the rail networks to electrify existing lines and of the construction of new electrified routes. The use of electric powered trains is considered to be cleaner as well as more efficient than diesel powered equivalents, thereby helping to increase capacity on existing networks.

Sweden, Serbia, Norway and Bulgaria were the only countries in which the length of electrified route has fallen between 2018 and 2019 (although they all declined by less than 1%).

FIGURE 2 - ELECTRIFIED ROUTE LENGTH (IN KM AND IN % OF THE TOTAL ROUTE LENGTH) IN 2019



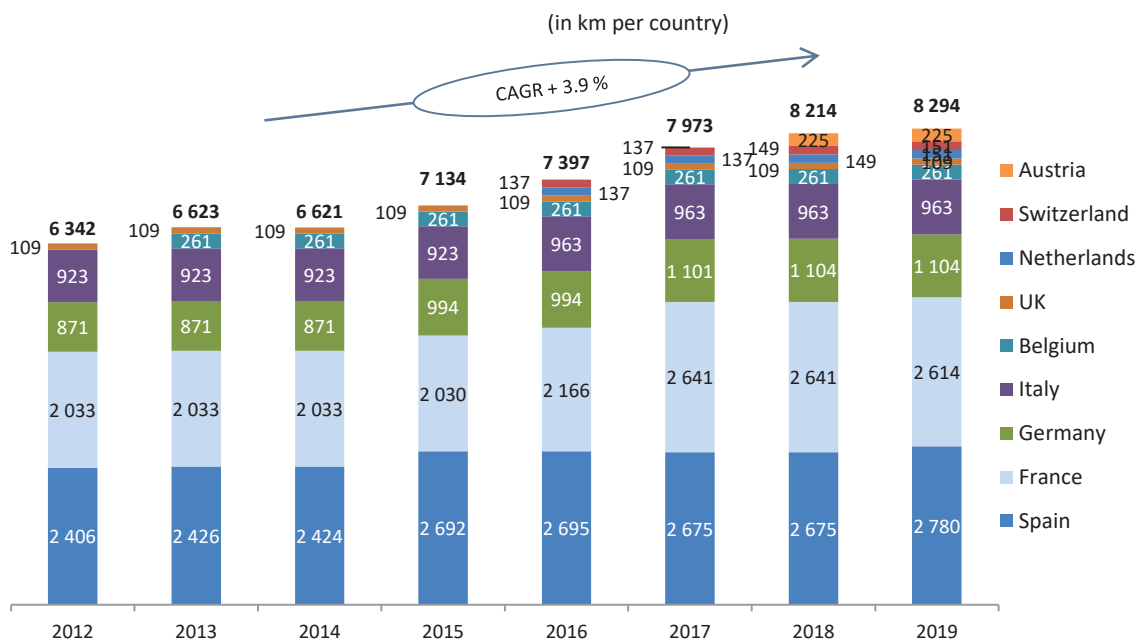
2.3. High-speed route length

Another indicator of the ongoing development of the European railway network is the expansion of high-speed lines. Nine countries reported having high-speed lines as defined in the European Commission Implementing Regulation 2015/1100⁴.

Total high-speed route length across participating countries was largely unchanged in 2019. Only Spain (+105 km) and Switzerland (+2 km) expanded their high-speed networks compared to 2018.

In 2019, the total route length of high-speed routes was almost 31% higher than in 2012. This change was primarily driven by the construction of new high-speed lines in France (between Tours and Bordeaux and Le Mans and Rennes), in Germany (on the last section of the high-speed route between Berlin and Munich) and also in Spain (new high-speed section between Antequera and Granada).

FIGURE 3 - HIGH-SPEED ROUTE LENGTH IN 2019⁵



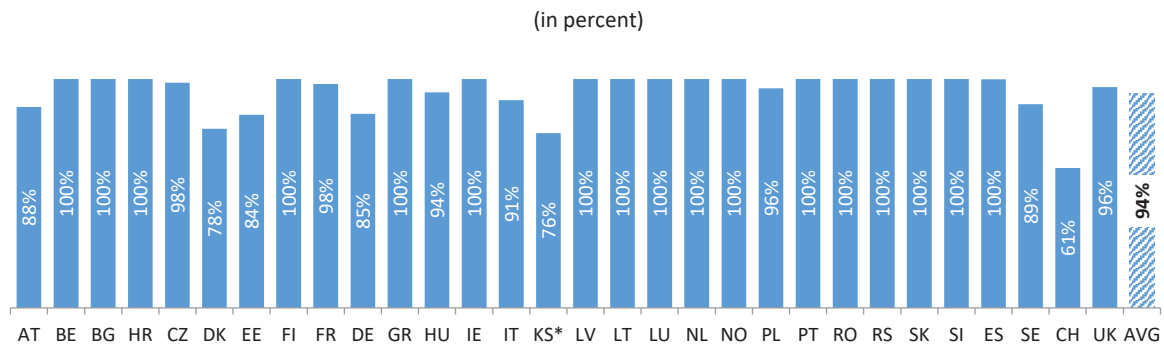
2.4. Main infrastructure managers' share of route length

On average, the main infrastructure managers control 94% of the total route length across the participating countries. In 17 countries, the main infrastructure manager controls the entire network. There have only been marginal changes in the share of route length controlled by the main infrastructure manager in recent years.

⁴ 'Dedicated high-speed line' means a line specially built to allow traffic to travel at speeds generally equal to or greater than 250 km/h on its main segments; it may include connecting segments where speeds are reduced to take account of local conditions;

⁵ On Swiss high-speed-tunnel-tracks, passenger trains usually run at 200 km/h due to capacity issues. For France's statistics a change in the methodology explains the difference between 2018 and 2019 numbers.

FIGURE 4 - MAIN INFRASTRUCTURE MANAGERS' SHARE OF TOTAL ROUTE LENGTH IN 2019



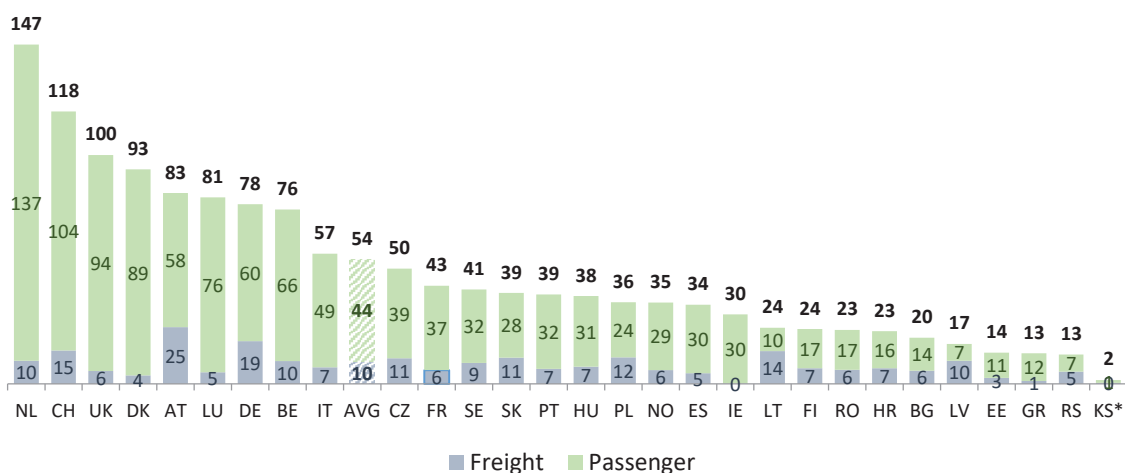
2.5. Network usage intensity

Network usage intensity measures the number of train-km per route km per day and is an indicator of the overall occupancy of the railway network. However, it cannot be considered as a true indicator for congestion since multi-track lines are not taken into account. Since it is a measure for the whole country, it does not account for how usage can vary between different regions within a country.

In nearly all participating countries, the railway networks are predominantly used by passenger services. Only Lithuania, Latvia and Slovenia have railway networks used more intensively by freight services than passenger services. The usage intensity for freight is highest in Austria, followed by Slovenia and Germany, which may reflect the level of cross-border freight traffic between these countries. The Netherlands have the highest passenger train density (with on average 137 passenger train-km operated per route-km per day).

FIGURE 5 - NETWORK USAGE INTENSITY IN 2019

(train-km per route-km per day)



Track access charges (TAC)
paid by railway
undertakings for the
Minimum Access Package



3. Track Access Charges paid by railway undertakings for the Minimum Access Package

3.1. Total Track Access Charges in European countries

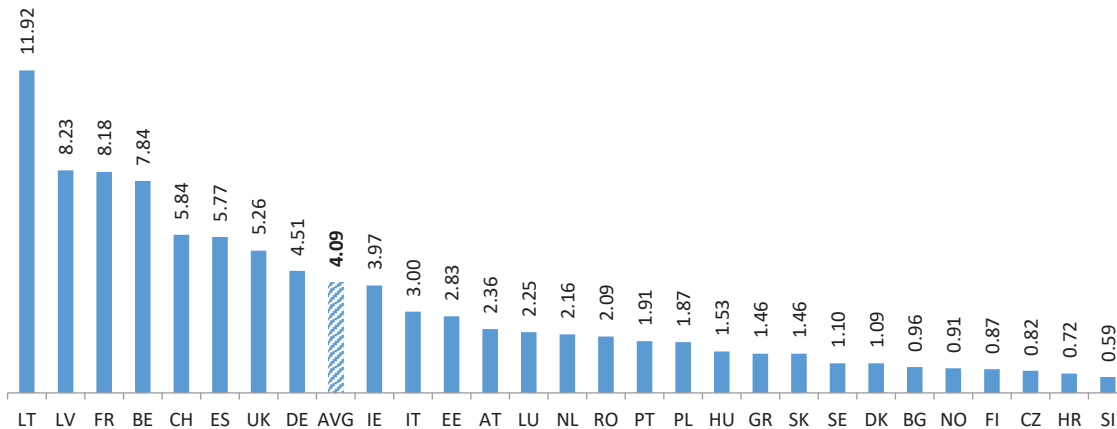
In 2015, the European Parliament and Council adopted Directive 2012/34/EU, which requires Member States to harmonize their charging methods. The Track Access Charges (TAC) must consist of a direct cost for the Minimum Access Package and may also include a mark-up, which the infrastructure manager can use to (partially) finance the indirect cost of train services, as long as the market can bear these costs.

Despite this harmonization effort, the average level of TAC (per train-km) widely varies among European countries. In 2019, railway undertakings in Lithuania on average paid Euro 11.92 per train-km, while railway undertakings in Slovenia paid Euro 0.59 per train-km.

These differences can be explained by many factors, such as the way to which Directive 2012/34/EU has been implemented and the level of mark-ups (required). Furthermore, there are differences among member states in what the Track Access Charges include. For example, in some countries the TAC for passenger trains also encompass station usage, while in other countries they do not. As a result, Figure 6 only has limited explanatory power regarding the comparison between countries.

FIGURE 6 - INFRASTRUCTURE MANAGERS' REVENUES FROM RAILWAY UNDERTAKINGS FOR THE MINIMUM ACCESS PACKAGE IN 2019⁶

(in Euro per train-km)



3.2. Track Access Charges for passenger and freight services

Figure 7 shows that there are substantial differences between countries in the TAC paid for rail freight services and for passenger services. In Spain, 99% of the TAC are collected from passenger services, while in Estonia 1% of the TAC are collected from passenger services. In general, for most countries, TAC are derived from passenger services, simply because there are more passenger services than freight services. In addition, charges per train-km

⁶ The average value in this graph differs from the one in the Main Report since the sample is different: This one includes all the available data for 2019 while the one in the Main Report includes only the countries which provided data for the 2015-2019 period.

for passenger services are typically higher than for freight services, and can also vary significantly among passenger services for specific categories of traffic (high speed services in particular).

FIGURE 7 – SHARE OF TAC PAID BY RAILWAY UNDERTAKINGS FOR PASSENGER AND FREIGHT SERVICES IN 2019⁷

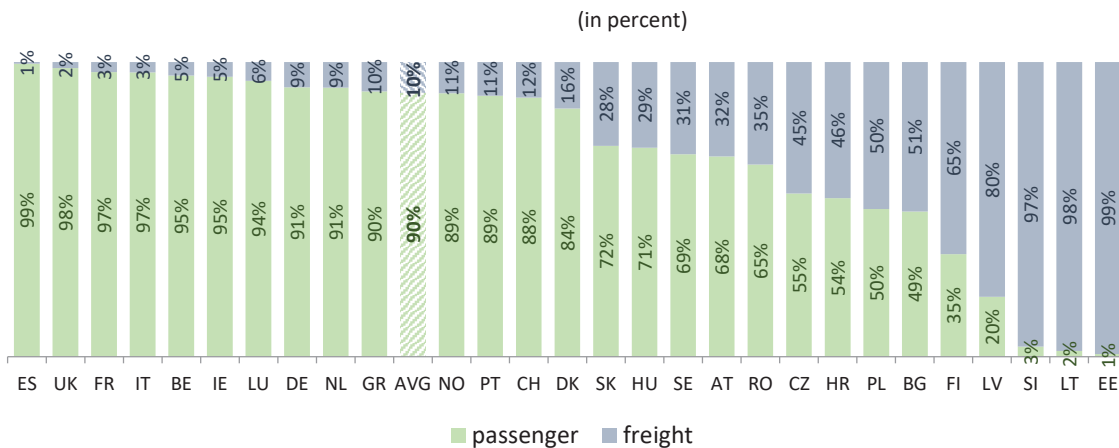
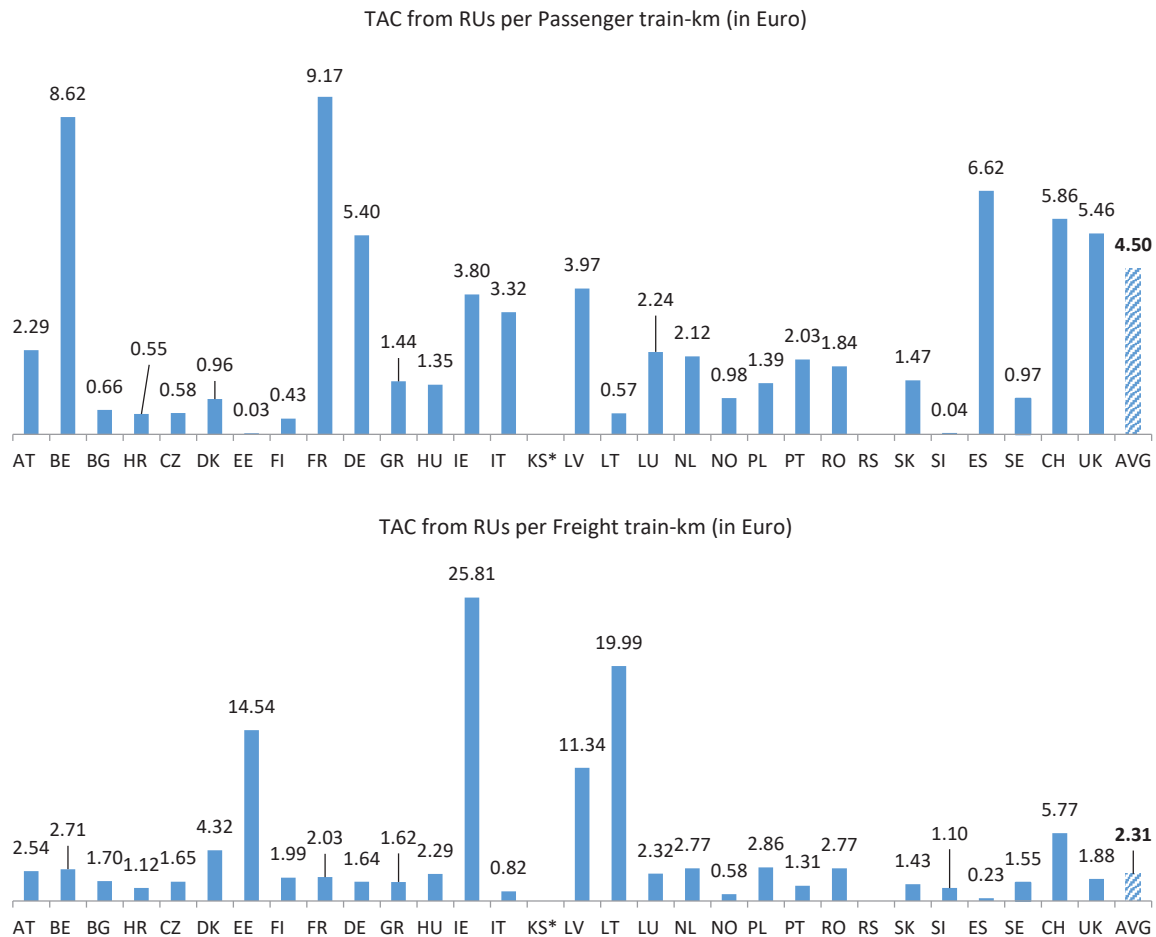


Figure 8 presents infrastructure managers' revenues from railway undertakings per train-km for passenger and freight services. The figure reveals large differences between countries, as well as differences between freight and passenger services within individual countries. On average, passenger services paid Euro 450 per train-km, while freight services paid Euro 2.31. Freight services paid the highest fee in Ireland, which was Euro 25.81 on average. It can be noted that the basis for Ireland's calculation of the TAC is per gross-tonne and not per train-km which is represented in Figure 8⁸. Passenger services paid the highest fee in France, which was Euro 9.17 on average. Compared to 2018, the average TAC paid by railway undertakings per train-km slightly increased for passenger services and decreased for freight services.

⁷ The average value in this graph differs from the one in the Main Report since the sample is different: This one includes all the available data for 2019 while the one in the Main Report includes only the countries which provided data for the 2015-2019 period.

⁸ With no presumption of the basis of calculation for other countries which can differ as well from train-km.

FIGURE 8 - INFRASTRUCTURE MANAGERS' REVENUES FROM RAILWAY UNDERTAKINGS PER TRAIN-KM PER PASSENGER AND FREIGHT SERVICES IN 2019⁹



In several countries, there are substantial differences between the average TAC per train-km for passenger services and for freight services. In France and Belgium for example, on average, freight services paid Euro 2.03 and Euro 2.71 per train-km, while passenger services paid Euro 9.17 and Euro 8.62 respectively. This difference is the result of the application of mark-ups. While freight services only pay the direct cost of the use of the network, passenger services additionally pay a mark-up to (partially) cover the indirect cost. This mark-up can be differentiated as well per type of market segments (domestic vs international services, regional vs interurban or high speed passenger services...). In Ireland, the TAC for freight services is very high with Euro 25.81 per train-km and relatively low for passenger services with Euro 3.80 per train-km (with both passengers and freight services being charged the same rate and on a similar basis of computation per tonne-km as mentioned above). In Estonia, Latvia and Lithuania, the freight services pay higher charges than passenger services (on a per train-km basis). This

⁹The average value in this graph differs from the one in the Main Report since the sample is different: This one includes all the available data for 2019 while the one in the Main Report includes only the countries which provided data for the 2015-2019 period.

