

Practical Guide to implementation of the Recast Regulation (Directive 2012/34/EU establishing a Single European Railway Area)

Date of entry into force: 16th June 2015

Obligations on IMs, RUs, Facility operators, Regulatory Bodies, competent authorities, Member States:

Who is responsible for action?	Issue	Details	Reference
Member State	Exemptions for regional infrastructure from independence requirements, UNTIL another RU requests capacity	Until another RU requests capacity on a regional network used for regional freight services solely by an RU, independence requirements of the IM, financing of the IM and non-discriminatory access to rail facilities shall not apply to the network	Article 2, paragraph 3, point c
Member State/ European Commission	Exemptions for local infrastructure from fair and non-discriminatory charging and capacity allocation rules, IF the infrastructure is of no strategic importance.	Member State must notify the European Commission of intention to exclude their local infrastructure, which does not have strategic importance for the functioning of rail market, from fair and non-discriminatory charging and capacity allocation rules. The European Commission takes the decision whether the exemption is granted.	Article 2, paragraph 4
Member State/ European Commission	Exemption of local and regional infrastructure from the obligation of an IM business plan, IF the infrastructure is of no strategic importance	Member State must notify the European Commission of intention to exclude their local and regional infrastructure, which does not have strategic importance for the functioning of rail market, from the obligation of an IM business plan. The European Commission takes the decision on whether the exemption is granted.	Article 2, paragraph 4
Incumbent/ Member State	Incumbent must keep accounts of its different areas of business activity in such a way which ensures they can be monitored against cross-subsidisation.	The accounts for the different areas of activity between the business relating to the provision of transport services and the business relating to the management of the infrastructure management, AND the business relating to rail freight services and passenger services must be kept in a way that allows for monitoring of the prohibition on transferring public funds paid to one area of activity to another and the monitoring of the use of income from infrastructure charges and surpluses from other commercial activities	Article 6, Paragraph 3
Member State	Collection of charges must be done by an independent body or firm	Collection of track access charges must be done by a body that does not itself provide rail transport services.	Article 7, paragraph 1
Member State	Member States must publish a rail infrastructure development strategy that covers at least 5 years.	Member States need to have published by 16 December 2014, after consultation with the interested parties, an indicative rail infrastructure development strategy with a view to meeting future mobility needs in terms of maintenance, renewal and development of the infrastructure	Article 8, paragraph 1

		based on sustainable financing of the railway system. That strategy shall cover a period of at least five years and be renewable	
IM/RU	The Infrastructure Manager must adopt a business plan. Users must have the opportunity to express their views on the business plan	The IM shall adopt a business plan including investment and financial programmes. The plan shall be designed to ensure optimal and efficient use, provision and development of the infrastructure while ensure financial balance and providing means for these objectives to be achieved. The infrastructure manager shall ensure that known applicants and, upon their request, potential applicants have access to the relevant information and are given the opportunity to express their views on the content of the business plan regarding the conditions for access and use and the nature, provision and development of the infrastructure before its approval by the infrastructure manager.	Article 8, paragraph 3
Regulatory Body	New deadlines for the regulatory body to respond to requests regarding limitation of access for passenger transport services	The competent authorities and the railway undertakings providing the public services shall provide the relevant regulatory body or bodies with the information reasonably required to reach a decision. The regulatory body shall consider the information provided by these parties, and, as appropriate, shall ask for relevant information from, and initiate consultation with, all relevant parties, within one month of receipt of the request. The regulatory body shall consult all the relevant parties as appropriate, and shall inform the relevant parties of its reasoned decision within a pre-determined, reasonable time, and, in any case, within six weeks of receipt of all relevant information.	Article 11, paragraph 2
European Commission/ Regulatory Body	The European Commission will by 16 th December 2016 adopt implementation measures for the Member States on the criteria and procedure for determining whether the economic equilibrium of a public service contract is compromised.	Based on the experience of regulatory bodies, competent authorities and railway undertakings and based on the activities of the network the Commission shall adopt by 16 December 2016 measures setting out the details of the procedure and criteria to be followed for the application of paragraphs 1, 2 and 3 of this Article.	Article 11, paragraph 4
Member State/ competent authority	Levy on railway undertakings providing passenger services must be transparent and non-discriminatory AND the revenue raised from such a levy shall not exceed what is necessary to cover all or part of the cost incurred in the relevant	Member States can impose a levy on RUs providing passenger services to compensate the cost incurred in the relevant public service obligations. The revenue raised from such a levy and paid as compensation shall not exceed what is necessary to cover all or part of the cost incurred in the relevant public service obligations taking into account the relevant receipts and a reasonable profit for discharging those obligations. The levy shall respect in particular the principles of fairness, transparency, non-discrimination and proportionality, in particular between the average	Article 12, paragraphs 2-3

