



IRG-Rail (20) 1

Independent Regulators' Group – Rail

IRG-Rail

Annual Report 2019

IRG-Rail is the network of independent rail Regulatory Bodies comprising 31 European countries. The overall aim of IRG-Rail is to facilitate the creation of a single, competitive, efficient and sustainable internal railways market in Europe. IRG-Rail acts as a platform for cooperation, sharing of best practices on regulatory issues and promotion of a consistent application of the European regulatory framework.

This IRG-Rail paper is published under the responsibility of IRG-Rail. The opinions expressed and arguments employed herein by members Regulatory Bodies do not necessarily reflect the official views of their respective governments.

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IRG-Rail 2019 Chairman's Letter

It is my pleasure to welcome you to IRG-Rail's 2019 Activity Report ("Report"). This Report will cover the activities carried out by the Independent Regulators' Group-Rail during the year.

Throughout the year, I closely cooperated with Serge Drugmand, Director of the Regulatory Body for Railway Transport and for Brussels Airport and 2019 Vice-chair of our Network. Together we maintained a close contact with Andrea Camanzi, President of ART, the Italian Regulatory Body, and Chair of IRG-Rail in 2018. Let me express my warm thanks for their collaboration and support.

Together, too, we were pleased to report to the Plenary Assembly that Maria-Theresia Röhslér, Managing Director of the Austrian Regulatory Body, Schienen-Control, had agreed to advance her candidacy for IRG-Rail 2020 Vice-chairmanship - and 2021 Chairmanship, that was endorsed by the Plenary Assembly in November 2019.

Our mission is to foster a deeper understanding of the role of transport in economic growth, environmental sustainability and social inclusion and to raise the public profile of transport policy. The world around us is transforming rapidly, changing the way people and goods travel within and across cities, regions, and countries.

Today we can witness a global renaissance of rail travel but the next years will be critical for the European rail industry. With increased competition, liberalization, and the traveler of today demanding more from the travel experience than ever before, rail companies need a clear and honest view of the opportunities, challenges and threats that lie ahead.

While the European rail passenger industry is experiencing a steady growth in passenger numbers and has a strong history of pioneering technological innovations, the rail market remains incredibly fragmented, particularly beyond national borders. We are seeing traditional national operators still dominating their respective markets with domestic trips accounting for the majority of rail travel.

In the year under review, IRG-Rail pursued cooperation, information exchange and sharing of best practices as envisaged in its mission and objectives, addressed current and emerging rail regulatory issues and set useful shared benchmarks for the application of the European regulatory framework. IRG-Rail acts as a platform for discussion of policy issues across railway sector, having always in mind the relation between other modes.

The Group's activities were implemented in line with the strategic challenges identified in IRG-Rail Strategy Document 2017-2020 with a view to the liberalization of domestic passenger markets, the regulation of cross-border issues and the development of new regulatory tools and methods to effectively address market developments.

The IRG-Rail Working Programme for 2019, focused on the following priority areas:

- improvement of Infrastructure Managers' rail capacity allocation, congested infrastructure management and performance measurement;
- further exploring the development of the service facility template and of the common portal as well as monitoring the application of the exemptions granted under Implementing Regulation (EU) 2017/2177;
- implementation of the Fourth Railway Package into national legislations and application of EU implementing regulations and delegated acts;
- assessment of the application of cost component and infrastructure charging principles as well as the charging implications of the opening of the domestic passenger market;
- review of charging for service facilities, with a focus on rail stations and maintenance facilities, aiming at supporting the opening of the domestic passenger markets;
- the annual market monitoring with a focus on the competitive situation in the rail passenger and freight transport service markets in each country.

Alongside, the Task Force on multimodality continued its work and carried out a case study on intermodal and multimodal competition under the passenger perspective, by taking coach stations as the infrastructure of reference.

The transport sector is of the utmost importance for the economy and is currently undergoing great transformation. Transport operators, who will play a key role as actors in the mobility market will have to adjust their businesses to the emerging digital market in which the user dictates the rules. These changes are already underway, implying formidable challenges matched only by the opportunities that the digital transformation has brought about.

There are many tools for this change: i) digitization, which is reaching traditional infrastructures, ii) work in the matching between supply and demand, with dematerialized decisions and solutions, and iii) new business models, such as sharing and pooling. In fact, the technological acceleration is changing the mobility paradigm as we know it.

Public transport will continue to play a key role in mobility, but will have to be able to respond to change, bearing in mind that the experience of mobility is now the key factor. Increasingly, personalization is a determining factor, with artificial intelligence and the data analyses producing potentially relevant information and revealing transportation trends.

Mobility as a Service is set to revolutionize the sustainability efficiency and convenience of transportation systems. However, to make this a reality it is imperative that public and private stakeholders come together.

We have the responsibility to establish standards and norms, educate and promote health, raise environmental awareness, convene the various actors to share experiences and best practices, measure progress and report on achievement of targets.

Civil society has the responsibility to advocate on behalf of society, and to ensure that citizens' needs and expectations are prioritized and met. We all have to work collaboratively to advance the goals that we have set, and to ensure that we meet the targets. The time to act is now.