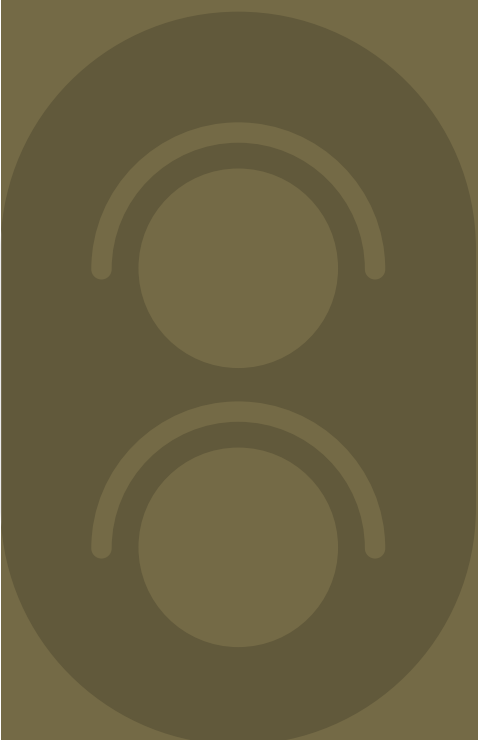
is because, in the Baltic States, where rail is predominantly used by freight services, freight services can bear a higher mark-up than passenger services and/or the charges for the Minimum Access Package are calculated in Euro per gross tonne-km, where freight trains are longer and heavier due to the existing wider track gauge. In addition, according to the regulation of Directive 2012/34, infrastructure managers may also set higher charges for transit traffic (Art. 2 (10)) (valid only in Lithuania) and if the carriage of goods to and from countries operated on a network whose track gauge is different from the main rail network within the Union (Art. 32 (2)), which can explain a higher level of freight TAC in the Baltic States where transit traffic from and to Russia represents a significant proportion of total freight rail traffic.

There are also differences compared to last year. On average, TAC for passenger services increased in 2019 compared to 2018. However, in Latvia there was a substantial decrease from Euro 6.77 per train-km to Euro 3.97 per train-km. This reflects a change in methodology whereby, before July 3rd 2019, TAC were set at full unit cost. After this, charges were changed to direct cost-plus mark-up, in accordance with Art. 32 (1) of Directive 2012/34. The mark-up for passenger services within the framework of a public service contract – by far the largest passenger segment in Latvia – was set at zero as the market segment cannot bear any markup. As a consequence, the TAC for this segment decreased significantly from roughly Euro 7 per train-km to Euro 1 per train-km.

On average, TAC for freight services decreased in 2019. This was the case in Germany, where the TAC decreased by 30%. Since July 1st 2018, rail freight companies have been able to obtain financial support from the State through the “freight-TAC-funding”. This is worth Euro 350 million per year (cf. Euro 175 million in 2018 and Euro 350 million in 2019). Nearly half of the original freight TAC has been refunded by this measure.

04

Railway undertakings and european rail traffic

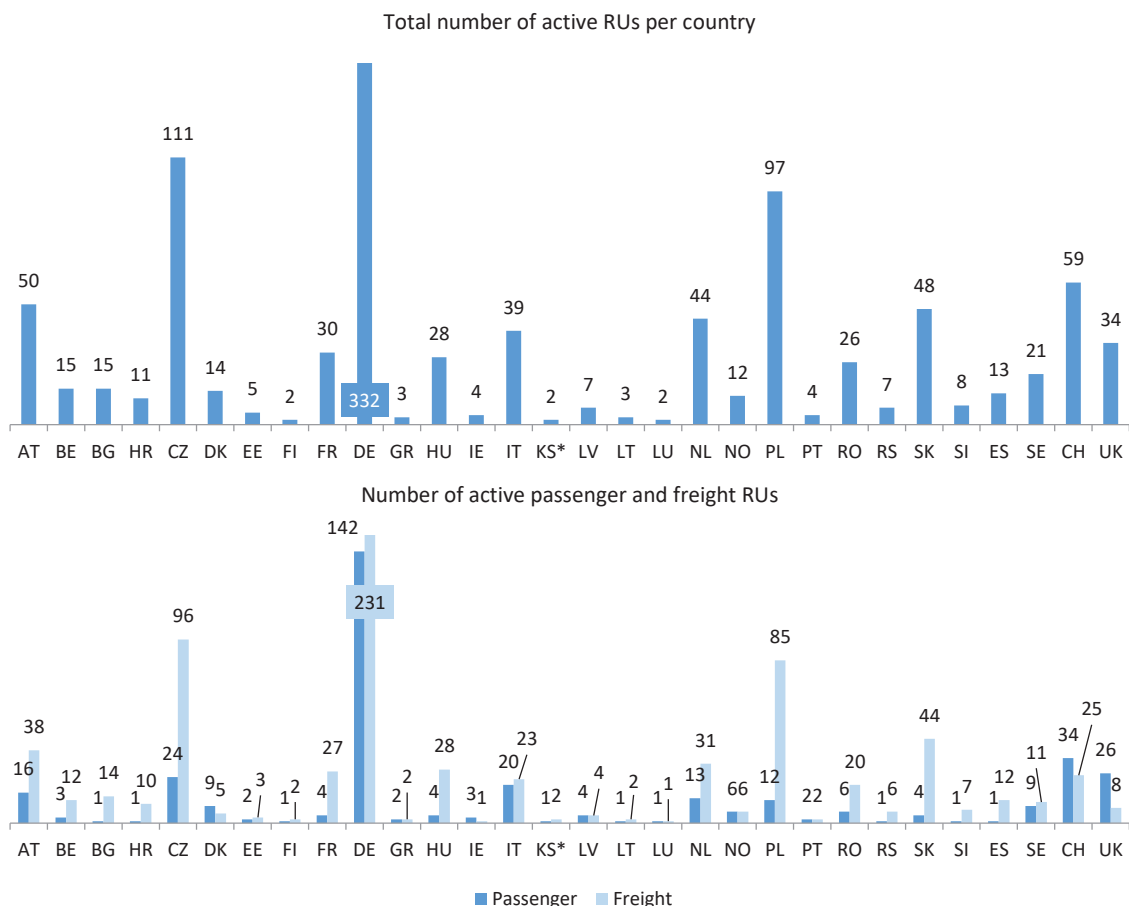


4. Railway undertakings and European rail traffic

4.1. Railway undertakings

The number of active railway undertakings varies significantly across IRG-Rail member countries. This depends on several factors such as historical national developments, differing barriers to market entry and the number of historic mergers. Finland, Kosovo and Luxembourg only possess two active railway undertakings. In each case, one operates in either freight or passenger transport (or one company offers both passenger and freight services and there is a competitor in the freight market) indicating a highly concentrated railway market. On the other hand, Germany (332), the Czech Republic (111) and Poland (97) report the highest numbers of active railway undertakings in 2019, reflecting a high level of competition in these markets. Most countries reported either an increase or no change in the number of active railway undertakings compared to 2019. Estonia was the only country that experienced a decrease (one cargo company became inactive).

FIGURE 9 - NUMBER OF ACTIVE RAILWAY UNDERTAKINGS (TOTAL AND PER SERVICE) IN 2019



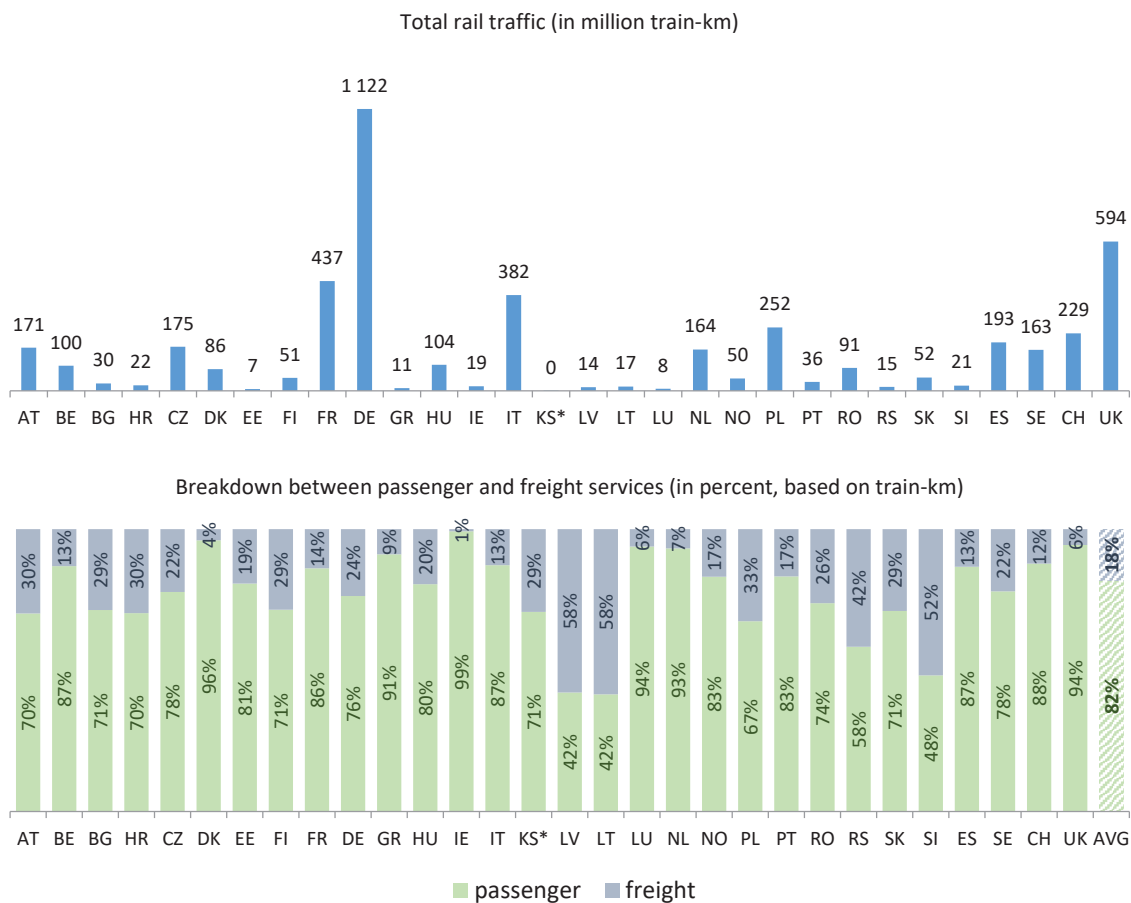
In most member countries, the number of active freight railway undertakings exceeds the number of passenger undertakings, irrespective of market size. This is likely to be the result of the liberalization process that started in

the freight market. It should be noted that, when looking at the absolute numbers of freight and passenger railway undertakings, some undertakings might be listed twice for one country if they operate in both sectors. Therefore, the sum of active freight and passenger railway undertakings is not necessarily equal to the total number for each country.

4.2. Total rail traffic

A total of 4.62 billion train-km (passenger and freight) were reported by 30 countries in 2019. Of this, Germany accounted for almost a quarter, while the UK (13%), France (9.5%) and Italy (8.3%) all reported substantial contributions to overall train-km.

FIGURE 10 - RAIL TRAFFIC (IN TRAIN-KM) AND BREAKDOWN BETWEEN PASSENGER AND FREIGHT SERVICES IN 2019



On average, passenger services accounted for 82% of the total amount of train-km. The share of passenger train-km ranges from 42% (Latvia and Lithuania) to 99% (Ireland). There are only three countries (Latvia, Lithuania and Slovenia) where the share of freight traffic exceeds that of passenger traffic in terms of train-km. Although train-km have been constantly increasing since 2015, the distribution between freight and passenger traffic has remained constant.

05

The rail freight market



5. The rail freight market

5.1. Rail freight market size

In 2019, the rail freight market accounted for approximately 460 billion of net tonne-km. The German rail freight market continues to be the largest with 128.7 billion tonne-km, followed by the Polish and French markets. Together, they represent almost half of the total demand (in tonne-km) in all the monitored countries.

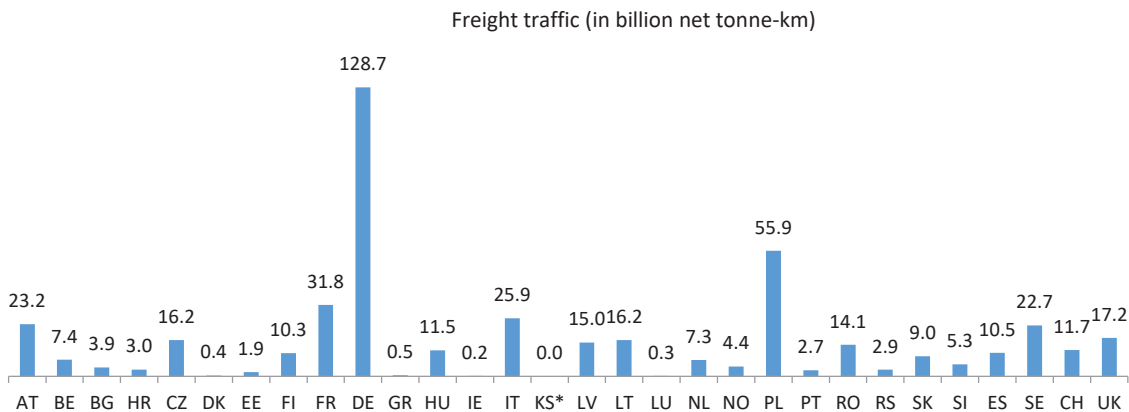
On average, rail freight traffic experienced a 2.1% decrease between 2018 and 2019 (Figure 11). The year-on-year change ranges from -15.9% in Latvia to +11.5% in Italy and +19.7% in Greece. Overall, an increase in net tonne-km was reported in only nine countries compared to 2018, while the demand for freight services decreased in nineteen countries.

In Greece, rail freight traffic grew by 19.7% in 2019. This follows a 17.4% increase a year earlier. This can be explained in part by issues encountered in previous years, including the occupation of the railway line by refugees/immigrants. In addition, the economic situation has also improved. This was underlined by the market entry of a second freight railway undertaking in September 2018.

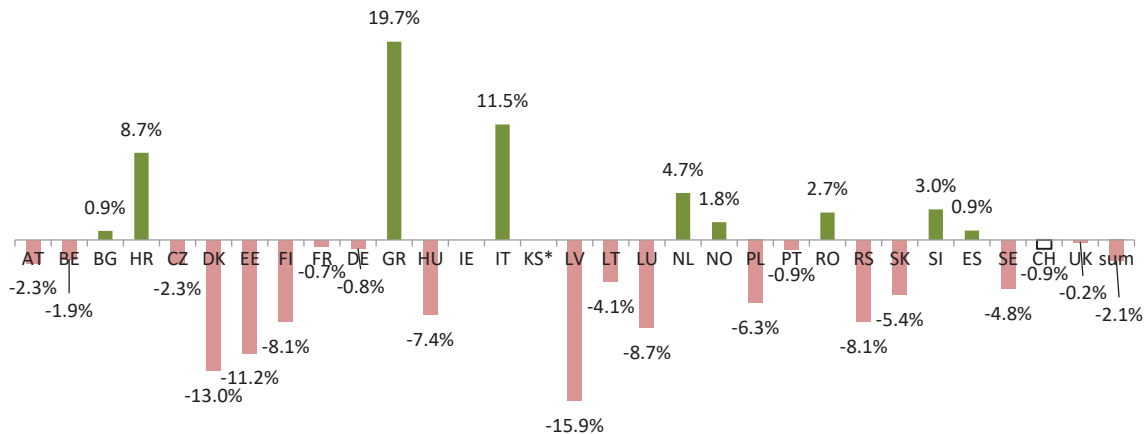
The second largest increase was seen in Italy (11.5%), where the freight market has been slowly recovering from the economic crises in 2008 and 2010, but still remains below the total freight level carried fifteen years ago. Currently the market share of the incumbent is around 50%.

In Latvia, rail freight traffic suffered a substantial decrease in contrast to the increase seen in the previous year. This is partly due to the fact that the coal terminal in the Port of Ust-Luga resumed operations and the flow of cargo towards the Baltics decreased rapidly. The negative impact on business was also affected by the unfavorable political situation in the Russian Federation and Belarus.

FIGURE 11 - RAIL FREIGHT TRAFFIC IN 2019 AND EVOLUTION BETWEEN 2018 AND 2019



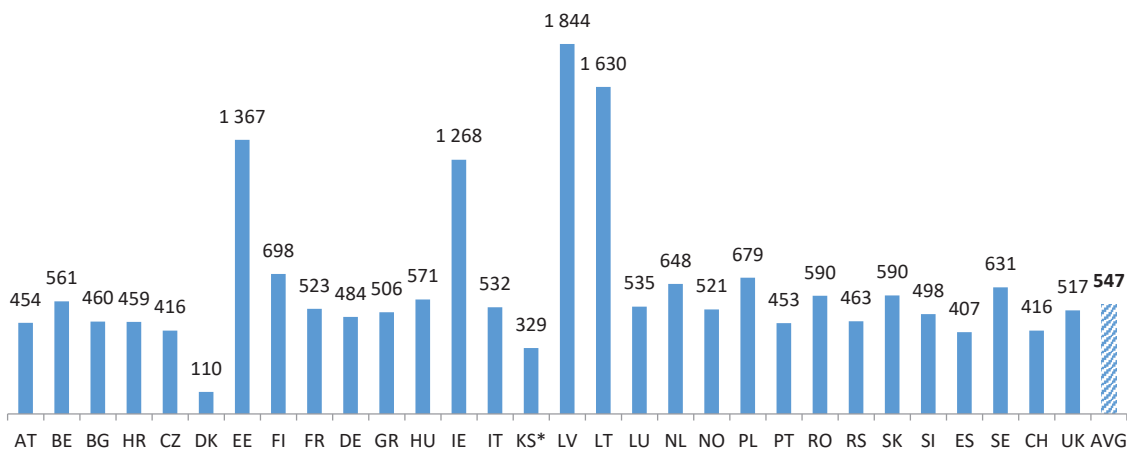
Gains and losses compared with 2018 (in percent)



As in previous years, the Baltic States showed the highest load factor in 2019 (see Figure 12). In Latvia and Lithuania this was about three times the average and in Estonia this was more than twice the average. As emphasized in the previous report, this can be explained by their infrastructure which allows much heavier loaded and/or longer wagons. The average load in 30 countries accounts for 547 tonnes per train.

Ireland reported the highest load factor after these countries (1.268 tonne-km per train-km), followed by Finland (698) and Poland (679). The lowest value was once again recorded in Denmark with 110 tonne-km per train-km.

FIGURE 12 - FREIGHT TRAFFIC LOAD (TONNE-KM PER FREIGHT TRAIN-KM) IN 2019



5.2. Market shares of freight railway undertakings

The difference in rail market shares between incumbent and non-incumbent railway undertakings is an important indicator of the potential of the incumbent's competitive advantages and of possible barriers to new entrants. Figure 13 and Figure 14 represent the market shares of three types of undertakings (domestic incumbent, foreign incumbent and non-incumbent) measured in freight train-km and net tonne-km respectively.