	public service obligations	price of the service to the passenger and the level of the levy. The total levies imposed pursuant to this paragraph shall not endanger the economic viability of the rail passenger transport service on which they are imposed. The relevant authorities shall keep the information necessary to ensure that the origin of the levies and their use can be traced. Member States shall provide the Commission with this information	
Facility operator that is also a dominant provider of rail transport services	Independence (organisational and decision-making) of facility operator if owned by a dominant national transport service provider. List of relevant facilities:	The operators of these service facilities shall be organised in such a way that they are independent of this body or firm in organisational and decision-making terms. Such independence shall not imply the requirement of the establishment of a separate legal entity for service facilities and may be fulfilled with the organisation of distinct divisions within a single legal entity. The operator and the body or firm shall have separate accounts, including separate balance sheets and profit and loss accounts	Article 13, Paragraph 3
Facility operator	Passenger stations, their buildings and other facilities, including travel information display and suitable location for ticketing service	IF owned by an operator, who is also a dominant national transport provider, independence must be ensured. RU has right of access to and can make complaint to regulatory body, if access denied. See more information below.	Article 13 & Annex II
Facility operator	Freight terminals	IF owned by an operator, who is also a dominant national transport provider, independence must be ensured. RU has right of access to and can make complaint to regulatory body, if access denied. See more information below.	Article 13 & Annex II
Facility operator	Marshalling yards and train formation services, including shunting facilities	IF owned by an operator, who is also a dominant national transport provider, independence must be ensured. RU has right of access to and can make complaint to regulatory body, if access denied. See more information below.	Article 13 & Annex II
Facility operator	Storage sidings	IF owned by an operator, who is also a dominant national transport provider, independence must be ensured. RU has right of access to and can make complaint to regulatory body, if access denied. See more information below.	Article 13 & Annex II
Facility operator	Maintenance facilities, with the exception of heavy maintenance facilities dedicated to high speed trains or to other types of rolling stock requiring special features	IF owned by an operator, who is also a dominant national transport provider, independence must be ensured. RU has right of access to and can make complaint to regulatory body, if access denied. See more information below.	Article 13 & Annex II
Facility operator	Other technical facilities, including cleaning and washing facilities	IF owned by an operator, who is also a dominant national transport provider, independence must be ensured. RU has right of access to and can make complaint to regulatory body, if access denied. See more information below.	Article 13 & Annex II
Facility operator	Maritime and inland port facilities which are linked	IF owned by an operator, who is also a dominant national transport provider, independence must be ensured. RU has right of access to and can make complaint to regulatory body, if access	Article 13 & Annex II