As in past years, IRG-Rail continued to provide the EU Commission with regulatory inputs on the relevant subjects under discussion concerning, in particular, the Economic Equilibrium Test, the revision of the Member States' obligations on EU rail market monitoring, a template on service facilities descriptions, common principles on granting exemptions from certain obligations imposed on service facilities operators, to mention but a few.

Lastly, but certainly not least, the IRG-Rail Annual Market Monitoring Report, the seventh since the setting up of IRG-Rail, was approved and published on the Network's website. It is increasingly regarded by the relevant stakeholders, including the EU Commission, as an appreciated and valuable benchmark for the overview of the economic conditions and market developments in the railway sector.

We may be proud of the results achieved so far, that testify to IRG-Rail's responsiveness and commitment in effectively addressing current and emerging rail regulatory issues.

Also, the meetings with the sector stakeholders, have been very important. These meetings sought, above all, optimizing stakeholder engagement and building a collective understanding in the underlying factors that promote the rail sector. During these meetings stakeholders expressed their concerns' and stated their positions on the main challenges of the sector and entities they represent. The industry's representatives praised IRG-Rail's initiative for the added value of coordinating with the sectors' stakeholders.

The meetings with representatives of Stakeholders organizations allowed not only the discussion of several open questions and areas of concern, but also the presentation of the key work areas for 2019. Further discussion included subjects such as i) issues rising from automation and digitalization, ii) the global challenges the sector is facing, such as lack of investment and stronger environmental requirements, iii) harmonization of procedures and legislation among Member States and, iv) work towards a multi-modal strategy for transport.

IRG-Rail reiterated the commitment to working closely with stakeholders. The success of railway sector requires a strategic approach that prioritizes key capacity challenges that, if addressed, can unlock the true potential of this sector. Additional regulation needs to be implemented to safeguard competition from distortions and to ensure businesses are not hindered. EU regulators and associations are doing a lot already, but more will need to be done and this is a discussion to be continued.

IRG-Rail is committed to deal with genuine concerns that stakeholders may have. This commitment is underpinned by listening carefully and responding appropriately to complaints raised by stakeholders and by continue to promote meetings with stakeholders' organizations, in order to facilitate knowledge exchange and focus on relevant issues across the industry.

I am very proud of everything we've achieved over the last years. As a great European once said "This is not the beginning of the end. But it is, perhaps, the end of the beginning". I hope you will come with many new ideas, and that IRG-Rail values will shine through.

The sector may change.

Technology may change.

Society may change.

But our values don't change.

João Carvalho - IRG-Rail Chair 2019, President of the Portuguese Regulatory Body, AMT – Autoridade da Mobilidade e dos Transportes (AMT).

A. Introduction

IRG-Rail Overview

The “Independent Regulators’ Group-Rail”, IRG-Rail, was established on 9 June 2011 by the regulators of 15 European countries¹ with the aim of enhancing and promoting cooperation among national independent rail Regulatory Bodies. The group has grown in number and currently consists of Regulatory Bodies from 31 European countries.

The overall purpose of IRG-Rail is to facilitate the creation of a single, competitive, efficient and sustainable internal railway market in Europe, by acting as a platform for cooperation, sharing of best practice on regulatory issues and promotion of a consistent application of the European regulatory framework.

As previously said by a former IRG-Rail President, “*the idea of IRG-Rail is that we can be more effective as national rail regulators if we learn from each other, cooperate in particular cross-border issues, and define common positions on drafts for new European legislation*”.

IRG-Rail has already become an important player that is recognized by key stakeholders, including European institutions and sector organizations (Figure 1). Through the publication of position papers, inputs to legislative proposals and harmonized regulatory principles and practices, IRG-Rail continues to prove its competence and efficiency.