FIGURE 13 - MARKET SHARES OF FREIGHT RAILWAY UNDERTAKINGS (BASED ON TRAIN-KM) IN 2019

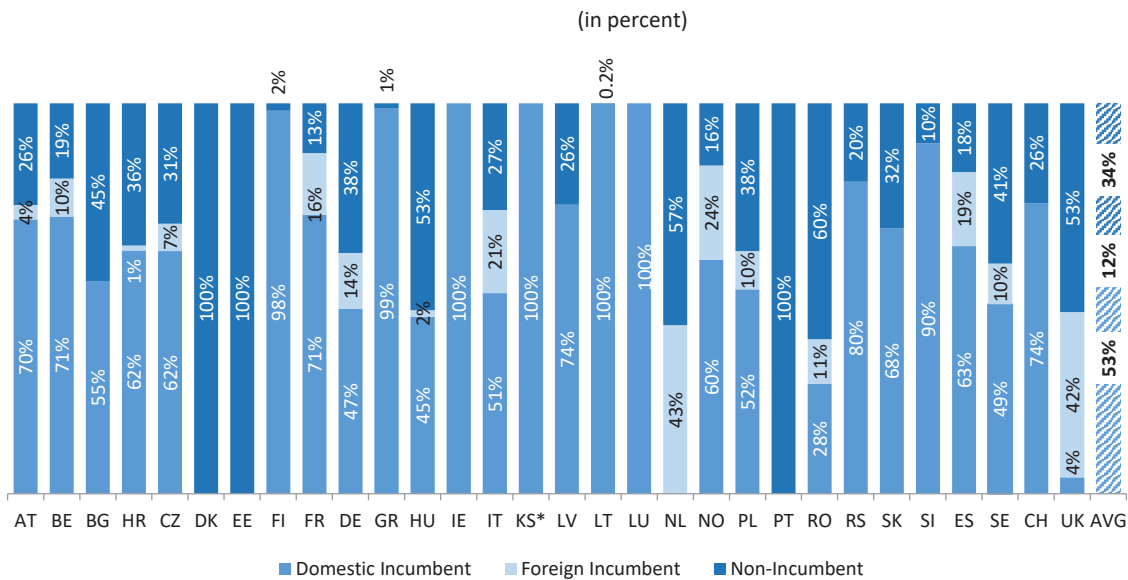
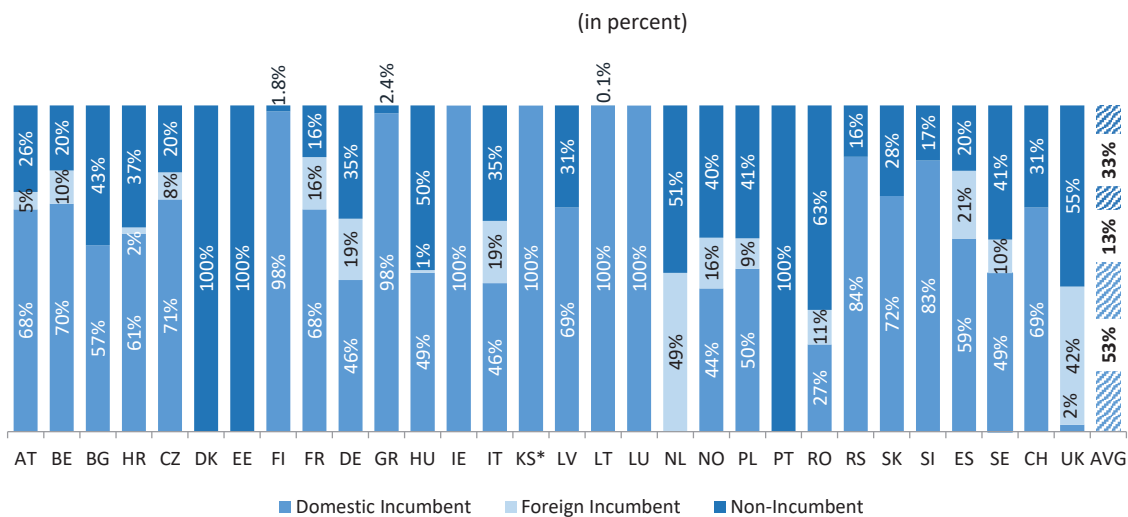


FIGURE 14 - MARKET SHARES OF FREIGHT RAILWAY UNDERTAKINGS (BASED ON NET TONNE-KM) IN 2019¹⁰



In some countries, the domestic incumbent is still the only freight operator, as is the case in Ireland, Kosovo, Lithuania and Luxembourg. In Finland and Greece, the incumbent continues to operate nearly 100% of the market.

¹⁰ The average value in this graph differs from the one in the Main Report since the samples are different: this one includes all available data for 2019 while the one in the Main Report includes only the countries which provided data for the 2015-2019 period.

On the contrary, in countries like Denmark, Estonia and Portugal, there was no incumbent (neither domestic nor foreign) active on the freight market in 2019.

In other countries, there is a mix of a domestic incumbent and competitors, which can be either foreign incumbents (from another country) or non-incumbents (national or foreign ones).

Unlike the trend seen in the Netherlands in the previous year, where the foreign incumbent achieved a market share of 72% train-km (80% in tonne-km), the foreign incumbent achieved in 2019 a market share of 43% train-km (49% in tonne-km). For instance, in the Netherlands as the same in the UK, the non-incumbents operated more than 50% of the market.

In Germany, Hungary, Italy, Norway, Poland and Sweden, approximately half of the market is operated by the domestic incumbent. For most of the remaining countries, the domestic incumbent has a (much) higher share.

On average, in all the observed countries, 53% of the traffic in train-km is still being performed by the domestic incumbent (53% in net tonne-km). Foreign incumbents operate 12% of the market in train-km (13% in net tonne-km), while non-incumbents have an average share of 34% (33% in net tonne-km).

5.3. Economic performance of freight railway undertakings

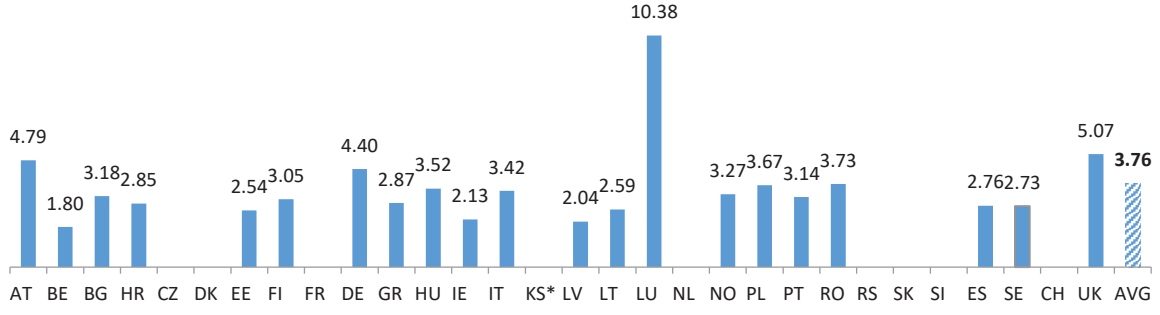
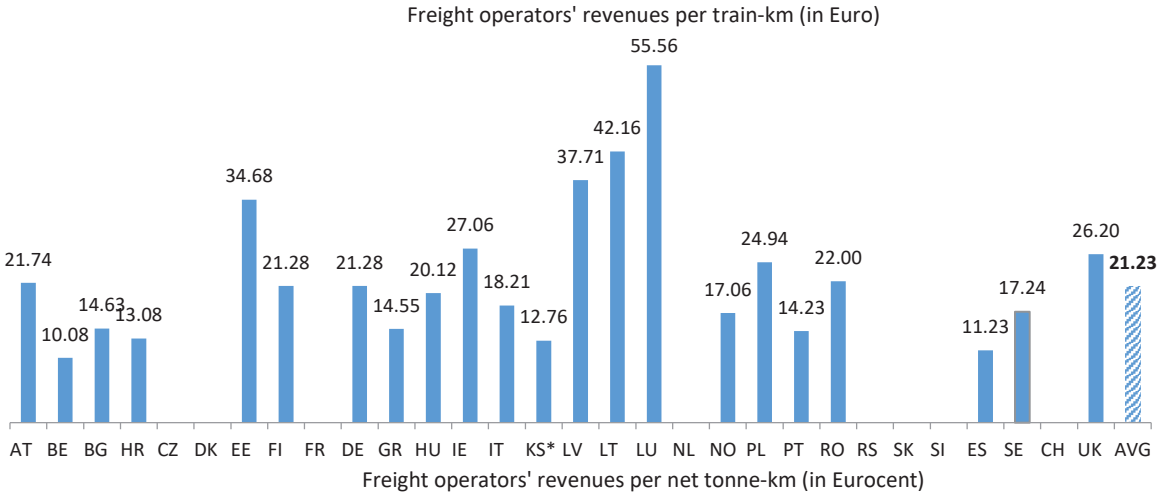
In 2019, the revenue per train-km for freight operators was Euro 21.23 on average. In four countries (Estonia, Luxembourg, Lithuania and Latvia), the revenue per train-km was higher than Euro 30, where Luxembourg especially reached a very high level (Euro 55.56 per train-km). For the latter, this is most likely due to the size of the country and not directly related to the size of the market. Freight operators in Belgium and Spain received the lowest revenue per train-km with Euro 10.08 and 11.23, respectively. In the case of Spain, this could be explained by the special orography of the country with steep slopes, which makes it difficult to transport large loads. As a result, trains are typically shorter and lighter (mostly intermodal transport) than in the rest of Europe. Bulgaria, Portugal, Kosovo and Greece all reported a revenue below Euro 15 per train-km¹¹.

Per net tonne-km, the freight operators' revenues range from 1.80 Eurocent in Belgium to 10.38 Eurocent in Luxembourg. On average, based on data from 21 countries, the freight operators receive 3.76 Eurocent per net tonne-km.

Comparing the levels of freight revenue per train-km with the revenues per net tonne-km shows big differences across countries. The most likely explanation seems to be the use of longer and heavier trains in certain countries than in others. As mentioned above, this can for example be seen in Spain, with a very low revenue per train-km and a more or less average revenue per net tonne-km due to shorter and lighter trains. Another possible explanation could be that freight operators apply different methods to calculate the revenues that they charge their clients. For example, for some operators, the number of tonnes transported can be the most important factor while other operators put more emphasis on the distance covered. This is most likely dependent on the cost method used by the infrastructure managers.

¹¹ 22 countries are included in the data.

FIGURE 15 - FREIGHT OPERATORS' REVENUES PER TRAIN-KM AND NET TONNE-KM IN 2019



06

The rail passenger market



6. The rail passenger market

6.1. Rail passenger market size

In 2019 Germany had the biggest rail passenger market in terms of passenger–km. France had the second biggest market followed by the UK and Italy. Together, these four countries represent about two thirds of the market across all monitored countries.

In 2019 most countries showed a clear increase in passenger traffic compared to 2018. Greece showed the most significant increase, +13.2%.

Portugal and Finland also showed a significant increase. In Portugal passenger traffic increased by 12.5 % and in Finland passenger traffic increased by 8.6%:

- The increase of passenger traffic in Portugal was mainly due to a policy promoted by the Portuguese government called “Tariff Reduction Support Program”, which took effect on April 1 2019. The program reduced fares for different trips and groups, which led to a higher demand for rail transport.
- In Finland the growth in passenger traffic in 2019 was particularly focused on long-distance traffic. During the year, VR Group (the incumbent RU) arranged several various discount price campaigns that increased the attractiveness of passenger traffic. The purchase of a train ticket was also facilitated by the development of new digital ticketing channels. Efforts have also been made during several years to increase passenger traffic by increasing the number of regular services and speeding up travel times.

In 2019 three countries showed a decrease in passenger traffic compared to 2018: Serbia, Estonia and Croatia. Serbia showed the most significant decrease, (-17.8 %). This decrease in passenger traffic in 2019 is related to major works on the railway infrastructure.

FIGURE 16 - RAIL PASSENGER TRAFFIC (IN PASSENGER-KM) IN 2019 AND EVOLUTION BETWEEN 2018 AND 2019

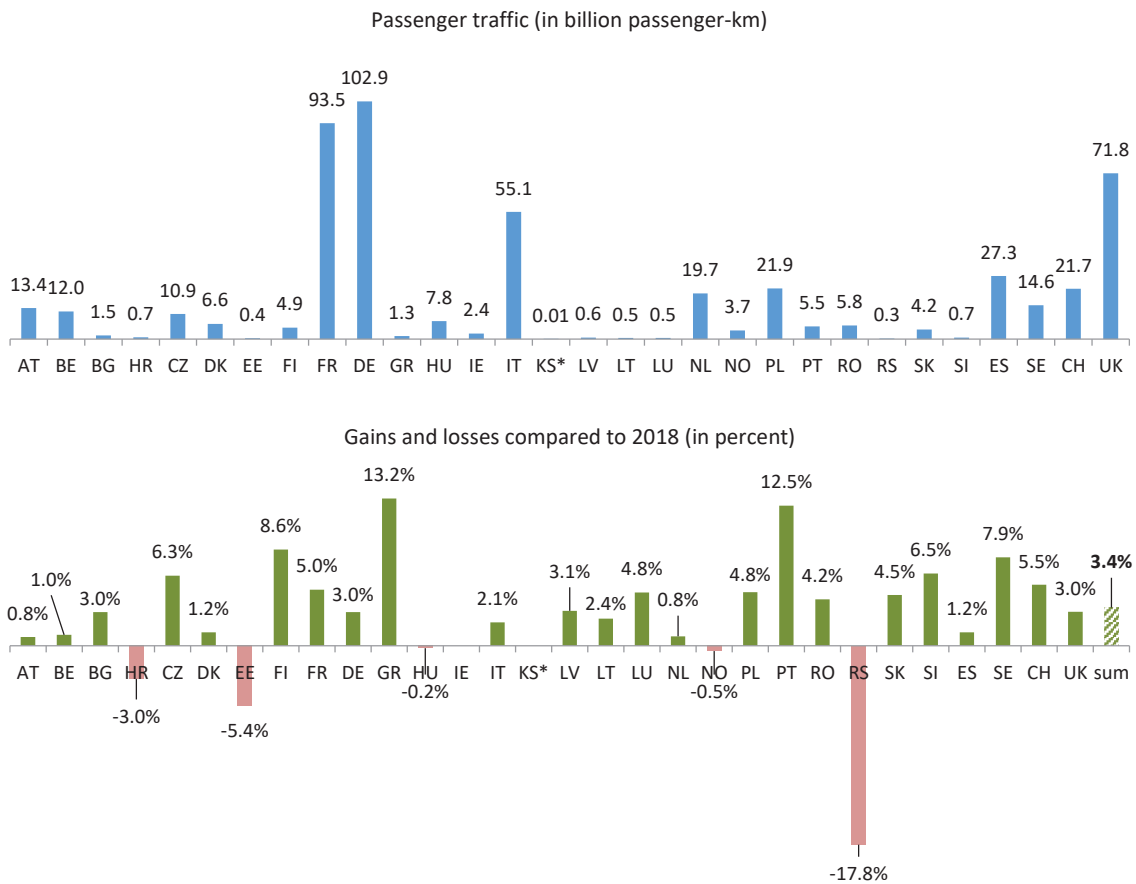


Figure 17 shows how much an average inhabitant travelled by train in the monitored countries in 2019. The figure shows that the distance travelled per inhabitant varies significantly throughout Europe. The distance travelled per inhabitant ranged from just over 40 km to more than 2500km. Most countries show an increase in distance compared with 2018.

In recent years Switzerland has been the country where inhabitants travel most by train, and this is also the case for 2019. There, an average citizen travelled 2526 km by train. Switzerland's public transport system is characterised by comprehensive coverage in the most remote valleys and regions. Furthermore, the networked timetable and good transfer connections create a continuous transport chain across all means of transport (train, tram, bus, boat, cable car). The range of services has been steadily expanded in recent years.

Austria and France also show high figures. In Austria an average citizen travelled 1507 km by train in 2019 and in France an average citizen travelled 1.442 km by train.

FIGURE 17 - PASSENGER-KM PER INHABITANT IN 2019

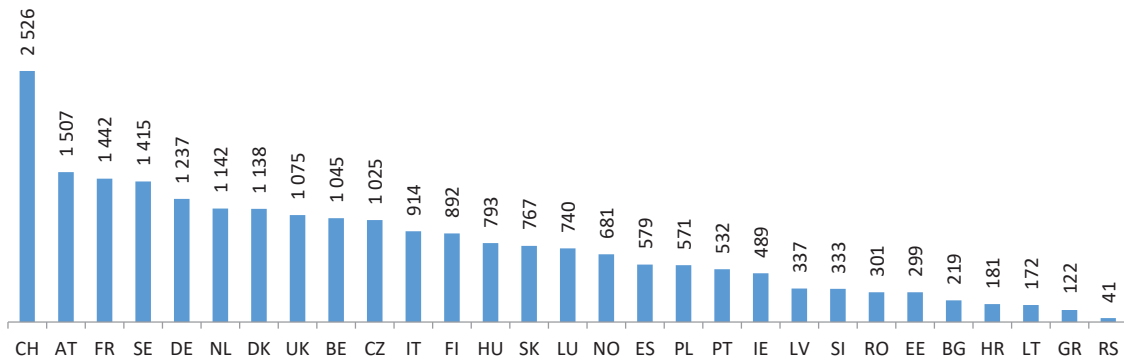
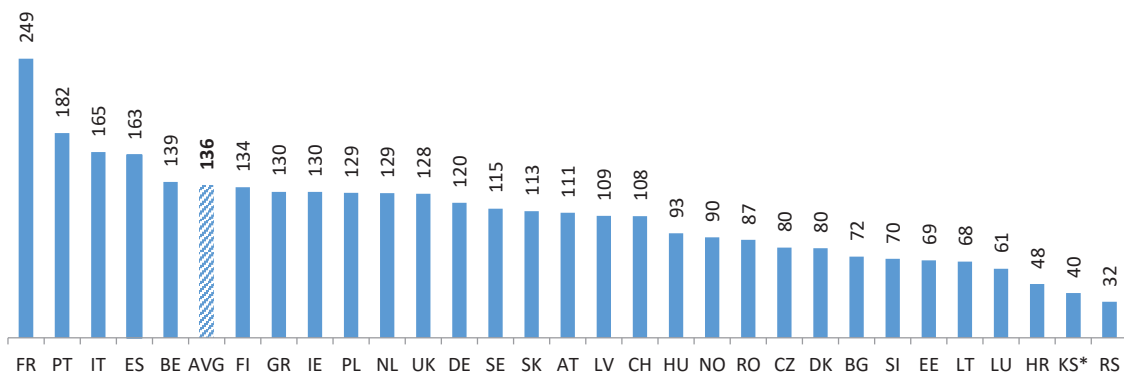


Figure 18 shows the load factor for each monitored country. The passenger load factor is calculated by dividing total passenger-km by total train-km. The load factor indicator differs from the occupancy rate. The passenger load factor is not only affected by the occupancy rate but also by the carrying capacities (number of seats per train). Across the monitored countries the load factor was on average 136 passenger-km per train-km. Similar to 2018, the load factor was above average in France, Portugal, Italy, Spain and Belgium.

France showed the highest figure in terms of passenger-km per passenger train-km in 2019. The high figure is explained by the weight of commercial high-speed services for France (32% of train-km) and the high capacity of high-speed trains (700 seats per train) compared to other European countries.

