

Minutes

14th meeting of the European Network of Rail Regulatory Bodies

28 and 29 November 2017, Brussels

28 November 2017

Afternoon session (14:00 to 18:00)

1. Approval of the agenda

The agenda was approved.

2. Approval of the minutes of the 13th ENRRB meeting

The minutes were approved.

3. Roundtable discussion: recent developments in Member States (relevant cases, changes to organisational set-up)

A roundtable discussion took place, which allowed for the exchange of information about ongoing work and recent decision-making practice, main issues of pending/recent procedures and problems of transposing Union railway law.

4. Economic Equilibrium Test:

i. Presentation by UTK - Urząd Transportu Kolejowego on the economic equilibrium test

See presentation.

ii. Presentation by the Commission on the draft Implementing Act on the economic equilibrium test and exchange of views on the text; sharing of experience by those Regulatory Bodies who assess public service contracts

MOVE briefly presented the articles of the draft Implementing Act, whilst taking comments from regulatory bodies. At the end, MOVE highlighted that the idea was to produce a new text in the coming weeks, distribute it to all the parties involved, discuss it at the following SERAC meeting in February, have a public consultation in March and possibly aim for adoption in June 2018.

5. Presentation by the Autorité de Régulation des Activités Ferroviaires et Routières (ARAFER) on the efficiency of the rail sector at regional level, including a comparison between the French regions

See presentation.

29 November 2017

Morning session (9:30 – 12:45)

1. Roundtable Discussion on the Implementing Regulation on the modalities for the calculation of direct costs and in particular on crucial points identified in assessing phasing-in plans

MOVE indicated that according to Commission Implementing Regulation (EU) 2015/909, July 3rd, 2017, was the crucial date by which infrastructure managers had to submit to their respective regulatory bodies their method of calculation of direct costs and, if significant changes were foreseen, a phasing-in plan.

MOVE addressed the different Member States in a letter over the summer giving them a few weeks, after the July deadline, to report on whether they were aware of any consultation having taken place between infrastructure managers and regulatory bodies and received replies from a number of Member States. An analysis and overview of these replies will be presented at the next ENRRB Meeting.

On this agenda item MOVE was interested in hearing from the regulatory bodies whether they had seen the modalities for the calculation of direct costs in their Member States and what changes they could report to the European Commission.

2. Presentation by Comisión Nacional del Mercado y la Competencia (CNMC) on access charges and their impact on competition

See presentation.

3. Presentation by Schiedskommission im Eisenbahnverkehr (SKE) on energy charges

See presentation.

4. Presentation by Schienen-Control on energy metering

See presentation.

5. Short presentation by the Commission on the Commission Delegated Decision replacing Annex VII to Directive 2012/34/EU

The European Commission adopted Commission Delegated Decision replacing Annex VII to Directive 2012/34/EU on September 4, 2017. The Decision then went into the scrutiny period of Parliament and the Council, where some questions were raised in the course of that process; in particular, one in the Council by the Czech Delegation and one within the Parliament by a Polish MEP.

Following requests for the Commission to clarify what was intended through the Commission Delegated Decision, MOVE issued an explanatory legal note that eased those concerns and allowed the decision to pass through the scrutiny period without any obstruction or any request for further extension of the period. The delegated decision was published in the Official Journal on November 14, 2017.

29 November 2017

Afternoon session (14:00-17:30)

1. Roundtable Discussion on article 57(8) – development of common decision making principles in the area of exemptions under the Implementing Regulation on access to service facilities and rail-related services

MOVE highlighted that it attaches a lot of importance to the work done by regulatory bodies in establishing common decision making procedures and hoped that this type of work was already going on to a certain extent within IRG-Rail as a preparatory work for the discussions in the ENRRB meetings.

However, what had taken precedence over that more general work of developing decision making procedures and consultation of a more general nature was the requirement for the regulatory bodies to develop interpretations on what exemptions should be allowed under Article 2 of the Implementing Regulation on access to service facilities, published in the Official Journal on November 22, 2016.

MOVE encouraged holding a discussion on that topic at all of the 2018 meetings, at least the ones in the first half of the year.

MOVE, then, invited regulatory bodies and in particular IRG-Rail representatives, who are leading on this work, to elaborate on what had been developed and by what timescale common principles would be finalised.

IRG-Rail reported that the subgroup on access to service facilities had already started working on the topic and in particular there was a first brain-storming on ideas on how to approach this topic. Regarding the timeline, as Article 2 applies from 1 January 2019 and applications for exemptions should be expected beginning January 2019, it is clear that the development of a common position has to be prioritised.

2. Presentation by the Service de Régulation du Transport Ferroviaire et de l'Exploitation de l'Aéroport de Bruxelles on the notion of reasonable profit

See presentation.