	to rail facilities	denied. See more information below.	
Facility operator	Relief facilities	IF owned by an operator, who is also a dominant national transport provider, independence must be ensured. RU has right of access to and can make complaint to regulatory body, if access denied. See more information below.	Article 13 & Annex II
Facility operator	Refuelling facilities and supply of fuel in these facilities, charges for which will be shown on the invoice separately	IF owned by an operator, who is also a dominant national transport provider, independence must be ensured. RU has right of access to and can make complaint to regulatory body, if access denied. See more information below.	Article 13 & Annex II
Facility owner/ regulatory body	RU right of access - Access can only be denied to the RU if there are viable alternatives allowing the RU to operate the freight service concerned on the same or alternative route under economically acceptable conditions.	Requests by railway undertakings for access to, and supply of services in the service facility shall be answered within a reasonable time limit set by the regulatory body. Such requests may only be refused if there are viable alternatives allowing them to operate the freight or passenger service concerned on the same or alternative routes under economically acceptable conditions. This shall not oblige the operator of the service facility to make investments in resources or facilities in order to accommodate all requests by railway undertakings.	Article 13, paragraph 4
Facility operator that is also a dominant provider of rail transport services	Refusal of access must be justified in writing to RU	The operator must justify in writing any decision of refusal and indicate viable alternatives in other facilities.	Article 13, paragraph 4
Regulatory body/ RU	If access is denied to a facility, Regulatory Body intervenes - if RU is refused access and no viable alternative is available, the Regulatory Body has to intervene and ensure that an appropriate part of the capacity is granted to the RU.	Where an operator of the service facility encounters conflicts between different requests, it shall attempt to meet all requests in so far as possible. If no viable alternative is available, and it is not possible to accommodate all requests for capacity for the relevant facility on the basis of demonstrated needs, the applicant may complain to the regulatory body referred to in Article 55 which shall examine the case and take action, where appropriate, to ensure that an appropriate part of the capacity is granted to that applicant	Article 13, Paragraph 5
Facility owner/ RU	Use it or lease it – If rail facilities are not used for 2 years the operator has to offer the facility for rent.	Where a service facility has not been in use for at least two consecutive years and interest by railway undertakings for access to this facility has been expressed to the operator of that service facility on the basis of demonstrated needs, its owner shall publicise the operation of the facility as being for lease or rent as a rail service facility, as a whole or in part, unless the operator of that service facility demonstrates that an ongoing process of reconversion prevents its use by any railway undertaking.	Article 13, paragraph 6
Facility operator/RU	Additional services from the service facility may be requested by the railway undertaking. If the service	Where the operator of the service facility provides any of the following as additional services, it shall supply them upon request to railway undertakings	Article 13, paragraph 7 & Annex II, point 3

	facility offers these services to one RU, it must supply them upon request to other RUs in a non-discriminatory manner	<p>in a non-discriminatory manner:</p> <p>a) traction current, charges for which shall be shown on the invoices separately from charges for using the electrical supply equipment, without prejudice to the application of Directive 2009/72/EC;</p> <p>(b) pre-heating of passenger trains;</p> <p>(c) tailor-made contracts for:</p> <ul style="list-style-type: none"> — control of transport of dangerous goods, — assistance in running abnormal trains. 	
Facility operator/RU	Ancillary services from the service facility may be requested by the railway undertaking. If the service facility offers these services to one RU, it must supply them upon request to other RUs in a non-discriminatory manner	<p>Railway undertakings may request, as ancillary services, further services referred to below from the infrastructure manager or from other operators of the service facility. The operator of the service facility is not obliged to supply these services. Where the operator of the service facility decides to offer to others any of these services, it shall supply them upon request to railway undertakings in a non-discriminatory manner.</p> <p>(a) access to telecommunication networks;</p> <p>(b) provision of supplementary information;</p> <p>(c) technical inspection of rolling stock;</p> <p>(d) ticketing services in passenger stations;</p> <p>(e) heavy maintenance services supplied in maintenance facilities dedicated to high-speed trains or to other types of rolling stock requiring specific facilities</p>	Article 13, paragraph 8 & Annex II, point 4
IM	The content of the network statement has to be made available free of charge in electronic format on the IM website	The content of the network statement shall be made available free of charge in electronic format on the web portal of the infrastructure manager and accessible through a common web portal.	Article 27, paragraph 1
IM	The network statement must contain the conditions for access to the service facilities	The network statement shall also contain information setting out the conditions for access to service facilities connected to the network of the infrastructure manager and for supply of services in these facilities or indicate a website where such information is made available free of charge in electronic format.	Article 27, paragraph 2
	The network statement must contain the charging framework and charging rules or indicate a website where the charging framework and rules are published	Member States shall ensure that the network statement contains the charging framework and charging rules or indicates a website where the charging framework and charging rules are published.	Article 29, paragraph 1
IM/Member State	The IM must be set incentives for reducing the costs of providing infrastructure and the	Infrastructure managers shall be given incentives to reduce the costs of providing infrastructure and the level of access charges. These incentives shall either be through the contractual agreement between competent authority and IM or through regulatory measures	Article 30, paragraph 1