FIGURE 18 – NUMBER OF PASSENGER-KM PER TRAIN-KM IN 2019

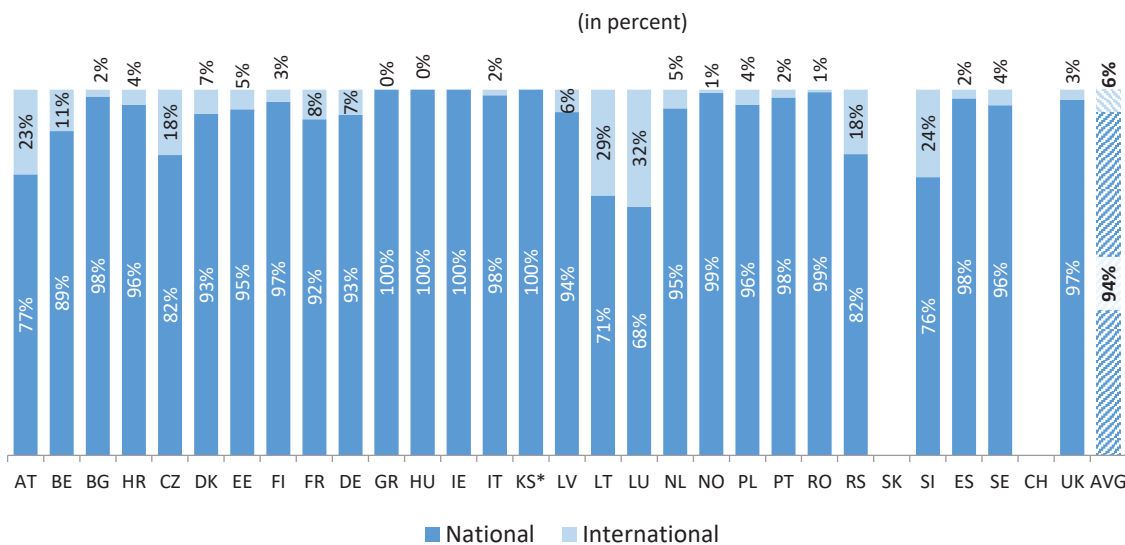


6.2. National and international passenger traffic

Across the monitored countries the share of international traffic is generally very low (6%). In some countries, such as Spain, Greece, Romania and Norway, the share of international traffic was below 1%. The share of international traffic was above average in eleven countries. The highest share of international traffic is observed in Slovenia, Luxembourg and Lithuania. The high share of international traffic in Slovenia (24%) and Luxembourg (32%) is due to their geographic position with several neighboring countries and a very small size. A large proportion of the labor force commutes to Luxembourg from neighboring countries and many of them use rail transport. The importance of transit trains also has a significant impact on passenger transport volumes in Slovenia, as in Lithuania (traffic between Kaliningrad and Russia, and international trains between Vilnius-Minsk,

Vilnius-Daugavpils, Kaunas-Bialystok, Kiev-Minsk-Vilnius-Riga). In Lithuania after the electrification of the line from Vilnius to Minsk and the introduction of new electric trains, the passenger flow on this route has been constantly increasing. It should be noted that Lithuanian passengers are more likely to choose other modes of transport than rail, so the number of passenger transport by rail on national routes is relatively low.

FIGURE 19 - NATIONAL AND INTERNATIONAL PASSENGER TRAFFIC 2019(BASED ON PASSENGER-KM)



6.3.Share of PSO and Non-PSO

Figure 20 shows the proportion between PSO and non-PSO services on the supply-side (train-km). Across the monitored countries PSO services accounted for 84% of the train-km offered on the passenger market.

There are 20 countries with a higher share of PSO train-km than the average. There are 15 countries where the share of PSO train-km is higher than 95%: Belgium, Bulgaria, Croatia, Estonia, Finland, Hungary, Ireland, Kosovo, Latvia, Luxembourg, the Netherlands, Norway, Slovenia, Switzerland and the UK. A high share of PSO train-km may have different explanations.

- In Belgium, the national passenger market is still completely organized by a PSO-contract (operated by the incumbent SNCB), resulting in a 100% share of PSO services in that market. For the moment, there is no competition. With regard to the international passenger market, in addition to the incumbent, there are two other railway undertakings (non-PSO) active as well, but their share in the overall number of train-km is limited.
- In the UK most passenger train operators have run under a franchise system (PSO) since the privatisation in 1997. The other operators are non-franchised (open access), but these only make up a small part of the market.

In some countries, such as Spain, Sweden, Italy and Portugal the share of non-PSO services on the supply side is above average. In Italy, open access services refer only to long distance trains, while regional and local services are totally provided under a PSO regime.

FIGURE 20 - SHARE OF PSO AND NON-PSO SERVICES IN 2019 (BASED ON TRAIN-KM)

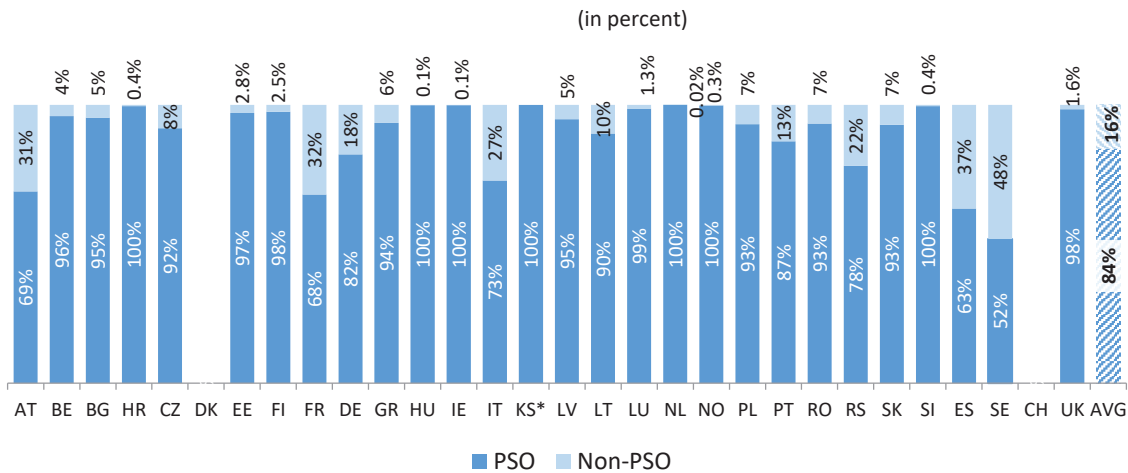
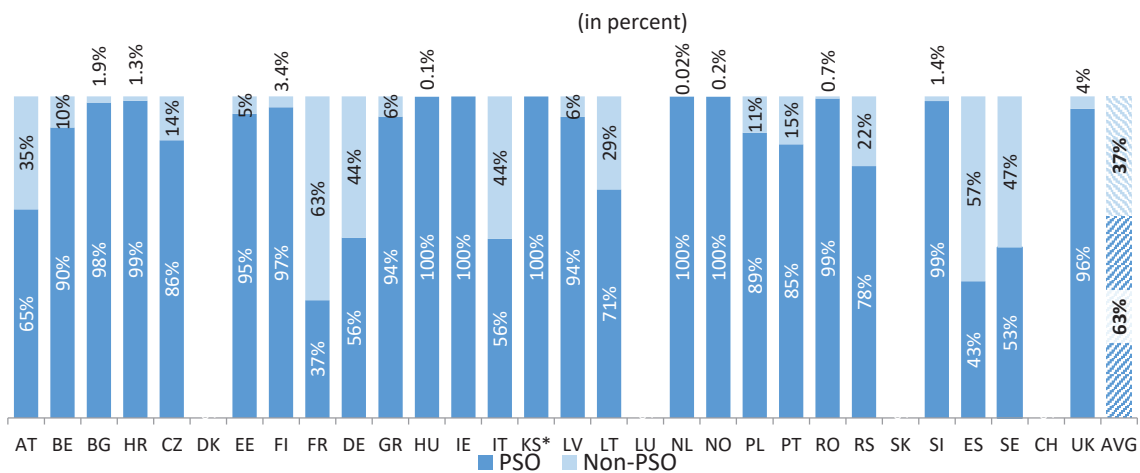


Figure 21 shows the proportion between PSO and non-PSO services on the demand side, in passenger-km. Across the monitored countries PSO services accounted in 2019 for 63% of the passenger-km. In some countries such as Germany, Italy and Poland the share of PSO traffic on the supply side is larger than on the demand side. In Germany, PSO traffic consistently has a high share in passenger train-km. While long-distance traffic, which is commercial traffic only, contributed around 152 million train-km in 2019 (appr. 18%), publicly ordered regional and local traffic came up with around 704 million train-km in 2019 (around 82%). Looking at the PSO/non-PSO ratio in passenger-km the share of PSO reached only 56%. This is due to a lower passenger occupation per train with around 82 passengers per train. Long-distance trains carry nearly 300 passengers per train which leads to a non-PSO share in passenger-km of 44%.

FIGURE 21 - SHARE OF PSO AND NON-PSO SERVICES IN 2019 (BASED ON PASSENGER-KM)



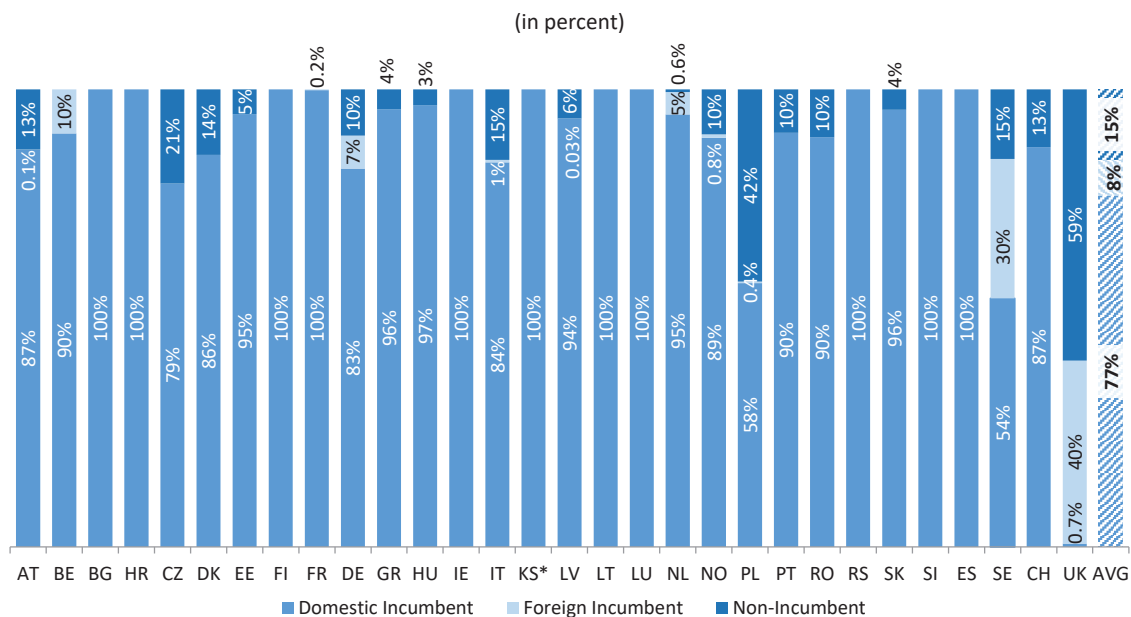
6.4. Market shares of passenger railway undertakings

Across the monitored countries domestic incumbents still dominate most markets. Domestic incumbents have a market share of 77% on average in terms of passenger-km.

The UK, Sweden and Poland are the only countries with a market share of domestic incumbents below the average. In the UK the domestic incumbent accounts for only 1% of the market. This is explained by the fact that the railways in the UK were passed from government control to private companies in 1997. The only domestic incumbent is for Northern Ireland- Translink, which accounts for a very small proportion of total passenger-km. In Sweden the main reason for the drop in the market share of the domestic incumbent is that other railway undertakings have won competitive tenders in regional PSO traffic.

As mentioned above, the market shares of incumbent and non-incumbent railway undertakings are an important indicator of the potential for competitive advantages for incumbent operators, and of the possible barriers to new entrants. It can be noted that in 2019 no competition is observed in eleven countries where the domestic incumbent remains the only passenger railway operator.

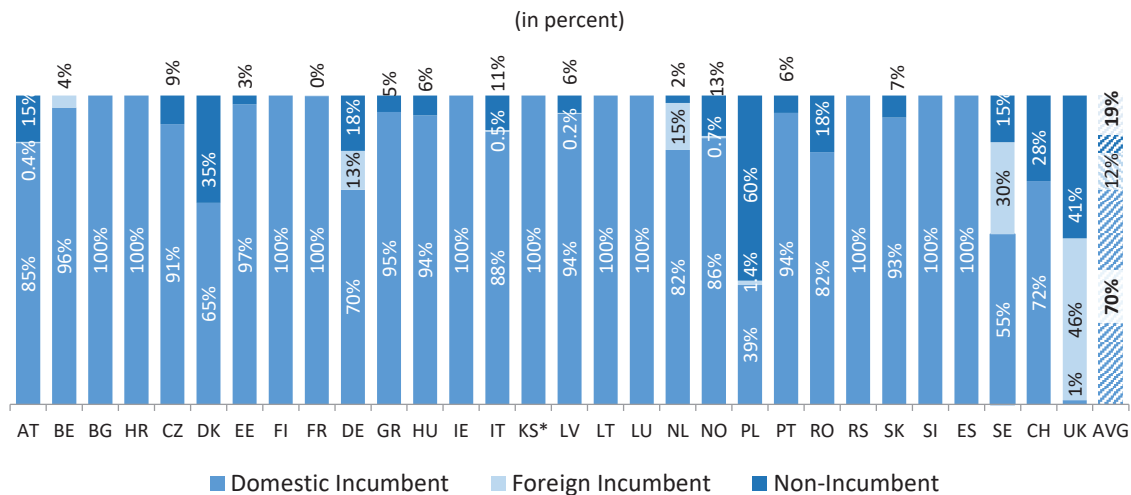
FIGURE 22 - MARKET SHARES OF PASSENGER RAILWAY UNDERTAKINGS IN 2019 (BASED ON PASSENGER-KM)



Across the monitored countries the market share of domestic incumbents was on average 70%, in terms of train-km. Domestic incumbents still dominate most markets, with the exception of a few countries already mentioned such as the UK, Poland, Sweden, but also Denmark and Germany.

Poland has the largest market share of non-incumbent, 59%. The UK has the largest market share of foreign incumbent, 46%, followed by Sweden where the market share of foreign incumbent is 30%.

FIGURE 23 - MARKET SHARES OF PASSENGER RAILWAY UNDERTAKINGS IN 2019 (BASED ON TRAIN-KM)



6.5. Economic performance indicators of passenger railway undertakings

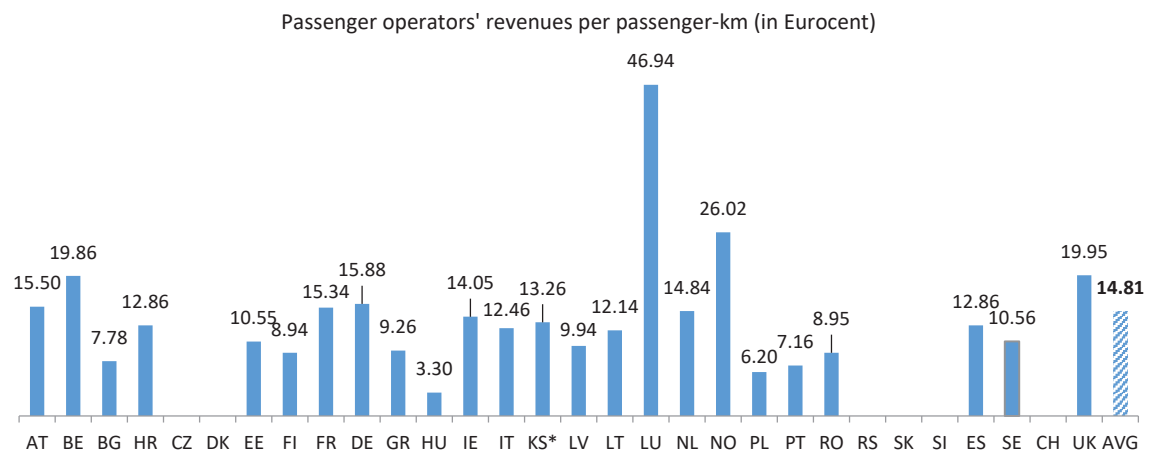
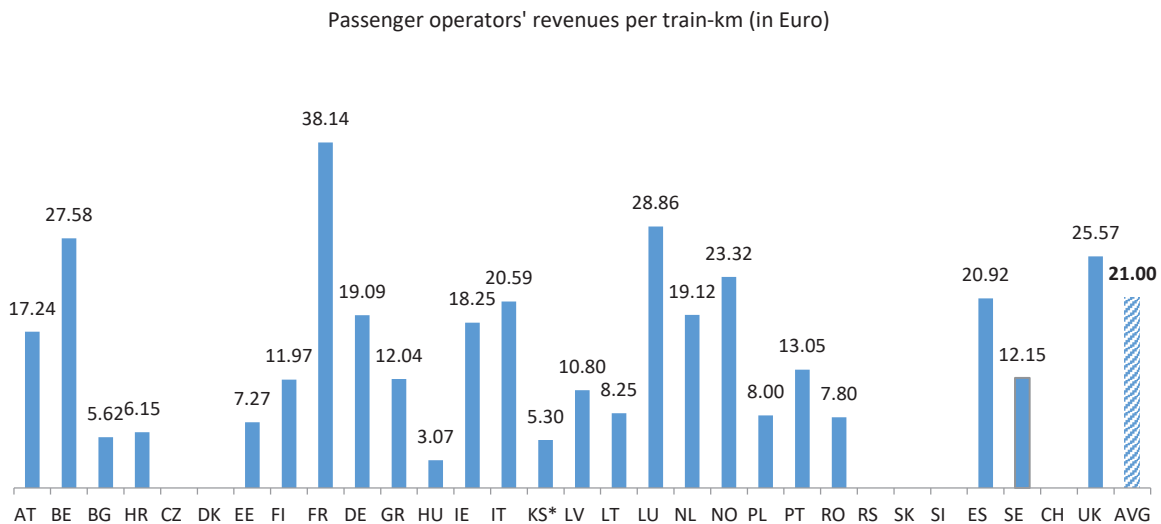
The revenue of passenger railway undertakings across the monitored countries was 21.00 Euro per train-km and 14.81 Eurocent per passenger-km in 2019. This is an increase compared to 2018.

The highest unit revenues on the supply side¹² occurred in France, 38.14 Euro per train-km, Belgium, 27.58 Euro per train-km, and Luxemburg, 28.86 Euro per train-km. The high revenue of passenger Railway Undertakings per train-km in France is mainly explained by high revenues from high-speed services and a sophisticated yield management policy.

The highest unit revenues on the demand side (Eurocent per passenger-km) were reported from Luxemburg, 46.94 Eurocent per passenger-km. Unit revenues were also above average in Belgium, Austria, France, Germany, Ireland, Kosovo, The Netherlands, Norway and the UK.

¹² The « demand side » and « supply side » mentioned here to the downstream market for the passenger services. The demand refers to the demand for the railway undertakings (in terms of passenger-km), whereas the supply refers to the traffic in train-km.

FIGURE 24 - PASSENGER OPERATORS' REVENUES PER TRAIN-KM AND PER PASSENGER-KM IN 2019

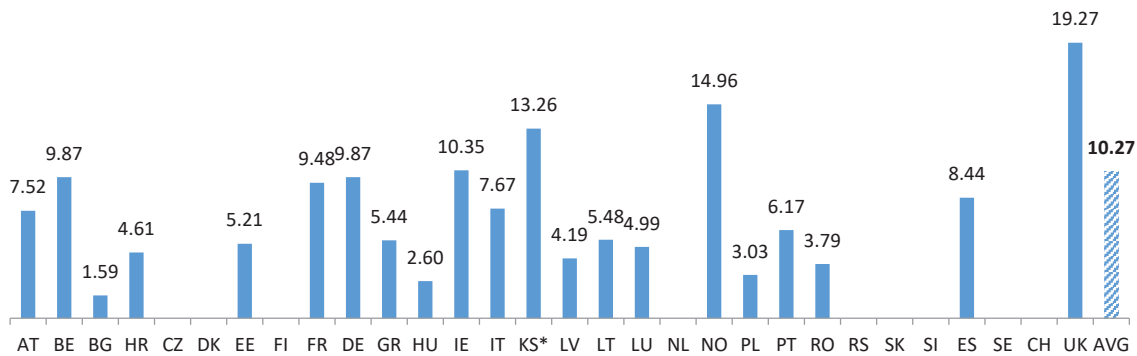


Considering only revenues from fares, the revenue among the monitored countries was on average 10.3 Eurocent per passenger-km. The highest unit revenues were found in the UK, 19.3 Eurocent per passenger-km. In the UK, a larger amount of the operating and maintenance costs comes from fare revenues compared to other countries¹³. The higher unit revenue is also due to the structure of UK rail (privatization) and unregulated fares are not bound by any inflationary cap. The annual price increase for season tickets and off-peak returns (regulated) is capped by the government but other unregulated fares are not capped. Unit revenues were also above average in Norway, Kosovo and Ireland.