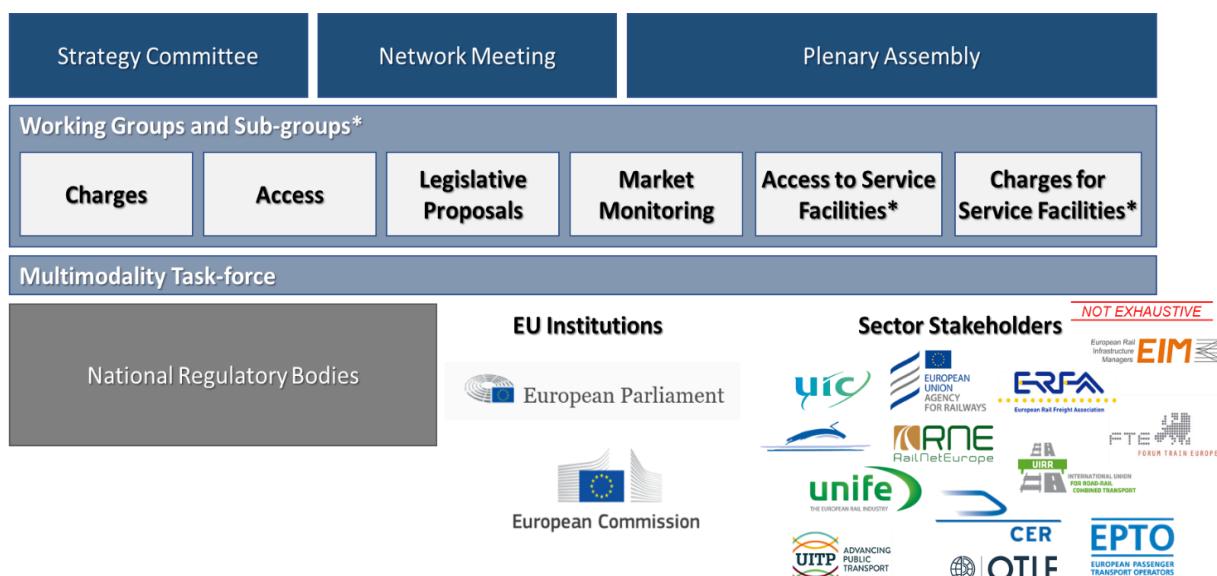


Figure 1 – IRG-Rail organization

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

The Group's objectives are to:

- enable effective and sustainable competition in the provision of passenger and freight rail transport;
- proactively contribute to the development and application of the European regulatory framework for railways;
- express the common position of European rail Regulatory Bodies regarding the most important emerging issues in the EU rail market.

On the basis of an open and transparent dialogue with all relevant parties, notably the European Commission, the European Parliament and the main stakeholders, IRG-Rail, composed of regulatory professionals from all around Europe, strives to contribute its views, experience and efforts to the sustainable development of a single competitive European rail market.

IRG-Rail Working Groups and Sub-Groups

The Working Groups and Sub-Groups are the forum for developing, debating and encouraging Members' position and views on regulatory issues.

They report and submit for approval to the Plenary Assembly draft documents, e.g. position papers or discussion papers, reports or guidelines, concerning the topics falling within their remit. Once approved, the documents are published on IRG- Rail's website, or in the Members' Area section, as the case may be.

The Table 1 summarizes the scope of activity of IRG-Rail Working Groups and Sub-Groups:

Table 1 – Working Groups and Sub-Groups scope

Working Groups & Sub-groups	Scope
Access Working Group	- Focuses on all aspects of access to railway infrastructure with respect to market barriers, access restrictions, promotion of competition, needs of passengers and freight customers and improved rail performance.
Access to services facilities Working Sub-Group	- Addresses all issues regarding the access to service facilities including additional and ancillary services supplied in these facilities. - Seeks to develop a common understanding of service facilities and non-discriminatory access conditions.

Working Groups & Sub-groups	Scope
Charges Working Group	<ul style="list-style-type: none"> - Seeks to develop a common understanding of charging principles across the European rail sector and look into recommendations based on European legislation, taking into account national practices.
Charges for service facilities Working Sub-Group	<ul style="list-style-type: none"> - Compares charging practices among the IRG-Rail members in order to get an overview of general European charging practices for service facilities. - Seeks to develop a common understanding of notions related to service facilities' charging.
Emerging Legislative Proposals Working Group	<ul style="list-style-type: none"> - To promote a single European rail market, IRG-Rail discusses regulatory issues with the Commission on a regular basis, contributing to the development of primary and secondary legislative proposals.
Market Monitoring Working Group	<ul style="list-style-type: none"> - Important instrument for setting direction to the activities of the Regulatory Bodies and stimulating market participants to improve their activities. - Provide annual overviews of the economic conditions and market developments in railway sector.

A Strategy Committee, that was set up in accordance with paragraph 4 of IRG-Rail Working Arrangements in 2016 and consists of representatives of the member Regulatory Bodies, including those of the current, previous and next chair of IRG-Rail, is entrusted with outlining a multi-year strategy of IRG-Rail, identifying key strategic issues that are likely to impact on the role or activities of the Regulatory Bodies or on the rail sector, assisting in the preparation of the annual Working Programme and, if necessary, proposing amendments thereto.

The Strategy Committee met in Lisbon in January 2019. Several issues were discussed with all IRG-Rail members, looking to improve the functioning of IRG-Rail to better respond to the challenges of the sector.

Multimodality Task Force in Transport

Table 2 – Multimodality Task-force scope

Task-force	Scope
Multimodality	<ul style="list-style-type: none">- Focuses on all aspects of access to railway infrastructure with respect to market barriers, access restrictions, promotion of competition, needs of passengers and freight customers and improved rail performance.

In the context of the “year of multimodality” launched in 2018 by the European Commissioner for Transport Violeta Bulc, and in line with the objectives identified in the Strategy Document, during 2019 IRG-Rail members continued to exchange views on the topic.

To further explore issues related to multimodality in transport, a Task Force was set up on 17 May 2018 in Turin, on a voluntary, opt-in basis and was participated by twelve-member Regulatory Bodies.