	level of access charges		
IM/Member State	The IM must be given a contract of minimum 5 years that includes performance targets	Member States shall ensure that a contractual agreement is concluded between competent authority and the infrastructure manager for a period of not less than 5 years. The contract has to cover the following: <ul style="list-style-type: none"> • User-orientated performance targets • Rules for dealing with major disruption • Structure of funds or payments allocated to infrastructure, maintenance, renewals 	Article 30, paragraph 2 Annex V
IM/RU/Users	Users must be involved in the contractual agreement of the IM.	Member States shall ensure that applicants and, upon their request, potential applicants are informed by the competent authority and the infrastructure manager and are given the opportunity to express their views on the content of the contractual agreement before it is signed. The contractual agreement shall be published within one month of concluding it.	Article 30, paragraph 6
IM/facility operator/ Regulatory body	IM and the operator of the service facility must provide the Regulatory Body with all necessary information on the charges imposed to RUs	Member States shall require the infrastructure manager and the operator of service facility to provide the regulatory body with all necessary information on the charges imposed in order to allow the regulatory body to perform its functions as referred to have regulatory oversight.	Article 31, paragraph 2
IM/facility operator	IM must be able to demonstrate to RUs that the service charges actually invoiced to the RUs comply with the methodology and rules laid down in the network statement	The infrastructure manager and the operator of service facility shall, in this regard, be able to demonstrate to railway undertakings that infrastructure and service charges actually invoiced to the railway undertaking comply with the methodology, rules and, where applicable, scales laid down in the network statement.	Article 31, paragraph 2
IM	The modalities for establishing the charges for infrastructure use are defined. They must be based on the costs directly incurred as a result of operating the train service, which are calculated on the basis of excluding non-eligible costs.	Before 16 June 2015, the Commission shall adopt measures setting out the modalities for the calculation of the cost that is directly incurred as a result of operating the train. For more details on the calculation of the directly incurred costs Click here	Article 31, paragraph 3 & Implementing Act 2015/909/ec
IM	IM must adapt to modalities for the calculation of cost that is directly incurred as a result of operating the train at the latest by 2019.	The infrastructure manager may decide to gradually adapt to those modalities during a period of no more than four years after the entry into force of those implementing acts.	Article 31, paragraph 3
Member State	Environmental cost charges for rail only if	Charging of environmental costs which results in an increase in the overall revenue accruing to the infrastructure manager shall however be allowed	Article 31, paragraph 5

	environmental charging is applied to road freight transport.	only if such charging is applied to road freight transport.	
Facility operator	The operator of the facility for supply of services shall provide the IM with the information on charges to be included in the network statement	The operator of the facility shall provide the infrastructure manager with the information on charges to be included in the network statement or shall indicate a website where such information is made available free of charge in electronic format.	Article 31, paragraph 10
IM	Any discount scheme on charges used by the IM shall be applied in a non-discriminatory manner to any RU	Similar discount schemes shall apply for similar services. Discount schemes shall be applied in a non-discriminatory manner to any railway undertaking.	Article 33, paragraph 5
Member State	Optional Compensation to RUs for the unpaid environmental, accident and infrastructure costs of competing transport modes	Member States may put in place a time-limited compensation scheme for the use of railway infrastructure for the demonstrably unpaid environmental, accident and infrastructure costs of competing transport modes in so far as these costs exceed the equivalent costs of rail.	Article 34, paragraph 1
IM/RUs	Basic principles of the performance scheme to minimise disruption and delay on the network are defined AND the IM must agree with RUs the main parameters of the scheme	<p>Infrastructure charging schemes shall encourage railway undertakings and the infrastructure manager to minimise disruption and improve the performance of the railway network through a performance scheme. This scheme may include penalties for actions which disrupt the operation of the network, compensation for undertakings which suffer from disruption and bonuses that reward better-than-planned performance.</p> <p>The infrastructure manager must agree with applicants the main parameters of the performance scheme, in particular the value of delays, the thresholds for payments due under the performance scheme relative both to individual train runs and to all train runs of a railway undertaking in a given period of time;</p>	Article 35 and Annex VI
Member State/ IM	Member States will have to apply delay categories for attributing delay responsibility. 3 Categories: IM is responsible for delay RU is responsible for delay Force majeure is responsible for the delay	<p>Wherever possible, delays shall be attributed to a single organisation, considering both the responsibility for causing the disruption and the ability to re-establish normal traffic conditions;</p> <p>More details on delay categories contained in Annex VI</p>	Annex VI
IM/RUs	IM obligation to communicate to the RUs the basis on which delays	The infrastructure manager shall communicate to the railway undertakings the working timetable, on the basis of which delays will be calculated, at least five days before the train run. The infrastructure manager may apply a shorter notice	Annex VI