¹³ Source : European Commission study (2016) on the prices and quality of rail passenger services - <https://ec.europa.eu/transport/sites/transport/files/modes/rail/studies/doc/2016-04-price-quality-rail-pax-services-final-report.pdf>

FIGURE 25 - PASSENGER OPERATORS' REVENUES FROM FARES IN 2019 PER PASSENGER-KM

(in Eurocent per passenger-km)



68% of all revenues for passenger services were collected from fares across the monitored countries. All services included (PSO and non-PSO), the distribution between revenues from fares and from compensations varies significantly throughout Europe. In some countries, such as Luxemburg, Bulgaria and Croatia, passenger operators collected the majority of revenue from public compensations.

In Croatia, an increase of the quality of services and competitiveness in relation to other transport modes has been identified as a necessity. In order to afford actions to improve the performance of rail, the state has intervened by increasing subsidies.

In some other countries, such as the UK and Portugal, the passenger operators collected the majority of revenues from fares, 97% and 86%, respectively.

FIGURE 26 - BREAKDOWN OF PASSENGER OPERATORS' REVENUES BETWEEN FARES AND COMPENSATIONS IN 2019

(in percent)

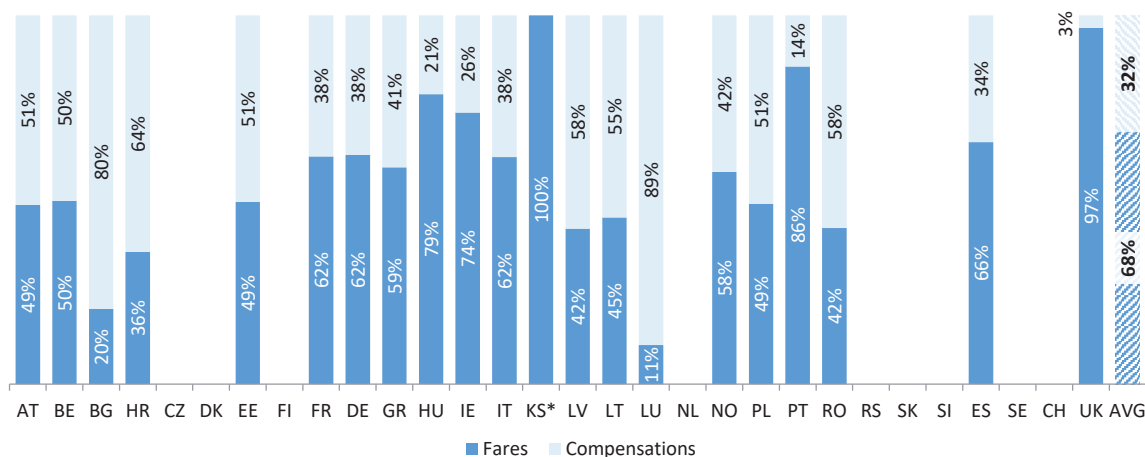
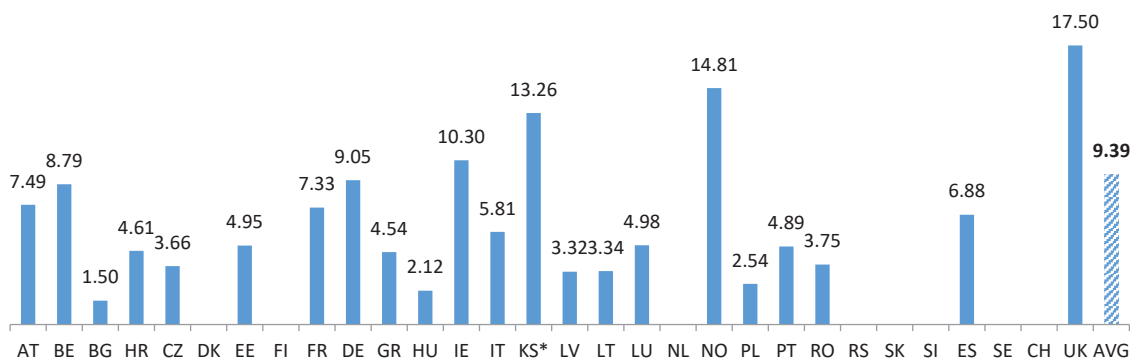


Figure 27 and Figure 28 repeat the analysis presented in Figure 25 and Figure 26 for PSO operators' revenue only.

The average PSO revenue per passenger-km across monitored countries were 9.39 Eurocent per passenger-km. The highest PSO revenue per passenger-km was reported from the UK (17.50 Eurocent per passenger-km), followed by Norway (14.81 Eurocent per passenger-km), Kosovo (13.26 Eurocent per passenger-km) and Ireland (10.30 Eurocent per passenger-km). All the other countries are below average. Bulgaria shows the smallest figure, 1.50 Eurocent per passenger-km.

FIGURE 27 - PASSENGER PSO OPERATORS' REVENUES FROM FARES IN 2019 PER PASSENGER-KM

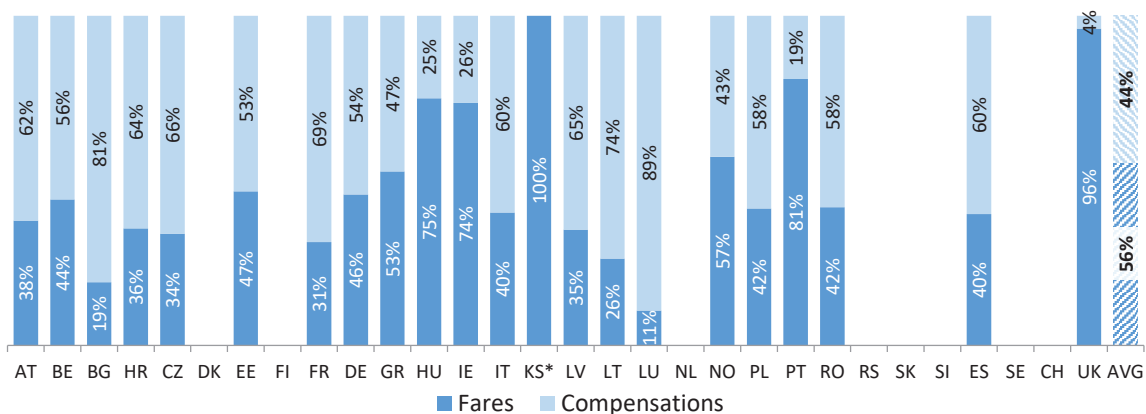
(in Eurocent per PSO passenger-km)



Across the monitored countries, 44% of PSO revenues came from compensations in 2019. This is a higher share compared to the situation in 2018 when 42% came from compensations. As expected, this is also a higher share than in the overall passenger market where 32% were collected from compensations. In the monitored countries the share of compensations varies significantly. The share of compensations ranges from 4% (UK) to 89% (Luxembourg).

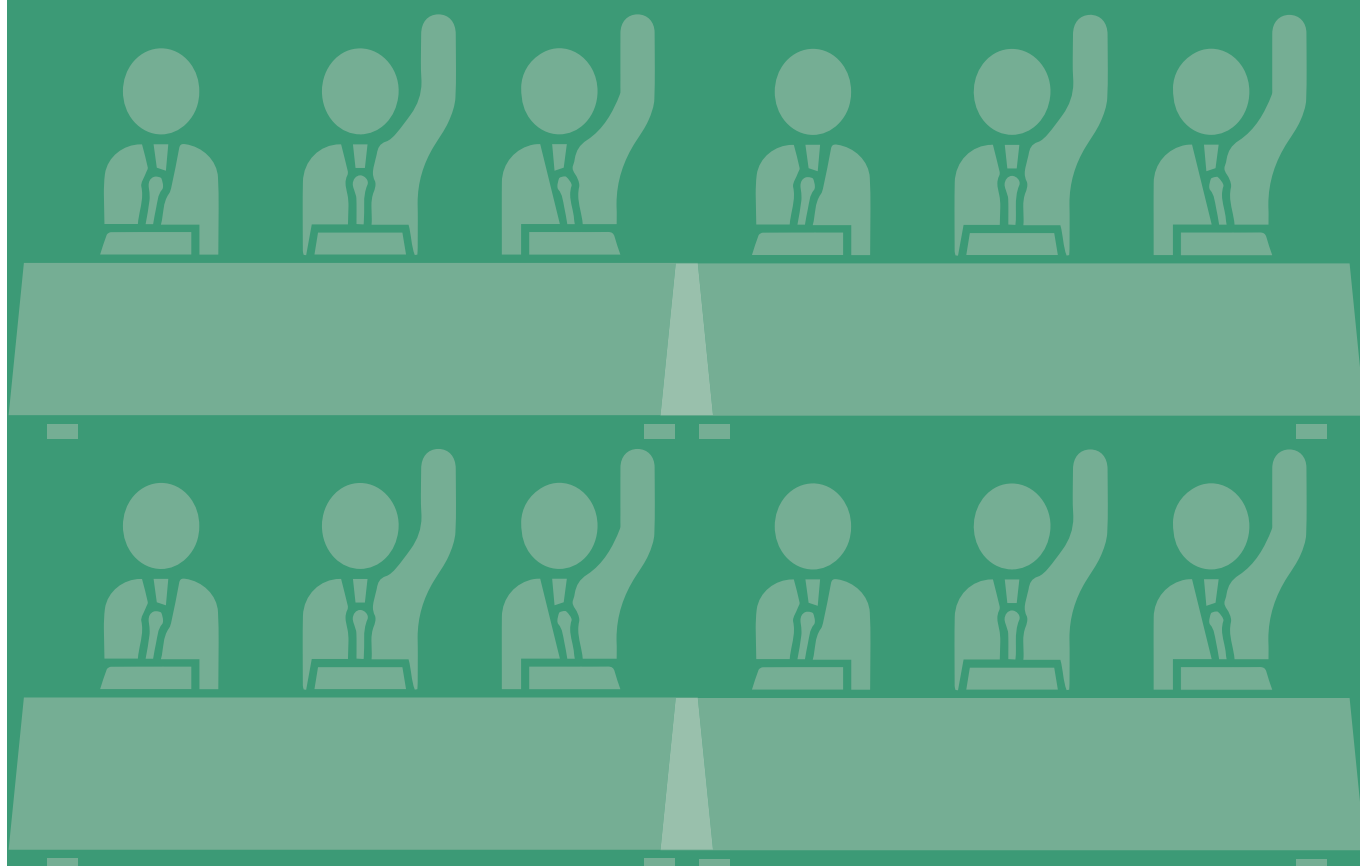
FIGURE 28 - BREAKDOWN OF PASSENGER PSO OPERATORS' REVENUES BETWEEN FARES AND COMPENSATIONS IN 2019

(in percent)



07

Abstract of regulatory decisions in 2019



7. Key national regulatory decisions in 2019

This section presents the main regulatory decisions taken per country in 2019: it includes the decisions either taken in 2018 or decisions taken before 2019 and for which conclusions or effects appeared in 2019.

Austria

- One (and subsequently a second) RU wanted to establish ticket offices in Wien Hauptbahnhof, Wien Praterstern and Linz Hauptbahnhof (all of them among the most frequented passenger stations in Austria).

After the requests for sales areas were rejected by the main IM, the RUs filed a complaint. Finally, the RB granted each RU an adequate sales area in each of the stations. Additionally, one RU's complaint about not being mentioned in Wien Hauptbahnhof's guidance system was finally rejected by the RB since no direct discrimination was detected in the common pictograms in use.

- Several appeals referring to network access/infrastructural issues:

Conflicts for train paths between passenger and freight RUs, application of prioritisation rules according to the main IM's network statement, regulations regarding exceptional sizes of waggons in the network statement, requests for exceptions in the context of informational obligations of SFOs.

Remark: All other appeals and trials from 2019 (regarding charges for the MAP/passenger stations/SFs, mark-ups, traction current, webshops etc.) were either still pending or at other appeal stages and hence no final decisions had been made.

Belgium

- Organisational & decisional separation inside the SNCB (only PSO operator in Belgium), to clearly separate these activities related to transport of passengers from those related to service facilities.

During the investigation it became clear that the compliance was not guaranteed because of the historical structure of the different departments of the company. To that extent and given the fact that it was a new commitment for the incumbent, the Belgian RB started an iterative process with the SNCB to reach the legal compliance of separation.

Bulgaria

No final decisions taken in 2019 by the Regulatory body.

Croatia

- Complaint filed by HŽ Cargo LTD regarding access to the ADRIATIC GATE j.s.c. which is Container Terminal in Port of Rijeka.

RU claimed that access to the service facility and services within isn't non-discriminatory and that some RUs are privileged. The complaint was grounded because there was no detailed procedure for allocation of SF capacity and relevant criteria for handling requests. Service facility operator was obliged to define procedure and all relevant criteria in order to give capacity and resolve conflicting requests.

- Complaint filed by Rail Cargo Carrier – Croatia LTD regarding access to the railway maintenance workshops.

Complainant argues the level of shunting charges levied by the HŽ CARGO LTD and HŽ Putnički PRIJEVOZ LTD (incumbent RUs) and the minimum billing time (3 hrs). Dismissal of the procedure due to the agreement of the parties over the prices.

Czech Republic

IM wanted to start to request the Station Charges. RB CZ decided to cancel them, because they were not published in advance.

Denmark

- Jernbanenaevnet (Danish RB) is supervising the tariffs for using the Danish rail intermodal terminals. On September 30, 2019 Danish RB initiated supervision of DB Cargo's 2020 tariffs for their combined terminals. On November 25, 2019 Danish RB had received most of the required documentation from DB Cargo except for an account of DB Cargo's discount scheme for service lift and depot lift. A review of DB Cargo's documentation showed that some of the 2020 tariffs are set higher than prescribed in section 7 (2) of the Danish Combined Terminal Order, whereupon the tariffs alone must cover the costs with a reasonable profit. These tariffs must, therefore, be downregulated. Confirmation that new tariff sheets (both in Danish and English) with downregulation are published on the combined terminals websites as well as an account of the discount scheme regarding depot lift and service lift, must be submitted to Jernbanenaevnet no later than Thursday, May 14, 2020 12.00. Failing to comply with the deadline, DB C must expect that Jernbanenaevnet issues weekly administrative fines.

- JN6-00007 Application for exemption from the provisions of the Implementing Regulation on service facilities - DB Cargo

Jernbanenaevnet (Danish RB) received on the 29th of May 2019 an application from DB Cargo regarding exemption from the combined terminals in Høje Taastrup and Taulov for several of provisions in the implementing regulation 2017/2177 on access to service facilities and rail-related services. After reviewing the application, the Danish RB announced the decision to reject the application based on Article 2 (2) of the implementing regulation.

- JN36-00054 The Railway Board's supervision of DSB's (Danske Statsbaner, main Danish train RU) compliance with the accounting regulations

Jernbanenaevnet (Danish RB) performs annual inspections of the accounting of the incumbent DSB. In 2019 the Danish RB carried out an inspection of the accounting of DSB for the financial year of 2018. It was found, through among other, external auditors, that DSB's accounting complied with the regulations in the Danish railway act.

- JN36-00049 Supervision of Midtjyske Jernbaner's compliance with the Passenger Rights Ordinance - compensation and information in case of delays/cancellations

Jernbanenaevnet (Danish RB) initiated on the 28th of February 2019 a supervision of Midtjyske Jernbaner A/S (MJBA) compliance with Regulation No 1371/2007 on rail passengers' rights and obligations. The Danish RB reviewed, among other things, MJBA's website and requested on May 2, 2019, that several amendments should be made in order of complying with the Regulation. Including information to passengers about their rights (Article 29), passengers' claims for compensation (Article 17), and the right to meals and refreshments, in the event of delays of more than 60 minutes (Article 18).

The supervision concluded in July 2020 after the Danish RB had received sufficient information regarding amendments made by MJBA.

Estonia

No final decisions taken in 2019 by the Regulatory body.

Finland

In June 2019, Finnish RB issued a decision on the infrastructure charges for electric traffic levied by the Finnish Transport Infrastructure Agency (FTIA) in the timetable periods 2019 and 2020. The decision was issued, because VR Group (Finnish incumbent RU) claimed a revised decision on the calculation principles and level of the infrastructure charge levied for electric traffic by the FTIA. In its decision, the RB concluded that the charges do not fully meet the requirements laid down in the Finnish Rail Transport Act (1302/2018) and the more

detailed provisions of EU legislation. Furthermore, by its decision, the RB reduced the 2019 and 2020 infrastructure charges for electric traffic by an average of 8 per cent. It also referred the determination of the infrastructure charge for 2021 back to the FTIA.

France

- The French RB gave consultative opinions about several law texts for the enforcement of law n° 2018-515 of 27 June 2018 “Nouveau pacte ferroviaire” (literally new railway deal). This law aims at a reform of the rail system to organise the opening up of rail passenger services to competition. The French RB particularly focused in the advisory opinion on
 - the required independency of the infrastructure manager SNCF Réseau within the new unified public entity including the incumbent railway undertaking ([opinion n° 2019-028 of 9 May 2019 about the ordinance project enforcing several measures concerning the "new SNCF"](#))
 - the charging framework and charging rules for the use of infrastructure. The French RB welcomed the principle of a pluriannual charging framework, but pointed out the difficulties to demonstrate and ensure that the market can bear mark-ups for PSO services ([opinion n° 2019-008 of 20 February 2019](#)), and the importance of the access, by the public transport authorities, to the required data to prepare the competitive tendering process for PSO services ([opinion n° 2019-037 of 13 June 2019](#)).
- The French RB also took regulatory decisions regarding four main issues:
 - The monitoring of the performance scheme concluded between SNCF Réseau and the State (pursuant to the article 30 of Directive 2012/34/UE) as well as the control of the financial trajectory of the main infrastructure manager. In accordance with the new legal competencies granted by the law, the French RB issued recommendations for the update of the performance scheme for the 2020-2029 period ([decision n° 2019-039 of 20 June 2019](#)) ;
 - The continued work relating to the planning of the minimum access package. In the [opinion n° 2019-005 of 7 February 2019](#) the French RB validated an intermediate step in the context of a broader recast of the access charging framework. The recast aims at ensuring that the level of charges covers the major part of the costs directly attributable to operating railway services, and includes preliminary works by the infrastructure manager to assess mark-ups for non-PSO passenger services based on the analysis of the demand and with the condition that specific market segments can bear these mark-ups
 - The technical and operational access conditions to the railway network. The French RB initiated two infringement proceedings against SNCF Réseau : 1) for failure to comply with the provisions of the RB’s legal decision n° 2014-023 of 18 November 2014 relating to the reservation and usage of train paths for maintenance works, and 2) regarding the capacity allocation process of train paths and the regulatory framework for coordinating the requests for capacity and managing the congestion defined in the network statement for the year 2020. Following those two proceedings, the French RB gave several formal notices to SNCF Réseau in the [decisions n° 2019-59](#) and [n° 2019-060 of 3 October 2019](#).
 - Regarding the access to service facilities and in particular maintenance facilities owned by the incumbent RU SNCF Voyageurs (ex SNCF Mobilités) and their related services, the French RB took measures to ensure that the mandatory minimum maintenance services were provided and compliant with national and European legislations. The RB rejected a first draft of reference offer for the 2018 timetable ([opinion n° 2019-014 of 14 March 2019](#)) and initiated two infringement proceedings followed by formal notices against SNCF Mobilités for the years 2018

and 2019. The RB then issued a favourable opinion with several adjustments ([opinion n° 2019-054 of 12 September 2019](#)) on the new drafts of reference offers for 2018 and 2019 timetables having noted several improvements made by SNCF Mobilités.