IRG-Rail considers that Multimodality implies new issues regarding access to infrastructure, regulation of services and protection of users' rights, recognizing that intermodal competition and mobility services are of utmost importance to all the members of IRG-Rail, i.e. to Regulatory Bodies for which competencies include modes other than rail. However, because IRG-Rail recognizes multimodality as a pressing issue, the Multimodality Task Force will continue to explore these issues, or others suggested, within the scope of its activities.

Building on a preliminary paper presented to the Plenary Assembly in 2018, in the course of 2019 the task force gathered evidence of multimodality in transport in the form of case studies which are reported on a paper and may inspire further work to explore regulatory issues arising therefrom.

It was agreed that the task force would continue using the case study analysis method, comprising the analysis of multiple dimensions, such as intermodal competition, interoperability of infrastructure and services and related regulatory issues, subordinated to three extents: (i) Access to Infrastructure, (ii) Services Regulation and (iii) Passenger Rights. The Task Force will continue with the collection of case studies with the aim of highlighting the regulation issues, and a case study on intermodal and multimodal competition under the passenger perspective by taking coach stations as the infrastructure of reference.

IRG-Rail Working Programme

The working programme is prepared each year by the Chairperson and Vice-chairperson of IRG-Rail with the assistance of the Strategy Committee. Should the need arise during the year, the Strategy Committee and IRG-Rail Members may request to amend the working programme and the relevant procedure shall be initiated by the Strategy Committee in accordance with Article 4 of the Working Arrangements.

The 2019 Working Programme encompasses IRG-Rail fundamental objectives, namely to promote and maintain a competitive, sustainable and efficient single European railway market, that will become fully liberalized in 2019, pursuant of European Union (EU) legislative framework.

Such objectives can only be accomplished through consensus and awareness on past, present and future issues, among the railway industry's stakeholders. The IRG-Rail 2019 Working Programme includes several institutional activities, intended to disseminate information and incite action, within the railway industry.

The integrated nature of the railway business ultimately implies that contributions should be taken from every stakeholder. As such, IRG-Rail position defends the involvement of interested parties in matters pertaining to rail operation and capacity coordination, being of utmost importance, insofar as inputs will promote understanding and harmonization in railway practices among the industry's participants, especially in a single European market environment.

As part of the activities developed by IRG-Rail and its working groups, the holding of meetings and events with different stakeholders, namely representatives of Railway Undertakings, Infrastructure Managers, Technology Suppliers and Users, will draw on approaches and experiences from different aspects of the industry.

IRG-Rail 2019 Working Programme focused on improving the monitoring of railway operation, specifically regarding capacity allocation, congested infrastructure management and performance management. On the subject of service facilities, IRG-Rail further endeavor to assist the development of the service facility template and the creation of a digital common portal, while monitoring the application of exemptions, which were subject to in depth study during 2018, and took place from January 2019.

IRG-Rail concentrated on the implementation of the Fourth Railway Package onto member-states national statutory frameworks. We investigated further into the application of cost component and infrastructure charging principles and the impacts of the charges on the market liberalization on

domestic passenger rail market. Simultaneously, the charging regime for services facilities was subject of review, with a special focus on rail stations and maintenance facilities, and the influence of such charges on the liberalized market.

Finally, IRG-Rail monitored the market continuously to assess the competitiveness and sustainability of the rail market, both in the passenger and freight segments, in member-states.

IRG-Rail is committed to promote and take part in relevant events spanning Europe, with a new focus on Multimodality, for which IRG-Rail created the Task Force in 2018, that will address recent developments in digitalization and mobility, its integration and regulatory framework. Evolution in mobility is being fueled by the increasing demand of door-to-door transportation services. The combination of high demand and reduced externalities results in companies reframing their businesses to accommodate this new paradigm, through the diversification of mobility supply, in turn empowered by digital technologies. ERA has already expressed the wish to evolve into a European Land Transport Authority. In its turn, IRG-Rail may be able to provide important insight for a sustainable transport system.

The deliverables assigned to each Working Group and Sub-group on the basis of the 2019 Working Programme were identified as follows:

1. The Working Group Access focused on all aspects of access to railway infrastructure with respect to market barriers, access restrictions, the promotion of competition, the needs of passenger and freight customers and improved rail performance. For 2019 the activities focused on three main subjects: i) the TTR project and its pilots; ii) the performance figures of RFCs (KPIs) and iii) the congested infrastructure: implementation of article 47 of the recast.
2. The deliverables of the Working Sub-group Access to Service Facilities consisted in i) developing a report on experiences gained from exemptions granted under Article 2 Paragraph 2 of Implementing Regulation (EU) 2017/2177 in the first half of 2019 and ii) update on status of Template and Common Portal.
3. The Working Group Charges was entrusted with i) gather, organize and exchange information on charging issues (e.g. charging principles for the use of infrastructure, incentive regulation, mark-ups for international routes); ii) discuss regulatory issues related to the examination of cost components and composition of infrastructure charges, as well as to the assessment of direct costs and mark-ups with a view to developing a common understanding

thereof and iii) seek to understand the implications for railway charges of the opening of the domestic passenger market.