	will be calculated at least 5 days before the train run.	period in case of force majeure or late alterations of the working timetable; Wherever possible, delays shall be attributed to a single organisation, considering both the responsibility for causing the disruption and the ability to re-establish normal traffic conditions;	
IM/RUs	Calculation of payments for delays	The calculation of payments shall take into account the average delay of train services of similar punctuality requirements;	Annex VI
IM/RUs	IM obligation to communicate to the RU a calculation of payments	The infrastructure manager shall, as soon as possible, communicate to the railway undertakings a calculation of payments due under the performance scheme. This calculation shall encompass all delayed train runs within a period of at most one month;	Annex VI
IM/RUs	Dispute resolution system must be made available	in the case of disputes relating to the performance scheme, a dispute resolution system shall be made available in order to settle such matters promptly. This dispute resolution system shall be impartial towards the parties involved. If this system is applied, a decision shall be reached within a time limit of 10 working days;	Annex VI
IM/RUs	IM must publish once a year the annual level of performance	Once a year, the infrastructure manager shall publish the annual average level of performance achieved by the railway undertakings on the basis of the main parameters agreed in the performance scheme	Annex VI
IM/RUs	If there is regular failure from an RU to use allocated paths a non-usage levy is mandatory	Infrastructure managers may levy an appropriate charge for capacity that is allocated but not used. That non-usage charge shall provide incentives for efficient use of capacity. The levy of such a charge on applicants that were allocated a train path shall be mandatory in the event of their regular failure to use allocated paths or part of them. For the imposition of this charge, the infrastructure managers shall publish in their network statement the criteria to determine such failure to use.	Article 36
IMs/RUs	IMs obliged to cooperate to ensure efficient charging schemes on more than one network, in particular to guarantee the optimal competitiveness of international rail services	Member States shall ensure that infrastructure managers cooperate to enable the application of efficient charging schemes, and associate to coordinate the charging or to charge for the operation of train services which cross more than one infrastructure network of the rail system within the Union. Infrastructure managers shall, in particular, aim to guarantee the optimal competitiveness of international rail services and ensure the efficient use of the railway networks. To this end they shall establish appropriate procedures, subject to the rules set out in this Directive.	Article 37, paragraph 1
IMs	IMs obliged to cooperate to ensure efficient application of mark-ups and performance scheme for cross-border traffic	Member States shall ensure that infrastructure managers cooperate to enable mark-ups and performance schemes to be efficiently applied, for traffic crossing more than one network of the rail system within the Union	Article 37, paragraph 2
IM/RU/ Member State	There must be cross-border cooperation between IMs in the	Member States shall ensure that infrastructure managers cooperate to enable the efficient creation and allocation of infrastructure capacity	Article 40, paragraph 1