3. Roundtable Discussion on service facility charging

MOVE invited regulatory bodies with experience on service facility charging to share with other regulatory bodies what information is published in the network statements of the infrastructure managers in their respective Member States.

4. Update by the Commission on the development of a template for the service facility description and exchange of views

The Implementing act on access to service facilities and rail-related services speaks of a common template to be developed by the railway sector in cooperation with regulatory bodies

by June 30, 2018. RNE had been working closely with IRG-Rail on an example template which can then be consulted more widely with the sector.

IRG-Rail reported that a meeting with RNE would take place on December 6, 2017 and that IRG-Rail's main role in this process is getting all stakeholders to the table.

Common Portal:

MOVE welcomed the opportunity to share with ENRRB members the news about the European rail location portal, which constitutes one of the three options, provided in the Implementing Act, for publication of the service facilities description.

The Commission published in October a call for tenders so as to develop the European rail location portal. MOVE could not reveal who was behind the contract, but intended to launch it in early 2018.

MOVE highlighted that it would build on the existing project of the pilot portal developed in 2016, which was focused on freight and will now be extended to passenger facilities.

Apart from service facility operators and railway undertakings, shippers, forwarders, combined operators, infrastructure managers and other interested parties such as public authorities, the European Commission etc. will be among the users of the common rail portal.

MOVE expects that the rail industry associations will take over the portal in the future. RNE will probably be the system manager. It remains to be seen who will be the data manager.

5. Update by the Commission on the spectrum for GSM-R, the Global System for Mobile Communications – Railway

MOVE reported the following:

The successor for GSM-R is being defined (a long transition is expected with coexistence of two systems).

The Future Rail Mobile Communication System will be based upon 3GPP standards (i.e.: Mobile Communication international Standards – several stakeholders talk about LTE-"LTE-R").

Spectrum allocation for railways

Currently EU Railways have a harmonised allocation of 2 x 4 MHz band in the "900 MHz" spectrum area.

In addition, 2 x 3 MHz can be allocated to Railways on national decision (often these are allocated to multiple applications, some Member States such as DE, plus CH, use the whole 2 x 7 MHz capacity on different areas and some hotspots) – these are the so-called E-GSM-R (or extended GSM-R bands).

The Commission, following increasing needs and pressure, notably from the Short Range Devices (SRD) sector, tabled a proposal for a so-called "squeeze option" – i.e.: harmonising for railways, in addition to the 2 x 4 MHz, 1.4 – 1.6 MHz of the optional 2 x 3 MHz (on-going

capacity assessment), while harmonising part of the remaining E-GSM-R bands for IoT (Internet of Things) devices and for RFIDs.

Evaluations of the needs for railways with the current and future technologies (notably LTE) as well as "guard bands" are performed by ECC "FM 56" Committee.

A Commission decision is foreseen to be proposed for spectrum allocation (DG CNECT chef de file) by July 2018, gathering further evidence on the subject.

6. Next meeting

The next ENRRB Meeting is scheduled to take place on the 8th and 9th of March 2018.

7. List of participants

Present:

Rail Regulatory Bodies from 26 Member States and 2 observers were present at this meeting chaired by the Commission.

AT	Schiene-Control GmbH (SCG)
BE	Service de régulation du Transport ferroviaire et de l'Exploitation de l'Aéroport de Bruxelles National
BG	Railway Administration Executive Agency (RAEA)
CH (Observer)	Railways Arbitration Commission (RACO)
CZ	Transport Infrastructure Access Authority (UPDI)
DE	Federal Network Agency (Bundesnetzagentur)
DK	Danish Rail Regulatory Body (Jernbanenaevnet)
EE	Estonian Competition Authority
EL	Greek Regulatory Authority for Railways
FI	Finnish Transport Safety Agency (TRAFI)
FR	Authority for Regulation of Road and Rail (ARAFER)
HR	Croatian Regulatory Authority for Network Industries (HAKOM)
HU	National Transport Authority, Department of Railway Regulation
IE	Commission for Railway Regulation
IT	Authority for transport regulation (ART)
LT	Communications Regulatory Authority of Lithuania
LU	Institut Luxembourgeois de Régulation
LV	State Railway Administration
NL	Authority for Consumers & Markets (ACM)
NO (Observer)	Norwegian Railway Authority
PL	Polish Office of Rail Transport (UTK)
PT	Authority for Mobility and Transport (AMT)
RO	Romanian Competition Council - Railway Supervision Council (RCC)
SE	Swedish Transport Agency (Transportstyrelsen)
SL	Agency for Communication Networks and Services (AKOS)

SK	Transport Authority (Dopravný úrad)
SP	National Commission for markets and competition (CNMC)
UK	Office of Rail and Road (ORR)