4. The activities of the **Working Sub-group Charges for Service Facilities** seek to develop a common understanding of the implementation of EU charging principles for service facilities and develop a common position, in particular on the costs for access to service facilities and providing services.
5. The **Working Group Emerging Legislative Proposals** proposed to develop paper(s) on emerging EU implementing regulation or soft measures subject to the Commission's agenda, including a paper on the Commission's proposal for an implementing act on Regulatory Bodies' decision-making criteria, and to address specific issues of common interest in relation to the implementation of EU legislation; carry out surveys, review case studies and/or hold workshops with stakeholders: i) developing a paper on the legal framework and issues relating to the classification of certain facilities as service facility or as infrastructure; ii) reviewing the summary of Regulatory Bodies' competences, including the available and required remedies to meet the desired objectives of European and domestic railway policies; and iii) identifying and organizing a workshop on cases on anti-competitive practices in respect of access to rail networks.
6. The main assignment of the **Working Group Market Monitoring** was the drafting of the annual market monitoring report, based on data collected by national Regulatory Bodies according to an agreed set of guidelines in line with its mandate, i.e. providing annual overviews of the economic conditions and market developments in the railway sector. The purpose of the exercise is to show the development of the European railway market and its competitiveness compared with previous years, deepening the general description of the competitive situation in the rail passenger and freight transport service markets in each country.

In part B of the Report there is a more detailed description of the activities carried out in 2019 by the Working Groups / Sub-groups.

In the Plenary Assembly of November 2019, IRG-Rail adopted the Working Programme for 2020 consistently reflecting the objectives of the 2017-2020 Strategy Document and the Preliminary views on the main challenges for transport sector in the short, mid and long term, that IRG-Rail shared with DG Move.

B. Overview of the Activities under 2019 Working Programme

The 2019 Working Programme aimed at underlining the relevance and need for increased cooperation among rail Regulatory Bodies to achieve effective and sustainable competition in the railway market.

Accordingly, the Network continued to closely follow the activities of the EU Commission on implementing and delegated acts as well as to maintain a dialogue on an institutional basis with infrastructure managers, railway undertakings and relevant stakeholders on topics of common interest: supply of capacity, access to rail services, cross-border traffic and technical barriers to such access, to mention only some.

Working Group Access

The Working Group developed, during 2019, several activities, detailed below.

I. CONGESTED INFRASTRUCTURE, PRIORITY CRITERIA AND CAPACITY CHARGES IN EUROPE

In directive 2012/34/EU, declaration of congestion is very important as it tends to constitute the gateway from the consensus-oriented scheduling and coordination stages of the capacity allocation process, to a stage where the infrastructure manager allocates capacity on the basis of charges or priority criteria. The declaration of congestion moreover activates feedback mechanisms and incentives for the infrastructure manager through the requirement to produce capacity analyses and capacity enhancement plans.

This report provides an overview of current rules and practices in IRG-Rail member countries concerning declaration of congestion, charges to reflect scarce capacity, capacity analyses and capacity enhancement plans.

Besides priority criteria, directive 2012/34/EU presents another means of resolving capacity conflicts: a charge which reflects the scarcity of capacity.

The role of declaration of congestion is not only to resolve capacity conflicts, but also to create incentives for infrastructure managers to find short and long-term solutions to the capacity shortage through capacity analyses and capacity enhancement plans. Since congestion has never been declared in about half the countries, infrastructure managers in these countries have never been obliged to produce these analyses and plans. Even in countries where these plans are published, they do not always contribute to infrastructure development if governments do not enforce the plans or provide adequate funding.

Overall, IRG-Rail finds that there are many challenges concerning congested infrastructure and the related rules covered in this survey.

II. REPORT ON THE OUTCOMES OF THE KPIS MONITORING (KPIs)

According to Article 20 of Regulation (EU) 913/2010 concerning a European rail network for competitive freight, (hereinafter the Regulation), regulatory bodies must cooperate in monitoring the competition in the Rail Freight Corridors (RFCs). In addition, Article 19, paragraph 2, of the Regulation states that “the management board of Rail Freight Corridors (RFCs) shall monitor the performance of rail freight services on the freight corridor and publish the results of this monitoring once a year”.

In this respect Key Performance Indicators (KPIs) to evaluate the activities of each corridor (capacity, operation and market development) and their annual performance are an important tool to meet these obligations. This report looks at the relevance of the KPIs currently used by both the RFCs and IRG-Rail to monitor the corridors. It also attempts to analyze the available data, without giving opinions on RFCs performances and highlight some areas of implementation of Corridors.

KPIs have been developed by several parties over the years (RNE, NExBo, etc.).

In parallel, in 2017, IRG-Rail carried out an evaluation of the most useful dataset for the monitoring of RFC activities from a regulatory viewpoint, and drew up its own list of KPIs which was adopted at IRG-Rail Plenary meeting in November 2017. It was agreed that in addition to the general capacity management and operations KPIs used by RNE and RFCs, the IRG-Rail list of KPIs would include additional indicators mainly dealing with quality aspects.