	allocation of infrastructure capacity on more than one network, including under Framework Agreements	which crosses more than one network of the rail system within the Union, including under framework agreements.	
IM	IMs must establish one stop shops for RUs applying for paths crossing more than one border. The OSS can either be a joint body established by the IMs or one IM acting on behalf of the applicant	For train paths crossing more than one network, infrastructure managers shall ensure that applicants may apply to a one-stop shop that is either a joint body established by the infrastructure managers or one single infrastructure manager involved in the train path. That infrastructure manager shall be permitted to act on behalf of the applicant to seek capacity with other relevant infrastructure managers.	Article 44, para 4
IM/RU	There are transparency requirements for where there are conflicts for capacity between different applicants	The infrastructure manager shall attempt, through consultation with the appropriate applicants, to resolve any conflicts. Such consultation shall be based on the disclosure of the following information within a reasonable time, free of charge and in written or electronic form: (a) train paths requested by all other applicants on the same routes; (b) train paths allocated on a preliminary basis to all other applicants on the same routes; (c) alternative train paths proposed on the relevant routes (d) full details of the criteria being used in the capacity-allocation process. The information shall be provided without disclosing the identity of other applicants, unless applicants concerned have agreed to such disclosure	Article 46, paragraph 3
IM/RU	Obligation of IM to inform as soon as possible interested parties about the unavailability of infrastructure due to unscheduled maintenance work	The infrastructure manager shall inform, as soon as possible, interested parties about the unavailability of infrastructure capacity due to unscheduled maintenance work.	Article 53, paragraph 3
Regulatory Body/Member State	Regulatory body must be a stand-alone authority, and not part of the Transport Ministry or any other public body.	The regulatory body shall be a stand-alone authority which is, in organisational, functional, hierarchical and decision-making terms, legally distinct and independent from any other public or private entity. It shall also be independent in its organisation, funding decisions, legal structure and decision-making from any infrastructure manager, charging body, allocation body or applicant. It shall furthermore be functionally independent from any competent authority involved in the award of a public service contract.	Article 55, paragraph 1
Regulatory Body/Member State	The regulatory body can be part of other regulatory bodies or can be joined with the national competition authority, the	Member States may set up regulatory bodies which are competent for several regulated sectors, if these integrated regulatory authorities fulfil the independence requirements set out in paragraph 1 of this Article. The regulatory body for the rail sector may also be joined in organisational term with the national competition authority, the safety authority or the licensing	Article 55, paragraph 3

	safety authority or the licensing authority, as long as independence is guaranteed.	authority referred to in EU legislation.	
Regulatory body/Member State	Regulatory body shall have staff and resources to reflect the rail sector's size	Member States shall ensure that the regulatory body is staffed and managed in a way that guarantees its independence.	Article 55, Paragraph 3
Member State/Regulatory body	Transparent rules for appointing persons to the regulatory body	Member States must ensure that the persons in charge of decisions to be taken by the regulatory body, such as members of its executive board, where relevant, be appointed under clear and transparent rules which guarantee their independence by the national cabinet or council of ministers or by any other public authority which does not directly exert ownership rights over regulated undertakings.	Article 55, Paragraph 3
Member State/Regulatory body	Appointment to the regulatory body shall be based on appropriate competence and experience and appointees will be protected from dismissal linked to their decision-making.	Member States shall decide whether these persons are appointed for a fixed and renewable term, or on a permanent basis which only allows dismissal for disciplinary reasons not related to their decision-making. They shall be selected in a transparent procedure on the basis of their merit, including appropriate competence and relevant experience, preferably in the field of railways or other network industries.	Article 55, Paragraph 3
Member State	Persons in charge of decisions within the regulatory body must act independently from any market interest. They must make an annual declaration of interests and they shall withdraw from any decision-making in cases which concern an undertaking with which they have had contact.	Member States shall ensure that these persons act independently from any market interest related to the railway sector, and shall therefore not have any interest or business relationship with any of the regulated undertakings or entities. To this effect, these persons shall make annually a declaration of commitment and a declaration of interests, indicating any direct or indirect interests that may be considered prejudicial to their independence and which might influence their performance of any function. These persons shall withdraw from decision-making in cases which concern an undertaking with which they had a direct or indirect connection during the year before the launch of a procedure.	Article 55, Paragraph 3
Regulatory Body	No Government/ public or private entity interference	They shall not seek or take instructions from any government or other public or private entity when carrying out the functions of the regulatory body, and have full authority over the recruitment and management of the staff of the regulatory body.	Article 55, Paragraph 3
Regulatory Body	Restrictions on ability to work in any regulated undertaking or entity for at least one year	After their term in the regulatory body, they shall have no professional position or responsibility with any of the regulated undertakings or entities for a period of not less than one year.	Article 55, Paragraph 3
Regulatory Body	The regulatory body has the right to monitor the competitive situation in the rail markets and to act	Without prejudice to the powers of the national competition authorities for securing competition in the rail services markets, the regulatory body shall have the power to monitor the competitive situation in the rail services markets and shall, in particular, control points on its own initiative and with a view to preventing discrimination against	Article 56, paragraph 2

