

# What rules for ...

**consultation, transparency and  
predictability of infrastructure charges**

# Consultation of (potential) applicants by infrastructure managers

*Rail infrastructure development strategy based on sustainable finance*

*The network statement (annually)*

*Contracts between IM and the State on the infrastructure (Art. 30(6))*

## Transparency I : Network statement

*charging principles and charges Arts 31 - 33.*

*Details on methodology, rules and scales for all permissible charging elements, as regards both costs and charges (Annex IV, point 2)*

*Facility charges: obligation to publish (Annex IV, point 6).*

*Lead time: Minimum four months between publication and entry into force of charge*

# Transparency II: Regulatory body and court decisions

*Decisions of regulatory bodies must be published  
Rail market monitoring survey (national and EU level)*

*Decisions of competition authorities*

*(Preliminary) Rulings and Decisions of the EU  
Court of Justice (Eurlex) and national courts*

*scarcity charges only on lines declared  
congested, only with capacity enhancement plan.*

# Performance Schemes

*Aim: RU and IM should minimise disruptions  
same consultation and publication rules as for  
charging schemes*

*Main parameters must be agreed btw IM and RU  
for each service (train runs and per RU):*

- **Delay values**
- **Thresholds and caps**
- **Viability of the service must not be endangered**

*Base: Article 35 and Annex VI(2)*

# Account separation (in case of holding, facility operator)

*Keeping and publishing separate profit & loss accounts for IM and RU*

*Prohibition of transfer of public funds*

*Earmarking of all revenues to infrastructure*

*Prohibition of recouping wear and tear of grant financed assets (CIReg (EU) No 909/2015)*

*Financial transparency: Dividends, loans, debts (Art. 7d)*

# Ongoing work on charging schemes

- *Phasing in plans for application of implementing regulation on direct cost calculation to be submitted to regulators by 3 July 2017*
- *Implementation of Directive 2012/34/EU also triggers changes to track access charging schemes in some MS*
- *Redesign of TAC scheme in countries such as AT, DE, ES, FR, IT, PL (partly under design, partly design is completed)*
- *Changes to charging scheme also announced for BG, HU, RO, SE (according to information collected by IRG Rail)*
- *Timely involvement of all relevant stakeholders (RUs, RBs, etc.) is crucial*

# Recommendations

*Performance schemes: ensure that parameters are effective*

*Use consultation and insist on being consulted*

*RU may use appeal rights before the regulatory body and before courts*

*Regulatory body may use own initiative procedure*

*Consultation and transparency obligations are binding even if not transposed in national law!*

*Thank you for your attention*

## **Annex I - Performance indicators in the contractual agreements between IM and competent authorities as foreseen in Article 30(2) of the Directive 2012/34/EU**

*Source: Data provided by Member States in the Rail Market Monitoring framework (2015, unless indicated differently)*

Member State/IM	2015
BG/NRIC	Increase of speed on sections under maintenance, rail infrastructure quality
DE	
DB Netz	Travel times, infrastructure failures, renovation of bridges
DB Station& Service AG	Functionality platforms
DB Energie GmbH	Energy savings
DK/Banedanmark	Yes, not specified
FR/SNCF Reseau	Yes, about 50 different indicators
HU	Punctuality, speed profile, track condition, axle load, availability of signalling and catenary systems, cleanliness of stations (2014 RMMS)

## Annex I continuing

Member State/IM	2015
IT/various IM	Several contracts, mostly no performance indicators; existing indicators: network efficiency, punctuality, reaction speed to disturbances and cleanliness of stations
NL/ProRail	Customer satisfaction, punctuality, path allocations.
PL	
PKP PLK	Network standards, utilisation rate, punctuality
PMT LK	Speed limits, axel loads, maintenance, traffic management, access, clearing with RUs
RO/CFR	Length of network in operation, labour productivity, utilisation, average speed, reliability, productivity
SK/ŽSR	A range of indicators covering operation, performance, productivity (2014 RMMS)

## Annex I continuing

Member State/IM	2015
UK	
Network rail	A series of regulated outputs, indicator measures and enablers: <a href="http://www.networkrail.co.uk/publications/delivery-plans/control-period-5/cp5-delivery-plan/">http://www.networkrail.co.uk/publications/delivery-plans/control-period-5/cp5-delivery-plan/</a>
Northern Ireland Railways	Monitoring results can be found at <a href="https://www.translink.co.uk/Corporate/About-Us/Publications/Monitoring-Results/NIR/">https://www.translink.co.uk/Corporate/About-Us/Publications/Monitoring-Results/NIR/</a>
High-Speed 1	Performance indicators are set in the Concession Agreement with HS1 - see <a href="http://orr.gov.uk/what-and-how-we-regulate/high-speed-1/hs1-monitoring-and-enforcement/monitoring-and-reporting-on-hs1">http://orr.gov.uk/what-and-how-we-regulate/high-speed-1/hs1-monitoring-and-enforcement/monitoring-and-reporting-on-hs1</a>
SE	No contractual agreement with Trafikverket, a CA with Inlandsbanan, but no indicators attached.
AT, HR, BE, LU	No performance indicators linked to contractual agreements
CZ, EE, FI, LV, PT	No contractual agreements
EL, ES, IE, LT	No data provided in RMMS