IRG-Rail overview of the RFCs KPIs for the Timetable (TT) years 2017 and 2018 has highlighted several issues.

IRG-Rail will continue to engage with NexBo and RNE to promote a single and harmonized list of KPIs. IRG-Rail will also exchange with PRIME on best practices for developing strong indicators helping regulatory bodies to better understand the performance of each rail freight corridor.

IRG-Rail will encourage the sector to pursue a system that will make it possible to earmark corridor trains. It will continue to encourage infrastructure managers and RFCs to make best use of the IT tools developed by RNE. In particular IRG-Rail calls for infrastructure managers to fully contribute to the Train Information System (TIS), the RNE web platform that delivers real-time

train data concerning international (partly national) passenger and freight trains. TIS functionality is a key element in supporting train and performance management including on RFCs.

III. REPORT ON THE OUTCOMES OF THE EUROPEAN ROLLING STOCK MARKET – INITIAL FINDINGS

Access to rolling stock is crucial for all railway undertakings and also for new companies that want to enter the market in particular in the light of the opening of national passenger markets from 1 January 2020 under Directive (EU) 2016/2370. IRG-Rail highlighted the barrier to entry that access to these assets may represent, supporting any initiative that facilitates access to rolling stock.

IRG-Rail Working Programme for 2019 included as an optional activity an investigation on the rolling stock acquisition market. A first questionnaire was distributed to the RB's in 2018, and a second refined version was elaborated on 2019 to obtain an overview of regulatory bodies (RBs) experience in monitoring rolling stock market. The survey collected data on RBs activities dealing with rolling stock (monitoring, complains and decisions) aimed to establish a better understanding of the purchase, leasing and maintenance market. The amount and quality of data gathered for the comparative analysis to be carried out has been improved.

As we are currently in a transition phase from the 3rd to (full implementation of) 4th EU Railway Package, which introduced a number of relevant changes in the processes for safety approval of RS and safety certification, such to produce significant impact on the market for acquisition of RS in the short/medium term, further investigation by the WG on the RS market would be necessary in a couple of years.

IV. REPORT ON THE OUTCOMES OF THE TTR PROJECTS AND ITS PILOTS

A project on the redesign of the international timetabling process (“TTR”) was launched in 2014 by Rail Net Europe (RNE) and Forum Train Europe (FTE). The programme is supported by the European Rail Freight Association (ERFA).

The overarching aim of the TTR process is to optimize the usage of existing railway infrastructure in Europe. To this end, the process focuses on addressing several perceived barriers for effective usage of the infrastructure. These include i) temporary capacity restrictions (TCR's) and the coordination of such restrictions, ii) other aspects of the design of the process for allocating train paths, and iii) “commercial conditions” incentivizing applicants to refrain from capacity hoarding.

Railway Undertakings (RUs) need a reliable process that allocates high quality capacity across European countries. Infrastructure Managers (IMs) want to make their workflow more efficient

while designing reliable timetables, so that the impact of modifying allocated train paths on the timetable is minimized. They are seeking therefore to optimize capacity and its availability while allowing for both a stable and flexible timetable.

The first phase of the TTR project was concluded with the development of a new process for capacity management and allocation. A second phase has started to test and verify the outcomes of TTR; this experimentation phase is planned to last three years, starting from the 2020 Timetable (TT 2020) and is envisaged to finish in time to implement the updated procedures for the 2025 timetable (TT 2025), after the official validation and approval of the TTR project.

A fourth pilot project would involve part of the OBB INFRA rail network (TT2021).

RNE members are also working on developing new commercial rules which should guide and incentivize all the involved stakeholders towards the optimal use of TTR processes and related timelines.

The role of RBs is to ensure non-discriminatory access to infrastructure capacity and relevant service facilities.

The Working Group Access of IRG-Rail will continue to monitor and support the TTR project as an innovative approach to provide capacity based on market needs and follow the discussions concerning the legal framework to be developed for supporting the testing and progressive implementation of TTR.

Regarding organizational issues of the Working Group, in the November 2019 Plenary Assembly, a new co-Chair for the Working Group was elected. Mr. Gustav Sjöblom from Transportstyrelsen, Swedish Transport Agency.

Working Sub-group Access to Service Facilities

The work developed by the Working Sub-Group, during 2019, was focused on the report below.

[REPORT ON EXPERIENCES REGARDING EXEMPTIONS GRANTED UNDER ARTICLE 2 \(2\) OF COMMISSION IMPLEMENTING REGULATION \(EU\) 2017/2177](#)

In 2018 IRG-Rail published a document establishing common principles on granting exemptions under Article 2 (2) of the Implementing Regulation (IRG-Rail (18) 7 hereafter: IRG-Rail's common principles). In this document, IRG-Rail sets out decision-making principles that should be applied by the national RB when assessing applications for an exemption under the Implementing Regulation.

Since 1st January 2019, Service Facility Operators (SFOs) have been able to submit applications to their national RB to request exemption from the Implementing Regulation. In order to get an overview of RBs' initial experiences in handling these applications and making decisions, and to promote sharing of best practices, IRG-Rail initiated this report.