	on its own initiative, with a view to preventing discrimination	applicants. It shall, in particular, check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used to discriminate against applicants.	
Regulatory Body	These points below are particularly important for regulatory body oversight:		
Regulatory Body	Regulatory body oversight on the network statement in its provisional and final versions AND the criteria set out in it.	<ul style="list-style-type: none"> the network statement in its provisional and final versions; the criteria set out in it 	Article 56, paragraph 1
Regulatory Body	The Regulatory Body shall in particular check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used to discriminate against applicants	It shall, in particular, check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used to discriminate against applicants	Article 56, paragraph 1
Regulatory Body	Regulatory body oversight on the capacity allocation process and its result	The allocation process and its result	Article 56, paragraph 1
Regulatory Body	Regulatory body oversight on the charging scheme	The charging scheme	Article 56, paragraph 1
Regulatory Body	Regulatory body oversight on the level or structure of infrastructure charges which it is, or may be, required to pay;	the level or structure of infrastructure charges which it is, or may be, required to pay;	Article 56, paragraph 1
Regulatory Body	Regulatory body oversight on non-discriminatory and transparent access to rail infrastructure and rail facilities, and the charging of access to.	arrangements for access in accordance with the right of access to infrastructure and services and access to and charging for services in accordance with the conditions of access to facilities and their services.	Article 56, paragraph 1
Regulatory Body	Regulatory body must cooperate closely with the national safety authority and the licensing authority. If a decision is taken to deviate from a recommendation is, the	The regulatory body shall also cooperate closely with the national safety authority and the licensing authority. Member States shall ensure that these authorities jointly develop a framework for information-sharing and cooperation aimed at preventing adverse effects on competition or safety in the railway market. This framework shall include a mechanism for the regulatory body to provide the national safety and licensing authorities with recommendations on issues that	Article 56, paragraph 3

	relevant authority must provide its reasons.	may affect competition in the railway market and for the national safety authority to provide the regulatory body and licensing authority with recommendations on issues that may affect safety. Without prejudice to the independence of each authority within the field of their respective competences, the relevant authority shall examine any such recommendation before adopting its decisions. If the relevant authority decides to deviate from these recommendations, it shall give reasons in its decisions.	
Member State/ Regulatory Body	Regulatory body can take non-binding decisions on the IM business plan, the contractual agreement and the capacity-enhancement plan	Member States may decide that the regulatory body is given the task to adopt non-binding opinions on the provisional versions of the business plan, the contractual agreement and the capacity-enhancement plan to indicate in particular whether these instruments are consistent with the competitive situation in the rail services markets.	Article 56, paragraph 4
Member State/ Regulatory Body	Regulatory Body shall have human and material resources to reflect the rail sector's importance	The regulatory body shall have the necessary organisational capacity in terms of human and material resources, which shall be proportionate to the importance of the rail sector in the Member State	Article 56, paragraph 5
Regulatory Body	Regulatory body decision is binding and it shall be able to enforce its decisions with appropriate penalties	A decision of the regulatory body shall be binding on all parties covered by that decision, and shall not be subject to the control of another administrative instance. The regulatory body shall be able to enforce its decisions with the appropriate penalties, including fines.	Article 56, paragraph 9
Regulatory Body	Regulatory body must at least every 2 years consult representatives of users	The regulatory body shall, regularly and, in any case, at least every two years, consult representatives of users of the rail freight and passenger transport services, to take into account their views on the rail market.	Article 56, paragraph 7
Regulatory Body	Regulatory body's power to request information, within a deadline of one month	The regulatory body shall have the power to request relevant information from the infrastructure manager, applicants and any third party involved within the Member State concerned.	Article 56, paragraph 8
Member States/ Regulator Body	An appeal against the decision of the regulatory body may only have suspensive effect when the immediate effect of the regulatory body's decision may cause irretrievable or manifestly excessive damages for the appellant.	Member States shall ensure that decisions taken by the regulatory body are subject to judicial review. The appeal may have suspensive effect on the decision of the regulatory body only when the immediate effect of the regulatory body's decision may cause irretrievable or manifestly excessive damages for the appellant. This provision is without prejudice to the powers of the court hearing the appeal as conferred by constitutional law, where applicable.	Article 56, paragraph 10
Member States/ Regulatory Body	Decisions taken by Regulatory body must be published.	Member States shall ensure that decisions taken by the regulatory body are published.	Article 56, paragraph 11
Regulatory Body	Regulatory bodies are obliged to cooperate,	The regulatory bodies shall exchange information about their work and decision-making principles and practice and, in particular, exchange	Article 57, paragraph 1