Germany

- Bundesnetzagentur has set an upper limit on DB Netz AG's total costs at €5.193m for 2021.

This is about €47m (around 1%) less than the limit on total costs for 2020. Key dynamic behind this change was the inflation rate being lower than the productivity growth rate during the period relevant to the decision. Bundesnetzagentur also approved DB Netz AG's 2020 track access charging scheme and incentive system for passenger rail service; effective from 1 June 2019.

- Bundesnetzagentur reviewed changes that DB Netz AG proposed to its Network Statement TT 2021.

Bundesnetzagentur denied changes pertaining to the implementation of the Rail Noise Protection Act as they did not adequately meet the requirements set out by that law. In addition, Bundesnetzagentur for some cases curtailed the maximum leeway DB Netz AG wanted to give itself when creating train paths.

- Bundesnetzagentur approved the station charges of DB Station & Service AG for the year 2020.

DB Station & Service AG is Germany's largest operator of passenger stations, running about 5,400 stations. Charges will rise an average of 2.18% compared to the previous year.

- Bundesnetzagentur required DB Netz AG to maintain more reserve capacity when constructing the working timetable.

This enables more non-scheduled rail services the opportunity to receive capacity outside the annual timetabling process, e.g. for ad hoc freight transports.

Greece

No significant decisions taken in 2019 by the Regulatory body.

Hungary

- According to the Hungarian railway act requests by railway undertakings for access to, and supply of services in the service facility referred to in point 2 of Annex II shall be answered within a time limit set by the regulatory body.

The time limit cannot exceed 15 days. During the procedure the RB investigated a maintenance facility operated by BOBO Co. The facility provides service regulated under Point 2. e) of Annex II of the 2012/34/EU Directive. Taking into account the relevant national legislation and the service facility statement published by the operator, the RB set the maximum time limit to be determined (15 days) for answering requests. While determining the time limit the RB have taken into consideration that requests may only be refused if there are viable alternatives allowing railway undertakings to operate the freight or passenger service concerned on the same or alternative routes under economically acceptable conditions. Considering the fact that in case of lack of capacity in the service facility the procedure for determining whether a viable alternative is available is part of the capacity allocation process, which in the regulatory body's opinion requires a significant amount of time, the RB considered that setting the maximum time limit for answering requests was justified.

- According to the Hungarian railway act, requests by railway undertakings for access to, and supply of services in the service facility referred to in point 2 of Annex II shall be answered within a time limit set by the regulatory body.

The time limit cannot exceed 15 days. During the procedure the RB have investigated a facility operated by BIKKA Co. The facility provides service regulated under Point 2. d) of Annex II of the 2012/34/EU Directive. Taking into account the relevant national legislation and the service facility statement published by the operator, the RB set the maximum time limit to be determined (15 days) for answering requests. While determining the time limit the RB have taken into consideration that requests may only be refused if there are viable alternatives

allowing railway undertakings to operate the freight or passenger service concerned on the same or alternative routes under economically acceptable conditions. Considering the fact that in case of lack of capacity in the service facility the procedure for determining whether a viable alternative is available is part of the capacity allocation process, which in the regulatory body's opinion requires a significant amount of time, the RB considered that setting the maximum time limit for answering requests was justified.

Italy

- Decision No 130/2019 - Conclusion of proceedings initiated by Decision No 98/2018. – “Measures concerning access to service facilities and rail-related services”
- Decision No 154/2019 - Revision of Decision No 49/2015 - Measures for drawing up tender notices and related contracts for the award of local public services by rail and road and for setting the criteria for the appointment of tender evaluation committees, as well as for defining model public service contracts that are directly awarded or performed by internal operators or publicly-owned companies.

Ireland

No decisions were taken during 2018 or decisions whose effects appeared in 2018.

Kosovo

- Initiation and organizing the consultation process for the draft Network Statement 2020 and holding a public discussion with stakeholders.
- These are prepared and sent to stakeholders for final comments on draft Network Statement 2020.
- Publication of data in the railway sector or harmonization of statistical data.
- Advertising campaign for passenger rights in rail transport.

Latvia

- On the 5th of February 2018 the Regulatory body (RB) received a complaint from a freight railway undertaking (RU) regarding the revised and newly established services supplied at a service facility in Ventspils station by the main infrastructure manager (IM)/service facility operator.

RU complained that the shunting and train formation services supplied by the IM are not services supplied in a service facility and therefore the RU can perform the necessary shunting and train formation operations themselves without the necessity to purchase these services from IM. RB concluded that the IM provides services on regular tracks and not on installation, including ground area, building and equipment, which has been specially arranged (article 3 point 11 of Directive 2012/34), therefore these services are not supplied in service facility. As the railway undertaking has guaranteed access to all of the IM's infrastructure, it can access the Ventspils station tracks, which are not service facilities, for the self-use of these tracks for shunting and train formation operations. On 09.11.2019 RB adopted a decision instructing the IM to give access to part of its infrastructure in Ventspils port, which is not a service facility, for shunting and train formation operations of RUs themselves.

- On 10.05.2018 RB received a complaint from RU regarding a concluded agreement between the IM and its subsidiary company, railway undertaking LDZ CARGO Ltd. (Incumbent) IM had delegated some of its functions which stem from IM's participation in the wide gauge (1520mm) network – SOVET.

It had delegated such functions as the counting and statistical information upkeep of wagons in Latvia, the payments for use of third country wagons in Latvia and the coordination of freight carriage across borders. RB concluded that the IM had acted in a discriminatory manner, because it had delegated these functions to one of the railway undertakings and not the others, moreover the remaining RUs had to turn to the incumbent and hope for their willingness to provide these services. Additionally, it is worth knowing that freight carriage by train in Latvia is impossible without these services. IM and RB reached a consensus and on 09.09.2019

concluded an administrative agreement whereby the IM has committed till 30.09.2020 to annul its agreement with Incumbent and to take back all of its functions that stem from the participation in wide track gauge network and supply all of these services to the Rus in a fair and non-discriminatory manner.

Lithuania

- The RRT (Lithuanian RB) received a complaint from LGC Cargo Ltd. (hereinafter – the LGC Cargo) because of the IM actions regarding the process of concluding an agreement for the usage of the public railway infrastructure (hereinafter – the agreement) for the validity period of 2018-2019 working timetable.

According to the LGC Cargo, the negotiation process related to the agreement was not carried out properly, it was procrastinated, and the IM required to exceed the amount of information. The LGC Cargo requirements: the RRT shall oblige the IM to sign the agreement with the LGC Cargo and ensure that all railway market participants are subject to the same conditions of use of public railway infrastructure. After analyzing the full content of the complaint, the RRT found that the LGC Cargo was reluctant to cooperate with the IM in order to sign the agreement. It was also found that the LGC Cargo still signed the agreement on 6 December 2018.

The RRT decided (RRT 22 February 2019 order No. 1V-228) that requirement of the LGC Cargo, to ensure that all railway market participants are subject to the same conditions of use of public railway infrastructure are properly complied with, is unjustified and thus rejected.

The RRT received a complaint from LGC Cargo Ltd. (hereinafter – the LGC Cargo) regarding the allocation of public railway infrastructure capacity for the validity period of the 2018-2019 working timetable according to the ad hoc application and related decisions on 4 October 2018.

The RRT decided (RRT 28 May 2019 order No.1V-567) that the LGC Cargo's complaint is unjustified and thus rejected because the RRT found that the allocation of capacity requested by the LGC Cargo was reasonably refused for the following reasons: a) it did not provide any documents (evidence) justifying the absence of any intention to provide transit services (the exclusive right to provide transit services is given to those railway undertakings (carriers) that shares are directly or indirectly owned by the Lithuanian state, the LGC Cargo was not such railway undertaking); b) it did not provide evidence confirming that the LGC Cargo has the right to cross the state border of Lithuania or has the possibility of transferring the trains to another railway undertaking, that has the right to cross the state border of Lithuania; c) the LGC Cargo did not have a concluded agreement for the usage of the public railway infrastructure.

The LGC Cargo appealed the RRT's decision to the Regional Administrative Court, which terminated the proceedings on 13 May 2020.

- The RRT received a complaint from LGC Cargo Ltd. regarding the allocation of public railway infrastructure capacity for the validity period of the 2018-2019 working timetable and related decisions on 25 October 2018 based on which the requested capacity had been split into the following way: 1) one part – allocated, 2) the second one – rejected due to the non-submission of documentary evidence that the LGC Cargo would not carry out transit, 3) the third one – rejected due to the congested public railway infrastructure.

The RRT decided (RRT 29 April 2019 order No.1V-454): a) dismiss the LGC Cargo's claim for the cancellation of the decision in respect of transit (the LGC Cargo had not eliminated doubts that with the allocated capacity it could carry out transit); b) partially satisfy the LGC Cargo's claim for the cancellation of the capacity allocation decision in respect of the priority rule application because the RRT found that it was incorrectly applied the priority rule by allocating the capacity in certain intermediate segments.

The LGC Cargo and capacity allocation institution (LTSA) appealed the RRT's decision to the Regional Administrative Court, which decided to dismiss the LGC Cargo's complaint on 31 October 2019, and to terminate the proceedings of the capacity allocation institutions complaint on 24 February 2020.

- The RRT received a complaint from Gargždų geležinkelis Ltd (hereinafter – the GG) regarding the allocation of public railway infrastructure capacity for the validity period of the 2018-2019 working timetable and related decisions on 22 October 2018. The GG complained that it was not allocated the requested public railway infrastructure capacity, that it was done unlawful and unjustified.

The RRT decided (RRT 21 May 2019 order No. 1V-541) to dismiss the GG's claim for the cancellation of the capacity allocations institution's (LTSA) decision in respect of the congested infrastructure. After analyzing the full content of the complaint, the RRT found that the capacity allocation process was carried out properly and the decision on the allocation of capacity was made on the basis of correct data.

The GG appealed the RRT's decision to the Regional Administrative Court, which decided to dismiss the complaint on 2 October 2019. The GG disagreed with this decision and appealed against it to the Supreme Administrative Court. The case is still pending.

The RRT received a complaint from Gargždų geležinkelis Ltd (hereinafter – the GG) regarding the IM's actions in harmonizing the existing GG's information system with the IM's information system and learning to use it until the capacity requested by the GG has been allocated to it for the validity period of the 2019-2020 working timetable. Requests for harmonization of the information systems have been submitted by the GG to the IM since 2017.

The GG's requirements for the RRT (Lithuanian RB) were to oblige the IM to provide answers to the GG's written questions.

The RRT decided (23 December 2019 order No. 1V-1294) that the IM had provided written answer to the GG's questions, as a result the GG's complaint was rejected.

Luxembourg

Regulation ILR/C19/1 of 21 October 2019 fixing the duration of replies to access and service requests in service facilities introduced by railway undertakings towards the service facility operator - Railway sector.

<http://data.legilux.public.lu/eli/etat/leg/rilr/2019/10/21/a712/jo>

Republic of North Macedonia

(n/d)

The Netherlands

ACM imposed a fine of 25.000 Euros on the infrastructure manager (ProRail) because certain tariffs were not included in the network statement (7 October 2019)

Norway

- Decision regarding the complaint received from The Airport Express Train in December 2017 regarding infrastructure charges for 2017, 2018, and 2019 (Decision taken on October 2019)

After investigating the complaint, the RB found that the mark-ups levied by Bane NOR SF (the Norwegian IM) from The Airport Express Train were not in accordance with the Norwegian national railway regulations. As a result, the RB made a decision in May 2019 obliging the Norwegian IM to pay back to The Airport Express Train mark-ups collected from the company in 2017, 2018 and 2019, and to stop further collection of mark-ups from the company in 2019. The IM was also obliged to assess the implications of the decision for other railway undertakings. The main conclusions in the RB's decision were that the IM had failed to conduct a market analysis on which the mark-ups in 2017 and 2018 could be based, and that the market analysis conducted for

the year 2019 failed to comply with railway regulations. Hence, the applied mark-ups were found to be discriminatory. Furthermore, the RB found that the IM failed to comply with requirements in the regulations concerning necessary information about infrastructure charges in the Network Statement. Following the RB's decision, the IM decided to appeal the decision. On 21 July 2020, a district court in Oslo ruled mainly in favor of the RB. However, the IM decided to appeal the court's decision and the case is currently awaiting further legal proceedings and judicial review.

The decision is available on the website of the Norwegian RB: https://sjt.no/globalassets/02_jernbane/pdf-jernbane/markedsovervaking/vedtak-i-klage-fra-flytoget-as-pa-bane-nor-sf-sin-innkreving-av-infrastrukturavgifter-i-2017-2018-og-2019.pdf

Poland

Market regulation

- The regulatory body issued a decision on the regulations of access to passenger stations of PKP S.A. (over 550 facilities), requiring a change in the access regulations to the OIU passenger station (10 October 2018)

The result was a change in the regulations and the signing of contracts by most passenger carriers, which ensured financing of services provided at passenger stations.

- The regulatory body issued a number of decisions regarding the non-contractual use of passenger stations by carriers (26.06.2019; 26.06.2019; 11.07.2019; 29.10.2019; 30.10.2019)

This concerned two operators, including one incumbent, as well as 3 carriers who refused to sign a contract for access to passenger stations. As a consequence, the national law on the use of a passenger station was made more precise.

- The regulatory body issued a decision stating that the railroad was closed without applying the procedure (17 June 2019)

In 2018, the access tracks to a private facility associated with a large industrial plant were demolished. A few years earlier, the commune had sold a plot with access tracks. The new owner did not follow the existing procedures and dismantled the access tracks, cutting off the industrial plant from the railway network. However, there were wagons on the premises of the plant and the authority found a breach by the entity. After this decision, the national law was amended as regards the possibility of demolishing tracks.

- The regulatory body issued a decision stating the infringement of the provisions by the failure to perform the manager's tasks with regard to providing the railway infrastructure and maintaining it in a condition ensuring safe railway traffic.

The regulatory authority ordered the restoration of the parameters enabling the safe operation of the railway line by the end of 2019. This section was an access road to the industrial plant. Due to its condition, it could not be operated. The building authority ordered the renovation of the viaducts. The railway infrastructure manager carried out a renovation. Information about the renovation of the line was published on the IM website <https://www.plk-sa.pl/biuro-prasowe/informacje-prasowe/odnowiona-kolejowa-estakada-w-strzegomiu-pojada-pociagi-4507/2019/12/>

- The regulatory body issued a decision ordering the amendment of the OIU regulations for the operator who is also the main manager of the railway infrastructure (4 December 2019)

As a result of the decision, the operator changed the rules of access to the OIU, adapting it to national law.

- the regulatory body issued two decisions replacing the contract between the railway infrastructure manager and the railway undertaking and issued several decisions enabling the railway infrastructure

manager to terminate the contract concluded with the railway undertaking for the use of the allocated capacity.

However, the railway infrastructure manager did not always make use of his option.

Railway undertakings and Licensing

- 9 licences granted
- 2 licences revoked
- 1 licence expired
- 43 railway undertakings inspected to verify that they fulfill the requirements relating to good repute, financial fitness, professional competence and cover for its civil liability

Infrastructure managers and Charges

- Three infrastructure managers (PKP PLK, DSDiK and PKP SKM w Trójmieście) received subsidies for their maintenance of railway infrastructure, by signing multiannual contracts with ministry for the implementation of the multiannual program "Aid in financing the costs of railway infrastructure management, including its maintenance and repairs until 2023"
- Infrastructure managers' price lists effective from 2019 have been established on the basis of a cost base developed in accordance with Regulation 2015/909 on the modalities for the calculation of the cost that is directly incurred as a result of operating the train service
- The national infrastructure manager (PKP PLK) applied mark-up in access charges, for railway undertakings using freight trains weighing not less than 660 t (intermodal trains are excluded). However, there is condition that IM pays railway undertakings money back if its revenues will be higher than it was supposed before the timetable
- In connection to the case 210/18 pending before the European Court of Justice regarding the legal classification of platform infrastructure, in 2019 PKP PLK abstained from collecting platform fees from railway undertakings. As a consequence of the ECJ judgment of 10 July 2019, the incumbent operator of passenger stations (PKP S.A.) stopped charging RUs with platform fees, and has settled accounts with RUs of fees collected so far. Another infrastructure manager, PKP SKM w Trójmieście, desisted from 01.07.2019 from charging RUs for the access to passenger stations, as well as PKP SKM w Trójmieście applied in September 2019 to the President of the UTK for repealing the decision of June 12, 2019 regarding the approval of the draft price list in the part concerning the way of determining the unit rate for the basic fee for the access to infrastructure. PKP SKM w Trójmieście applied also to the President of the UTK for approval of the new price list draft, taking into account some of the costs related to platforms and access routes for passengers.

Portugal

- The approval of methodology regarding the calculation of Direct Cost regarding the Minimum Package Access according to European Law approval of AMT's methodology regarding of the Economic Equilibrium Test (EET) which was published on National Journal of 28 November 2019 (November 2019)
- The Issue opinion regarding the Contract of Public Services between Portuguese State and CP - Comboios de Portugal, S.A., imposing PSO and respective financial compensation according to Regulation (EU) 1370/2007 (November 2019)

Romania

- DECISION no. 1 from February 27, 2019, regarding the complaint filed by Transferoviar Călători SRL against CFR SA regarding the charging policy applied for the spaces rented to ticket offices and sale of travel tickets
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- DECISION no. 2 from July 08, 2019 on the complaint filed by Deutsche Bahn Cargo Romania SRL against “Electrificare CFR” SA, regarding a charge imposed to the freight RU’s at the border station Curtici in Romania for switching the traction power on/off from the overhead line during the border control
- DECISION no. 3 from July 8, 2019, regarding the violation of the provisions of art. 56 paragraph (2) lit. g) of Law 202/2016, by the non-interoperable infrastructure manager SC RC-CF TRANS SRL, regarding the charges for the services provided to the railway transport operators, in accordance with point 2 of Annex no. II of Law 202/2016
- DECISION no. 4 from September 6, 2019, regarding a possible violation of the provisions of art. 56 para. (2) of Law no. 202/2016, by the infrastructure administrator “CFR” SA, regarding the establishment, calculation and collection of charges in accordance with art. 29 of Law no. 202/2016 and regarding the applied discounts in accordance with art. 33 of Law no. 202/2016

Serbia (n/d)

Slovakia

In 2019 our regulatory authority has taken five decisions in the field of possible impact of new passenger railway services on existing services operated under public service contract, one decision on granting exemption from some obligations for service facility operator and one decision in the field of granting access to service facilities.