Working Group Charges

The Working Group developed, during 2019, several activities, detailed below.

I. BENCHMARK ON FINANCING OF MAIN RAILWAY INFRASTRUCTURE MANAGERS IN SELECTED EUROPEAN COUNTRIES

Driven by the 4th railway package and the recast of EU Directive 2012/34, many countries have adapted or are in the process of adapting their national legislation. The EU Directive sets guiding principles to define the services provided by the Infrastructure Manager (IM) within the Minimum Access Package (MAP) and the cost of their provision. This benchmark is an attempt to provide a first overview of the costs of the MAP, specifically total and direct costs, and the sources of income of IMs by looking at revenues (track access charges, (government) grants and other revenues). The benchmark shows the diversity of financing and charging practices across some main IMs operating in the IRG-Rail members' countries that participated in this study. Some countries show high level of grants and focus on charges based on direct costs while other countries try to recover a higher part of total costs using markups based on Article 32 (2) of the EU Directive 2012/34.

The benchmark also discusses how to differentiate cost data of the MAP provided by the main IMs focusing on the provided MAP services, the functional cost view, or the nature of expenses. In this regard, further work is needed to improve the data quality to provide a meaningful comparison across countries and to be able to better explain differences across countries. Analytical accountancy, regulatory accountancy and the scope of individual variables differ across countries; as a result, the data reported in this benchmark is indicative of the values concerned.

II. REVIEW OF RESERVATION CHARGES ACROSS IRG-RAIL MEMBERS

In the working program of the working group charges in 2019, it was specified that the group should draft a paper on "other charges". After discussion within the group, and given that the scope of this project was too large, it was decided to draft a more focused paper, a paper on the reservation charges. On top of this, WG Charges cooperated with the WG Access on the paper on congestion presented by this group.

This paper analyses the economic aspects of reservation charges and what purpose they could serve, providing an overview of the current practices of reservation charges among the main IMs operation in the countries of the IRG-Rail members participating in this study.

Working Sub-group Charges for Service Facilities

The Working Sub-Group developed, during 2019, several activities, detailed below.

I. INITIAL REPORT ON THE CHARGING PRINCIPLE OF ARTICLE 31 (7) OF DIRECTIVE 2012/34/EU

This paper discusses the charging principle of Article 31 (7) of Directive 2012/34/EU on setting charges for service facilities and reflects the problems and decisions of regulatory bodies when investigating the charges of service facility operators.

The discussion in this initial report mainly focuses on experiences and ways of setting charges in IRG member states.

II. AN OVERVIEW OF CHARGES AND CHARGING PRINCIPLES FOR PASSENGER STATIONS

This document was created to provide an overview of charges and charging practices for passenger stations in Europe. This paper finds similarities and differences in the specific charging systems by comparing practices from across Europe.

Regarding organizational issues within the sub-group, in the November 2019 Plenary Assembly, a new co-Chair for the Working Group was elected. Mr. Alberto Oeo from CNMC, the Spanish Regulatory Body.

Working Group Emerging Legislative Proposals

The Working Group developed, during 2019, several activities, detailed below.

I. STATE AND TYPE OF IMPLEMENTATION OF NEW ACCOUNTING TRANSPARENCY PROVISIONS – INITIAL FINDINGS

The Fourth Railway Package introduced several new provisions regarding accounting separation and financial transparency in the case of vertically integrated undertakings. The working group has carried out a review of implementation and regulatory bodies' monitoring experience of these provisions.

II. OVERVIEW ON CLASSIFICATION OF SERVICE FACILITIES

Article 13(1) of Directive 2012/34/EU provides that infrastructure managers must provide the services of the minimum access package referred to in point 1 of Annex II to all railway undertakings on a non-discriminatory basis. According to lit. c) of the definition, this package

includes inter alia the use of "railway infrastructure", the components of which are listed in Annex I as "List of railway infrastructure items". The Directive also requires operators of "service facilities" to provide access to the facilities listed in Annex II (2) and to the services provided in those facilities to railway undertakings.

The distinction between infrastructure and service facilities has various legal consequences and implications in practice. This report seeks to provide a broad overview of how facilities are classified in IRG-Rail member states i.e. either infrastructure or service facilities.

III. CONFLICT OF INTERESTS NATIONAL FRAMEWORK

The Spanish regulatory body approached the working group in order to review and understand how Member States have put in practice the "national framework for the assessment of conflict of interests" required by Directive 2016/2370. A questionnaire was distributed to this end.

Working Group Market Monitoring

As in previous years, the Working Group attended to the drafting of the Annual Market Monitoring Report covering data for 2017 and previous years, that was published at the beginning of 2019. Work on the Eight Annual Market Monitoring Report was started, too, in order to focus on the analysis of the degree of competition in the rail passenger and freight markets, namely analyze: i) the competitive situation in the rail passenger and freight markets: a description; ii) the barriers to entry in the rail passenger and freight market and iii) the direct competition on selected lines in the rail passenger market (this topic was initially proposed for the 7th Annual Report Focus).