	amongst others, to coordinate their decision-making	information on the main issues of their procedures and on the problems of interpreting transposed Union railway law. They shall otherwise cooperate for the purpose of coordinating their decision-making across the Union. For this purpose, they shall participate and work together in a network that convenes at regular intervals. The Commission shall be a member, coordinate and support the work of the network and make recommendations to the network, as appropriate. It shall ensure active cooperation of the appropriate regulatory bodies.	
Regulatory Body	Complaints related to an international train path – the regulatory body must consult all relevant regulatory bodies.	In the case of a complaint or an own-initiative investigation on issues of access or charging relating to an international train path, as well as in the framework of monitoring competition on the market related to international rail transport services, the regulatory body concerned shall consult the regulatory bodies of all other Member States through which the international train path concerned runs and, where appropriate, the Commission, and shall request all necessary information from them before taking its decision.	Article 57, paragraph 3
Regulatory Body/ European Commission	Regulatory Bodies are obliged to develop common principles and practices for making decisions.	Regulatory bodies shall develop common principles and practices for making the decisions for which they are empowered under this Directive. Based on the experience of regulatory bodies and on the activities of the network of regulatory bodies, and, if needed, to ensure efficient cooperation of regulatory bodies, the Commission may adopt measures setting out such common principles and practices.	Article 57, paragraph 8
Regulatory Body	Regulatory bodies are obliged to review decisions and practices of IMs involved in cross-border charging schemes and the creation and allocation of infrastructure	Regulatory bodies shall review decisions and practices of associations of infrastructure managers related to the efficient creation and allocation and efficient charging schemes for infrastructure crossing more than one network or otherwise facilitate international rail transport.	Article 57, paragraph 9
Ireland and Northern Ireland	Ireland's and Northern Ireland's derogation from the application of critical parts of the Directive must be reviewed if a railway company submits an official application to operate competing railway services	Where more than one railway undertaking or, in the case of Ireland and Northern Ireland, a railway company so licensed elsewhere, submits an official application to operate competing railway services in, to or from Ireland or Northern Ireland, the continued applicability of this derogation shall be decided upon in accordance with the advisory procedure.	Article 59, paragraphs 1-3
Member State/ Regulatory Body/ European Commission	A Member State or a regulatory body may raise concerns with the European Commission over implementation of this Directive in other Member States. The	At the request of a Member State, of a regulatory body or on its own initiative, the Commission shall examine specific measures adopted by national authorities in relation to the application of this Directive, concerning the conditions of access to railway infrastructure and services, the licensing of railway undertakings, infrastructure charging and capacity allocation within 12 months after adoption of those measures. The Commission shall decide whether the related measure may continue to be applied within four months of	Article 61

	European Commission can also take action of its own accord	receipt of such a request.	
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