Slovenia

- By a decision, adopted based on complaint of Primol-Rail (RU), AKOS ruled that infrastructure manager (Slovenske železnice – Infrastruktura; IM) has treated the RU unfairly and discriminatory by rejection of ad hoc requests for individual train paths. AKOS therefore obliged IM to provide the RU with information on available catalogue train paths in order to be able to submit new applications for the ad hoc train paths.

AKOS has received a complaint from railway undertaking Primol-Rail in which the RU stated that the IM had treated its ad hoc requests for individual train paths unfairly and discriminatory.

Purpose of AKOS’s investigation was to establish if the IM has justified denied RUs’ ad hoc requests for individual train paths for operating the train service on the route Dobova (M) – Koper tovorna, requested for day 13th June 2019 and on the route Koper tovorna – Dobova (M), requested for day 14th June 2019, therefore if there was eventual discrimination of IM and it’s unfair treatment to particular RU.

The RU was indicating that the IM had available spare train paths and that rejection of its applications was unjustified. Based on analyses, AKOS concluded that the IM was unduly referring to the congestion of the infrastructure, since the data showed that the railway line capacity was not fully utilized and that the IM had to have spare capacities. Considering that, the IM was obliged to provide the RU with non-discriminatory access to the public railway infrastructure, which is enabled by equal allocation of the train path.

After a detailed examination of all the facts and evidence, AKOS upheld the RU's complaint and established that the IM had failed to comply with the provisions when considering the RU’s applications and therefore unjustifiably rejected them. Therefore AKOS decided that the IM had treated RU’s ad hoc requests for individual train paths unfairly and discriminatory and that IM is obliged to provide the RU with information on available catalogue train paths in order to be able to submit new applications for the wanted ad hoc train paths.

Spain

- STP/DTSP/069/18: Decision about the ADIF charging scheme for 2019 (however, the 2019 scheme was never applied because the General Budget Law of 2019 was not approved)

- STP/DTSP/118/18: The CNMC approves the principles and criteria for the application of the Implementing Regulation 2017/2177, on access to service facilities and rail-related services
- STP/DTSP/041/19 and STP/DTSP/042/19: The CNMC sanctions the IM for failing to comply with the charges resolution of 2018, about the charges proposal for 2019.
- (There are two decisions, both based on the same facts, because the IM in Spain is divided in two entities: high-speed IM and conventional IM)
- STP/DTSP/125/18: Economic Equilibrium Test for the Arriva service
- STP/DTSP/032/19: The CNMC publishes its report on the IM's 2019 Network Statement modification, previous to its publication
- INF/DTSP/007/19: The CNMC consults to representatives of users of the rail freight and passenger transport services
- STP/DTSP/044/19: The CNMC approves the IM's definitive modifications to the Network Statement (these modifications were made in accordance with the recommendations proposed in the resolution STP/DTSP/032/19)
- STP/DTSP/046/19: The CNMC publishes its report on the IM's 2020 Network Statement, previous to its publication
- IPN/CNMC/028/19: The CNMC approves the report on the Preliminary Draft Law amending Law 38/2015, of the railway sector, which incorporates some elements of the 4th railway package into Spanish Law
- INF/DTSP/005/19: The CNMC approves its 2018 railway sector supervision report

Sweden

- Decision following a complaint regarding the use of priority criteria, particularly with regards to the design of the alternatives.

The RB decided that:

- the infrastructure manager (Trafikverket), in their future application of priority criteria on alternative scenarios for infrastructure works, must make sure that the alternatives compared describe not only the loss of capacity with different scenarios for the infrastructure work, but also how the remaining capacity is to be operated within each scenario.

- the infrastructure manager (Trafikverket), in the next working timetable, may to reserve the option of completely excluding a train path from the timetable, only for those cases where allocation of capacity can only happen at the cost of the commercial value of that train path.

- The case concerns the dispute resolution system for the performance scheme and the scope for the right to appeal according to article 56.1.

When applying delay codes to disruptions, Trafikverket (the main IM) always attributes disruptions caused by a driver arriving late to a train to the RU. This routine is described in an internal steering document of the IM and is applied irrespective of the reasons for the driver's delay. In practice, the IM does not consider appeals from RUs requesting a review of the delay code in these situations. A RU requested that the RB should decide that the IM should treat this as all other delays and make a review of the delay class should an RU appeal the code. As an example, the RU mentioned the troublesome winter weather 2017/18, which caused train delays that led to some train drivers missing their subsequent assignments. The IM argued that the RU has the responsibility for additional staff to solve these kinds of situations. In case the first request was denied the RU also requested that the delay class External causes should be deleted and a delay class referred to the IM should be used.

The RB decided in favour of the first request and ruled that the IM has to change their internal routine and its actions. Even if it is not possible to investigate the underlying cause of every single disruption, a dispute resolution system must try to take into account who was responsible for the disruption and who is able to re-establish normal traffic conditions, which varies depending on the situation. The RB also stated that the right to appeal includes the IM:s internal decision of how cases should be handled. The RB also stated that the complaint not necessarily has refer to a situation of disturbance that has already occurred if the outcome of the decision in practise is known in advance

- Decision following a complaint regarding the use of priority criteria, in particular with regards to communication and information during the coordination process for TT 2019.

The STA found that the infrastructure manager (Trafikverket) had not broken any of the procedural rules applicable for the working timetable for 2019. It was however noted that with the application of the new Annex VII (Commission Delegated Decision (EU) 2017/2075) from TT 2020 a new set of rules will apply for this type of TCR. The STA also found that the fact that the infrastructure works had not been included in the network statement did not constitute a violation of any applicable requirement.

- The case concerns which delay class should be attributed to an incident with one original cause but with severe consequences due to another cause.

A bird landed on a catenary which led to a short circuit. Due to faulty electric installations the catenary burned off and landed on the tracks and caused fire in two signal boxes. A 10-day traffic disruption followed with extensive delays and cancelled trains, instead of a few hours disruption. Trafikverket (IM) attributed the incident to the delay class Effect of natural causes since the event started with a bird. No penalty was thus paid either by the IM or the RU. A RU filed a complaint to the Regulator, arguing that the event was due to faulty electricity installation and therefore shall be attributed to a delay class who the IM is responsible for, more precisely the delay class Power supply equipment. This means that the IM shall pay a penalty to the RU. RB decision: Trafikverket had attributed the wrong delay class to the incident and should correct the delay class to the delay class power supply equipment class under the IM:s responsibility. This shall be done for all affected RU:s, not only the complainant. The major delay was due to the faulty installation and not to a natural cause. The IM is the one who can take reasonable measures to prevent operational disruptions in such cases. The RU also requested the RB to monitor how Trafikverket handles reports relevant to the quality fee system. This request was written off since this a independent decision of the RB and not possible for a RU to apply for. The RU also argued lack of communication on restoration work but made no specific claim in this respect. The decision was communicated to the National Electrical Safety Board's and Swedish Work Environment Authority. TSJ 2018-5147

Switzerland

- Complaint regarding the liability arrangement in the event of operational disruption due to technical faults in railway infrastructure (December 2019)

A technical fault of the railway infrastructure had prevented a charter train from proceeding for several hours. This incurred costs for the replacement transport of the passengers, as well as the recovery of the rolling stock. The charter RU was demanding that the IM should meet these costs.

RACO investigated the rulings regarding the meeting of costs in the event of operational disruption in the track access agreement for concordance with the principle of non-discrimination. Also examined was equality of treatment of licensed and unlicensed railway undertakings. RACO came to the conclusion that the contractual liability arrangement is compatible with the principle of non-discrimination, and is therefore lawful. The complaint was therefore rejected.

- Legal action regarding access to a siding

A freight RU, which delivers to a private facility, approached the RACO. The RU claimed that it was being denied access to a siding which links to the facility. The RACO's investigation indicated that the Federal Office of Transport made investment subsidies available for the siding in question, but had not made them conditional on non-discriminatory access being granted. In the case of minor projects, this requirement can be waived. In this case third parties cannot therefore claim non-discriminatory access. As a result, RACO is not competent to take action against the operator or owner of the siding.

United Kingdom

- ORR directed an access dispute between Network Rail Infrastructure Limited (Network Rail) and First TransPennine Express Limited (FTPE).

On 13 May 2019 ORR issued directions for Network Rail to enter into a supplemental agreement with FTPE. The application was submitted to ORR on 23 December 2018 after FTPE was unable to reach agreement with Network Rail regarding the proposed new services. In its application FTPE sought access rights for three additional off-peak Anglo-Scottish services in the parties' contract, effective from the Subsidiary Change date (SCD) 2019 until SCD 2024. Network Rail would not support this application because it had concerns about capacity and performance on the Castlefield Corridor. FTPE emphasised in the application that the three proposed services would operate at times of the day when there was sufficient capacity and that there would be no adverse impact on performance. ORR reviewed the application and carefully considered all of the information provided in the application, the responses to the industry consultation, Network Rail's representations on the application, and FTPE's comments on those representations. On 29 March 2019, ORR advised Network Rail that the RB was minded to approve FTPE's application and direct it to enter into the supplemental agreement. ORR advised that, if it wished to make any further representations before the RB confirmed this decision it could do so by 5 April 2019. On that date, Network Rail confirmed it had no further representations to make. It also confirmed that FTPE would amend the supplemental agreement to reflect our decision. This was subsequently received on 5 April 2019. ORR suggested a number amendments to the drafting to which the parties agreed.

- ORR fined Govia Thameslink Railway (GTR) £5m for breaking rules on passenger information and failing to provide appropriate, accurate and timely information to passengers following the introduction of a new timetable last May.

Having considered substantial evidence, ORR found that GTR took reasonable steps in making passengers aware of the planned changes prior to the new timetable. However, following the timetable change on 20 May, and in the 8 weeks that followed, it is evident that GTR failed to appropriately balance the steps it was taking to improve services with the need for passenger information to an unacceptable extent and duration. The effect of these failures left passengers with very little notice or certainty about whether trains that were running on one day would run or be the same the following day. A separate ORR investigation into Northern found that although in many cases passengers did experience inadequate information in the two weeks that immediately followed the timetable introduction, it had considered and subsequently took reasonable steps in these circumstances to give passengers appropriate, accurate and timely information both prior to and during the disruption.

- ORR decided on a dispute between Network Rail Infrastructure Limited (Network Rail) and GB Railfreight Limited (GBRf) directing the parties to enter into a supplemental track access agreement.

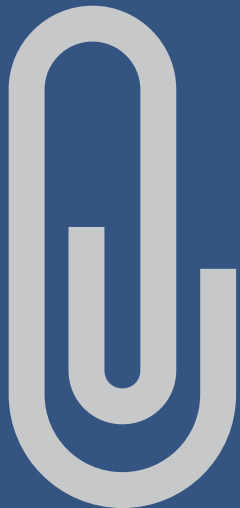
The dispute was in respect of requests for additional or amended access rights and consequential amendments to track access agreements on several routes. Several operators expressed some concern during the consultation phase that the sale of access rights was not consistent with Network Rail's existing policy and on the impact that this could have on the performance in relation to capacity on the route. ORR asked Network

Rail to consider these concerns. Some of the access rights were granted as requested. Others were rejected or amended. On the East Coast Main Line, ORR did not consider there was a sufficient basis for directing Network Rail to sell rights in breach of their policy, given all the circumstances, at this time. The relevant rights were included within the contract as Contingent until May 2021. On the Western Route, Network Rail agreed to the sale of four of the disputed seven rights. Of the remaining three disputed rights, ORR noted that one is an amendment to a right currently held.

- ORR issued its draft determination on the 2019 periodic review of HS1 Ltd access charges covering the period 2020-25.

The determination set out the amount of funding (£26 million) that HS1 Ltd (the infrastructure manager for the high-speed line between the Channel Tunnel and London) would need over the period 2020-25 to keep the assets in good condition. The final determination was announced in January 2020. ORR accepted the majority of HS1 Ltd's proposals but made recommendations about how the asset should be managed. This included reviewing its approach to asset life, seeking efficiencies in its supply chain and improving its approach to research and development.

ANNEX



Annex

Annex 1 - Qualitative impacts of the COVID-19 crisis during the first half of 2020

The table below shows the detailed answers collected per country in October 2020 regarding the impacts of the COVID-19 crisis observed during the first half of 2020.

	Were there specific other impacts on RUs/IMs due to measures imposed by the national authorities in the context of COVID-19? (e.g. limitation of the total capacity offered by RUs (%); others)
Austria	Restrictions such as necessary additional protective measures and difficulties with building staff rosters and putting together teams have led to a significant increase of efforts and cost for both the IMs and the RUs; there was a shortage of places available for employees' overnight stays during the first phase of the lock-down (spring); for individual trains double traction was reduced to single traction, i.e. only one instead of two locomotives; the cancellation of flights in some cases meant the removal of the basis of contract for rail operators (City Airport Train); due to the closure of borders cross-border trains were either reduced significantly or suspended completely; due to curfews commuter trains were reduced considerably to a weekend-schedule; due to less traffic the main IM was able to focus on construction and maintenance work.
Belgium	Closure of borders; guarantee of PSO train movements (to ensure safety - distance - on trains); delay in works on rail infrastructure due to unavailability of subcontractors.
Bulgaria	
Croatia	Headquarters of Civil Protection of the Republic of Croatia has suspended public passenger transport from 22 March to 10 May 2020.
Czech Republic	
Denmark	Limitations of capacity were introduced. No more passengers than the number of seats in running trains were allowed (In Denmark standing passengers are allowed, but this is cancelled during the COVID-19). And the passengers had to book a seat place before entering the train. Masks must be worn by the passengers.
Estonia	Measures imposed by national authorities in the context of COVID-19 did not show any direct impact on freight company's financial situation. However, decrease in freight transportation in general, including especially transportation of bulk goods, caused temporary or permanent decrease of tariffs for wagon rental.
Finland	Due to State's recommendations to reduce travelling and movement (in the context of Covid-19) the incumbent RU changed temporarily the terms of ticket cancelling, e.g. customers could cancel their tickets free of charge. RU also prolonged the validity of seasonal and serial tickets.
France	Prior context of strike in December 2019-January 2021 affecting both passenger and freight transport Lockdown from March 16th to May 11 th Restriction on travels above 100km from May 11th to June 2nd

Germany	Lockdown in April, Partly cancellation of train services by regional competent authorities
Hungary	
Italy	During the lockdown (9 March-3 May 2020), rail passenger services were significantly reduced. For the remaining services, restrictions were imposed on the number of train stops for passenger services, including on the basis of regional ordinances. A Government's act set that In OSP Sector, during lockdown, there was a limitation of capacity to 50%. Moreover, another act ensured, for each route, the connection with at least one pair of Trenitalia and NTV trains and guaranteed all essential services.
Latvia	The lockdown led to the closure of borders with third countries and the complete cessation of passenger transport with Lithuania and Estonia, as well as a reduction in rail freight transport.
Lithuania	Due to COVID-19 lock-down and security measures Lithuanian railway passenger carrier (LTG Link) had to reduce daily train schedule by 60 percent. Passenger numbers were 60 percent lower in comparison to business as usual.
Luxembourg	
Netherlands	
Poland	<p>There has been a positive impact on RUs/IMs resulting from the “Anti-crisis Shield” introduced by the Polish authorities aiming at limiting the negative effects of the SARS-CoV-2 virus pandemic on the railway sector. Below there are most important things resulting from “Anti-crisis Shield”, influencing the operations of RUs and IMs:</p> <ol style="list-style-type: none">1. Possibility of inter-voivodeship and international transport in rail transport by substitute transport <p>The Act provides for the introduction of a mechanism to the Act on Public Collective Transport that allows the operator to provide inter-voivodeship and international transport in rail transport, alternative transport by road, while retaining the right to compensation (including compensation related to the application of statutory concessions). This mechanism will apply in the period and in the area of epidemic threat, epidemic or emergency. The scope and conditions of performing this transport, in particular the transport route and timetable, were determined by the organizer and the operator by amending the contract for the provision of public transport services.</p> <ol style="list-style-type: none">2. Extension of the validity period of documents <p>If any of the following documents:</p> <ul style="list-style-type: none">• security authorization,• safety certificate,• security certificate,• train driving license,• train driver's certificate,• certificate for the entity in charge of the maintenance of a railway vehicle (ECM) <p>expires during the period of validity of the state of epidemic threat or state of epidemic, the validity period of these documents is extended until 90 days from the date of cancellation of the state of epidemic threat or state of epidemic, whichever is later cancelled. If one of the above-mentioned documents issued by the President of the Office of Rail Transport</p>

loses its validity during the epidemic, its validity period, by operation of law, is automatically extended, without the need to submit applications in this regard.

3. Staff training

If during the period of an epidemic threat or an epidemic the deadline for carrying out:

- training and periodic tests of knowledge and skills of train drivers,
- trainings for railway employees in the field of traffic management,
- trainings for:
 - employees employed in positions directly related to the operation and safety of railway traffic and the operation of specific types of railway vehicles
 - employees working in the position of a switchman
 - officers of the railway security guard

the validity period of the current training or test is extended until 90 days from the date of cancellation of the state of epidemic threat or state of epidemic, whichever is later canceled

The most important safety documents issued by the President of the Office of Rail Transport remained valid. However, it was possible to apply to extend the validity of these documents after the epidemic ends.

Portugal In accordance with the rules imposed by the Government, PSO services have reduced their services significantly. The offered capacity by RU's was limited to 1/3 of total during the Emergency State and 2/3 during the Calamity Situation. At this stage, the use of a mask as well as the validation of a transport ticket are mandatory by law.

Romania Mobility restrictions imposed on the population during the state of emergency led to a decrease in sales and revenues. The reduction of the activity of some companies / institutions resulted in the decrease of the number of passengers (commuters, students). The implementation of measures to prevent the spread of the virus (eg. the purchase of the sanitary materials) has generated additional costs for Rus.

Serbia

Slovakia

Slovenia Pursuant to a Governmental decree, all public passenger transport in Slovenia was completely interrupted from 16 March until 10 May 2020. In the period from 11 May to the end of June passenger services operated in limited extend.

Spain Freight transport had no restrictions. Passenger transport faced restrictions on both, total capacity allowed for each train, and number of trains in circulation. The restrictions imposed are briefly described in the Annex. However, these restrictions seem not to have had any impact on the demand as its reduction was more intense than the reduction in the supply.

Sweden The passenger railway undertakings have reduced their traffic significantly. For passenger traffic it was observed a drop in train-kilometers between 10 and 30 percent compared to 2019. The traffic within PSO contracts has been carried out almost as usual according to timetables but with fewer passengers.

For freight traffic no substantial differences can be observed when comparing 2020 to 2019.

Switzerland

UK	<p>The Government announced measures to limit the impact and transmission of the coronavirus (COVID-19) pandemic. Advice against all unnecessary travel was announced on 16 March, with further guidance on 'staying at home' on 23 March ('lockdown'). There are some minor differences to how lockdown and restrictions were brought in for England, Wales, Scotland and Northern Ireland. In some parts of the UK, some travel restrictions were eased on 10 May with more workers allowed to travel to their place of work. However by the end of June the Government was encouraging people to avoid public transport if possible. A reduced timetable has been introduced, to ensure that reliable services are in operation to get key workers to work while allowing more freight trains to meet demand. Regarding freight, some services have been adversely affected by the global crisis, but others are seeing increased demand for domestic distribution.</p> <p>For non-PSO RUs, Hull Trains suspended services from 30 March. Grand Central suspended services after 3 April.</p> <p>On March 23 the Government suspended rail franchise agreements. All revenue and cost risk now passed to the government.</p> <p>In September the UK Government announced rail franchising will end, and nearly all RUs are now funded by the Government.</p>
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Annex 2 - Financial measures adopted by States, regulatory bodies, infrastructure managers or railway undertakings as a response in the first half of 2020 to the COVID-19 crisis

The table below shows the detailed answers collected per country in October 2020 regarding the financial measures and responses to the COVID-19 crisis for the railway sector observed during the first half of 2020.

	Have any financial measures been adopted by RB/States/IMs/RUs? (e.g financial compensations and/or state aids; temporary relaxation of charges, payment terms, time limits; changes in performance indicators; others)
Austria	Reduction of prior accumulated overtime; many employees were on short-time work; reduced working hours/furlough for loco drivers, shunters, sales personnel; due to decrease in the number of passengers several public transport associations reduced the number of connections under PSOs, resulting in less turnover and a deterioration toward a higher ratio of fixed costs; there have been attempts to defer rent for locos; deferral of payments to contractors; accepting subsidies to fixed costs; equipping staff to work from home; the main non-PSO route (Vienna-Salzburg) was turned into a PSO-route meaning the incumbent and the competitor were endowed with a PSO-contract for several months - this contract in return obliged the RUs to stick to predetermined timetables and stops as well as to accept tickets issued and sold by the business rival; the government offered a deferral of payments for taxes and fees.
Belgium	temporarily unemployment (state); cancelling of annulation costs for train paths (IM); possibility for loans from the government for RUs who experience problems (as a result of COVID-19)

Bulgaria	
Croatia	IM made a decision not to charge a capacity reservation fee (Article 36 of Directive 2012/34) due to the COVID-19 pandemic at a time when RU couldn't use the planned train paths for justified reasons.
Czech Republic	
Denmark	Yes, financial compensations will be paid to the RUs and IMs.
Estonia	Freight company didn't get any State aid, as it didn't meet the criteria. RB changed the basis of calculating infrastructure fee from usual yearly based volume to monthly based volume during the period of April - June 2020 to compensate the decrease of infrastructure fee caused by decreased volumes.
Finland	Due to the COVID-19 situation, the State granted additional funding of EUR 100 million for purchasing and developing public passenger transport services. In addition to public transport subsidies, the State granted also, as a stimulus measure, funding for numerous transport infrastructure projects (including rail and road projects). According to the Government Decree, State authorities could also grant max. 3 months interest-free payment period for the public charges amounting more than 100 EUR (between 24 April 2020 and 31 August 2020).
France	Government announcements of State aids to the main infrastructure manager: amount of several billion Euros (takeover of part of the debt, or recapitalization) with reverse engagements to reduce debt, dedicate the aid for rail renewals, relaunch of night trains. No changes in legal charges for IMs, but State aids to IMs to offset: <ul style="list-style-type: none">• complete relaxation of charges for freight RUs from July 2020 until December 2020• decrease by 50% of taxes for freight RUs from January 2021 State aids proposed for the launching new freight highways of maximum Euro 35 million per year
Germany	Capital increase for DB financed by the State, General (not rail-focussed) funding of small and medium sized companies and short-time allowance financed by the State, No other covid-specific measures planned.
Hungary	

Italy	The IM applied relief measures in favour of RUs, such as the removal of penalties for non-use of capacity due to path cancellation, and the zeroing of access charges for certain non-MAP services, e.g. long-stay parking of trains in service facilities. In the Relaunch Decree (May 20) a package of economic measures was defined for companies affected by the crisis caused by the Covid19 emergency, including those in the railway sector. Compensation for the fee for the use of the railway infrastructure. Compensation was introduced for the fee not paid to RFI equal to 115 million Euros. A fee reduction is foreseen for all freight and passenger railway companies, without public service obligation. For rail freight services, the charge for the use of the railway infrastructure to be applied is reduced by 40% for the portion exceeding the coverage of the cost directly linked to the provision of the railway service. For passenger rail services from 1 July 2020 to 31 December 2020, a discount will be applied on the charges in consideration of the effects resulting from the Covid-19 emergency, including the reduced capacity to fill vehicles.
Latvia	In order to mitigate the consequences of the Covid-19 pandemic in the railway sector in Latvia, the Government in 2020 has granted financial support to the passenger carrier (PSO service) as compensation for unforeseen events in the amount of 2.9 and 1.6 million EUR. The Government has also provided support to the IM (infrastructure manager) for the management, maintenance and development of the State public railway infrastructure in the amount of 27 and 32.4 million. EUR.
Lithuania	Lithuanian railway passenger carrier (LTG Link) was utilizing "tax vacation" regime during the lock-down months.
Luxembourg	The Luxembourgish independent path allocations and charging body Administration des Chemis de Fer has waived the access charges for rail freight traffic (retroactively) starting with the beginning of the pandemic in 2020. This measure has been prolonged in December 2020 until 30 June 2021.
Netherlands	The Dutch government has paid RUs 2.2bn Euros as compensation for the loss of revenues from passenger services in 2020. In return, RUs need to continue operating under the normal timetable.
Poland	<p>Since March 13th 2020, PKP PLK S.A.(Polish incumbent IM) suspended charging of RUs with booking charges for cancellation of the entire route or part of the route. Moreover, from March 14th 2020, RUs were not charged with fees for running a train with a different traction vehicle or with an increased gross weight than indicated in the timetable. These rules were in force until further notice in September. PKP PLK resigned from the proposed solution due to a significant increase in the number of submitted applications which were not conducted later, which resulted in artificially blocking of the capacity.</p> <p>Additionally the "Anti-crisis Shield" introduced regulations aimed at limiting the negative effects of the SARS-CoV-2 virus pandemic on the railway sector. The changes introduced by the new act are intended to support railway carriers in this difficult period. As regards the financial measures the following solutions have been envisaged:</p> <ol style="list-style-type: none">1. Transfer of funds Two mechanisms are provided for the possibility of direct acquisition of funds by public utility transport operators in rail transport:

- a. Subsidies for voivodeship, inter-voivodeship and international passenger transport operators in rail transport transferred from the State budget to cover lost revenues due to statutory reliefs.

The provisions of the act provide for the transfer of funds to operators for the recognition of statutory rights to discounted journeys by means of collective public transport up to the amount settled for the same monthly periods in the previous year.

- b. Additional subsidies paid from the resources of the Covid-19 Countermeasures Fund to cover unrealized sales revenues and operating costs planned but not realized due to the limitation of operational work.

Another mechanism provides for the payment of subsidies from the COVID-19 Countermeasure Fund to operators in provincial, inter-provincial and international passenger transport in rail transport to finance the financial gap that has not been filled thanks to the subsidies described in point a). The amount of these benefits might not exceed the difference between the sales revenues not achieved by the operator in a given month, due to COVID-19, and the operating costs not incurred by the operator in the same month, due to limited, due to counteracting COVID-19, work operational. The subsidy should be reduced by the support granted for honoring the statutory entitlement to discounted journeys by public transport (described in point a).

2. Postponing the contributions to the Social Insurance Institution. Additionally some RUs (although the aid is addressed to all entrepreneurs) benefit from postponing the payment of contributions to the Social Insurance Institution or dividing them into installments.

Portugal It has not been adopted any measures by IM or Portuguese Government regarding the charges paid by the users in the scope of minimum access package services. IM has only been exempted RUS from the fees regarding the cancellation of services requested by the operators.

Romania RU's adopted the following measures:
a) a suspension of individual employment contracts; b) taking the required measures to obtain State aid, for the period 16.03.2020 - 31.12.2020, necessary to compensate the losses suffered as a result of the COVID-19 pandemic and caused directly by this pandemic, based on Article 107 paragraph (2) lit. b) of the Treaty on the Functioning of the European Union; c) reduction of employees' working hours from 5 days to 4 days per week, with the corresponding reduction of the salary; d) postponement of the payment of debts to the State budget;

Serbia

Slovakia With effect from 1.8.2020, the IM has granted reduced freight charges of 90 % for several freight trains until further notice

Slovenia In the period from 16 March 2020 to 30. June 2020, the IM did not charge compensation for delays under the performance regime and for unused train paths or late cancellations of train paths. A "COVID" law was adopted, which allows to allocate financial support to companies, in particular for temporary "out of work".

Spain

Spain's financial measures can be divided in three groups. The first two groups were already approved while the third one lays on the 2021 National Budget.

1. Law 23/2020, June 23: The lockdown reduced the seats available for sale. RUs will only be charged for those seats, and not for the whole capacity of the train as the charging scheme foresees. Moreover, the payment on rented IM's properties to commercial enterprises will be either delayed or reduced.
2. Network statement 2020: The discount scheme on high-speed lines was modified, reducing the level of the reference traffic and target traffic so as to reflect the new reality of this period. In particular:
 - a. 44.4% reduction of the reference traffic level, which is the level of yearly traffic that entails discounts.
 - b. An increment of 0.5% over this reference level is kept as the target traffic.
 - c. The discount will be increased up to 50% of components A and B of TAC in every line (before, it ranged from 25% to 50%).
3. Regarding charges for 2021, the RB decided that the market cannot bear mark-ups above the current level applicable to 2020. The sum of the charges and the mark-ups for 2021 will be lower than the one for 2020 in order to increase traffic. The RB has asked the Ministry of transport, in line with Regulation (EU) 2020/1429, October 7, 2020, to assume the IM's revenue decrease.

Sweden

- The Swedish Government has implemented several measures for the enterprises in general. These can be used by companies within the railway sector:
 - Companies are offered increased loan facilities and credit guarantees.
 - Companies can receive support based on loss of turnover.
 - Companies can use short-term layoffs, which means the Government will pay a part of the employees' salaries while the employees themselves work on reduced time.
 - Companies receive relief regarding employers' social security contributions
 - A possibility has been introduced for companies to postpone tax payments.
- During the pandemic the traffic within PSO contracts has been carried out almost as usual according to timetables but with fewer passengers. The Government has given financial help, 3 billion Swedish Crowns in total (approx. 300 million Euro), to the local competent authorities. The amount of this financial help will be based on the ticket revenues. The distribution will be carried out by the Swedish Transport Administration.
- In order to facilitate for rail transport stakeholders the Swedish Transport Agency (which is regulatory body, NSA and licensing authority) is taking temporary measures in the area of supervision charges. The sending of new invoices relating to the railway area was postponed temporarily until further notice and the due date for invoices that have already been sent out in 2020 has been extended to 180 days.
- The Swedish Transport Administration, which is the main IM in Sweden, offers all RU:s with track access agreements extended payment terms from 30 days to 90 days. (This decision applies to invoices from 1 March.) The Swedish Transport Administration also offers its suppliers the opportunity to get paid for their invoices after 15 days instead of 30.

Switzerland

UK

On March 23rd the Government suspended rail franchise agreements. All revenue and cost risk now passed to the Government. Fees will be set at a maximum of 2 per cent of the cost base of the franchise before the Covid-19 pandemic began, intended to incentivise operators to meet reliability, punctuality and other targets. The maximum fee attainable will be far less than recent profits earned by train operators. In the event that an operator does not wish to accept an Emergency Measures Agreement, the Government's Operator of Last Resort stands ready to step in.

Since the outbreak of COVID-19, the Government has approved £3.5 billion of additional expenditure to ensure that vital rail services continue to operate. Of this additional expenditure, £2.9 billion relates to the 2020/21 financial year.

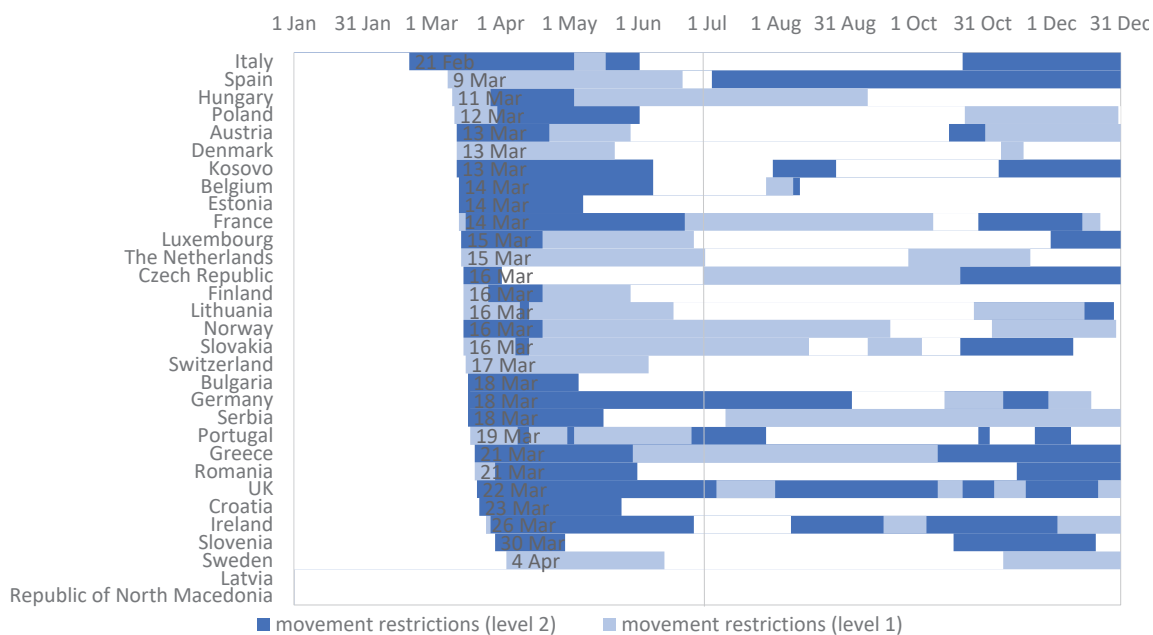
Freight, open access and international passenger operators have all approached the Government to seek support and highlight their precarious financial positions.

Annex 3 - Global restrictions on rail transport demand - Calendars

In March 2020, most European countries implemented strict measures to restrict internal movement. These measures resulted in a major drop in global mobility in all countries, affecting demand for rail transport and other modes of transport.

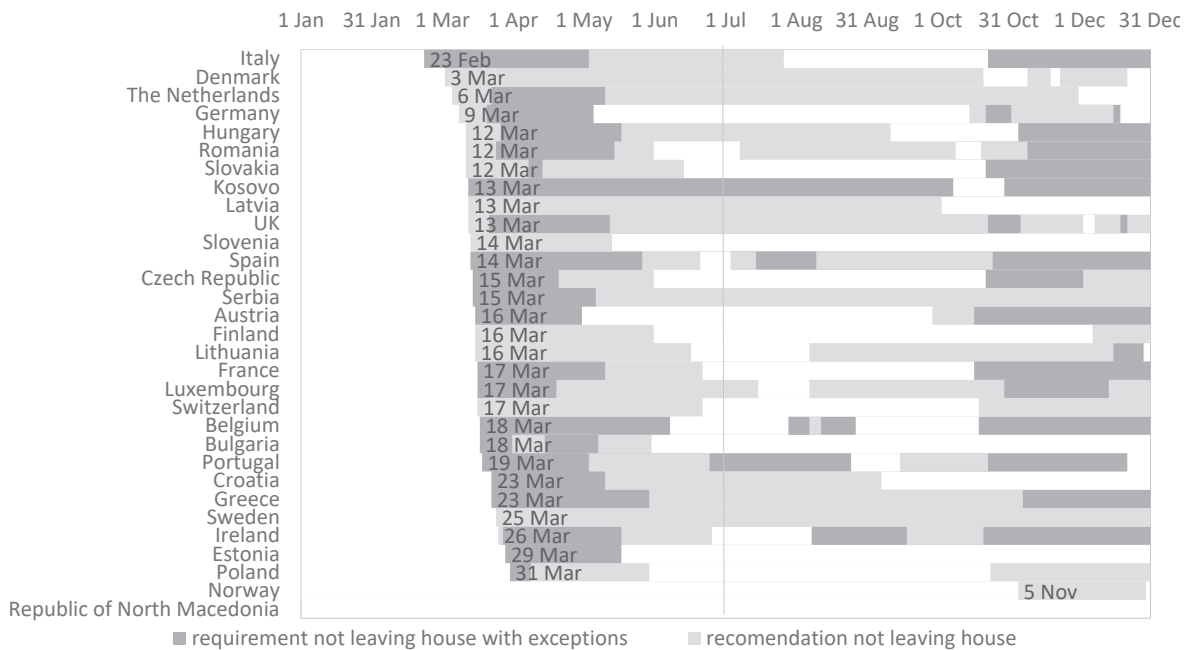
On average, the first set of restrictive measures for internal movements (Figure 29) lasted until June 21st. The first "stay at home" measures (Figure 30) also lasted (as obligation or requirements) from March until July 22nd on average, with differences among countries though. The lockdown measures (strict or recommended) appeared to be shorter in the first six months in Germany, Slovenia, Austria, Estonia, Poland and Norway.

FIGURE 29 - CALENDAR OF MOVEMENT RESTRICTIONS IMPOSED PER COUNTRY IN 2020



Source: Oxford COVID-19 Government Response Tracker, indicator C7- Restrictions on internal movement - The C7 indicator records subnational (State-level) border closures where a state restricts entry from other states from another state, as well as recording restrictions on movement within the state. Some examples that could indicate a level 1: voluntary quarantines, non-intrusive checks at the state border (ex: asking where you will be quarantining but not following up extensively), asking residents of one specific city to not cross the border with a neighbouring city. Some examples that could indicate a level 2: closing interstate highways/waterways, prohibiting or banning travel from certain regions, requirement of negative test result, intensive checks on quarantine, requiring quarantine in a hotel or other standardized state-run facility.

FIGURE 30 - CALENDAR OF “STAY AT HOME” REQUIREMENTS PER COUNTRY IN 2020



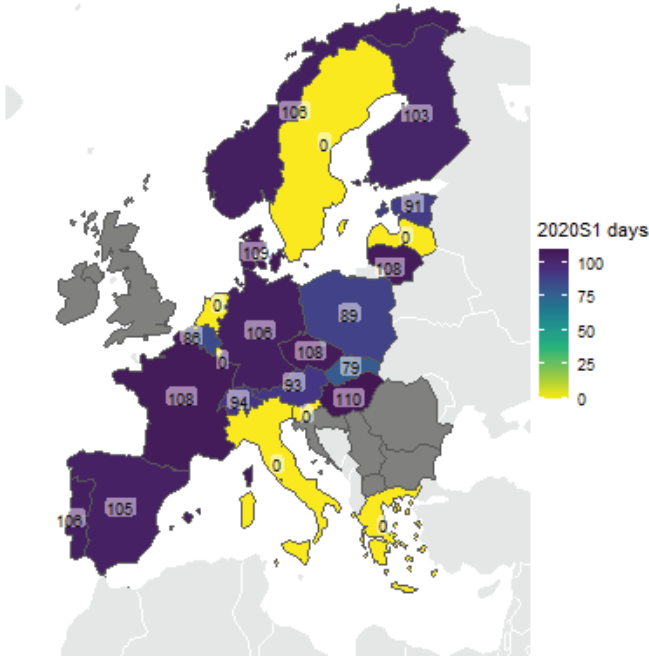
Source: Oxford COVID-19 Government Response Tracker, indicator C6- Stay at home requirements - The C6 indicator records orders to “shelter-in-place” and otherwise confine to the home

FIGURE 31 - SCHENGEN TEMPORARY REINTRODUCTION OF BORDER CONTROL IN THE CONTEXT OF COVID-19

This figure presents the number of days with Schengen Temporary Reintroduction of border Control during the first semester 2020

IRG-rail

Independent
Regulators' Group - Rail



Source: European Commission - Member States' notifications of the temporary reintroduction of border control at internal borders pursuant to Article 25 and 28 et seq. of the Schengen Borders Code