Multimodality Task Force

The Multimodality Taskforce was created by the IRG-Rail in recognition and as a response to the multimodality issues to which rail regulatory bodies are often exposed. The Taskforce set out to build a multimodality issues database, compiled from the regulatory bodies' experiences.

Thus, the Taskforce developed a paper from the contributions of several IRG-Rail members, which spawned an interesting presentation highlighting the three most relevant issues raised by the case studies: access to infrastructure, services regulation and passenger's rights. Further work will continue in 2020, framed according to those major issues.

C. Organizational Issues

Representation and Communication

1. IRG-Rail is strongly committed to ensuring that independent rail Regulatory Bodies develop and implement best regulatory practices and is therefore always available to approach non-member regulators with the aim of supporting their participation in the working groups' activities and in IRG-Rail. The increased participation brings added value to the Group and helps fostering the development of a single European railway market.
2. The **European Parliament and IRG-Rail promoted a joint meeting**, on the 5th March 2019, in Brussels, with the representatives of the railway industry, IRG-Rail Members, Members of the European Parliament and Members of the European Commission.

The Member of the European Parliament, Ms. Claudia Monteiro de Aguiar, hosted the meeting and President Mr. João Carvalho presented IRG-Rail, the work developed by this group of Independent Regulatory Bodies for Railway and highlighted the main challenges the sector faces in the coming years. Additionally, was discussed the Fourth Railway Package and the creation of a single European rail area, with a presentation made by the Member of the European Parliament, Mr. Wim Van de Camp.

A debate was launched among the participants, in which Mr. Maurizio Castelletti, from DG Mobility, emphasized his view on the main challenges for the railway sector.

It is IRG-Rail's objective to continue to promote these meetings in the new European Parliament's legislature.

3. As in previous years, the Chair and Vice-Chair had **productive exchanges with main European stakeholders**, see Table 3, to present IRG-Rail's views and exchange on the most relevant topics for the European rail market with a view to balancing different interests and fostering a better understanding on crucial issues.

Table 3 – Meetings with Sector Stakeholders

Stakeholder	Name
ERA - European Union Agency for Railways	Mr. Joseph Doppelbauer (Executive Director)
UIRR – International Union for Road-Rail Combined Transport	Mr. Ralf-Charley Schultze (President), Mr. Eric Feyen (Technical Director) and Mr. Akos Ersek (Chief Policy Advisor)
EPF - European Passengers' Federation	Mr. Michael Quidort (President) and Mr. Arriën Kruyt (Management Board)
CER - Community of European Railway and Infrastructure Companies	Dr. Libor Lochman (Executive Director)
UIC - Union Internationale des Chemins de Fer	Mr. Jean-Pierre Loubinoux (Director General)
SIEMENS Mobility	Eng. Manuel Nunes (Mobility CEO)
UNIFE - The European Rail Supply Industry Association	Mr. Philippe Citroën (Director-General) and Mr. Tommaso Spanevello (Public Affairs Manager)
UITP - Union Internationale des Transports Publics	Mr. Thomas Avanzata (Europe Senior Director); Ms. Anne-Laure Le Merre (Senior Advisor Regional and Suburban Rail) and Mr. Laurent Dauby (Director Rail Transport)
ERFA – European Rail Freight Association	Ms. Carole Coune (Acting Secretary General) - she was leaving

4. IRG-Rail continued to develop close relations with the EU Commission, the EU Agency for Railways (ERA) and the European Network of Rail Regulatory Bodies (ENRRB). In this forum IRG-Rail continues to report on a regular basis on its past and future activities, on topics on which the Group wishes to take a position, and on its outputs.

5. The **First European Mobility Workshop in Lisbon** took place in the Thalia Theatre, on 2 July, bringing together several international stakeholders from the Mobility and Transportation sector. The opening ceremony included a welcoming by AMT's President and IRG-Rails' Chair, Mr. João Carvalho, and an opening speech by the Portuguese Environment and Energy Transition Minister, Mr. João Matos Fernandes.

The workshop's primary theme was "Moving towards a sustainable mobility – Building a smart environment and user-friendly integrated mobility system" that spawned into sessions for "Digitalization driving customer benefits as the heart of intermodality and the challenges of innovation" and "Achieving social and environmental cohesion and sustainability through the protection of passengers' rights as an active agent of the promotion of decarbonization".

This AMT / IRG-Rail endeavor was successful and feedback was remarkable, in raising awareness and giving the sector the opportunity to openly discuss trends, opportunities, best practices and to foster partnerships that will help shape the future of Mobility and

Transportation for generations to come.

The first session began with a keynote speech by ex-TEN-T Senior Advisor from DG Move, Mr. José Laranjeira Anselmo, followed by presentations by Miguel Rodrigues from Siemens Mobility, Ralf-Charley Schultze from UIRR - International Union for Road-Rail Combined Transport, Marc Guigon from UIC - International Union of Railways, Francisco Cardoso dos Reis from IP - Infraestruturas de Portugal, S.A. (the Portuguese Infrastructure Manager) and Tommaso Spanevelo from UNIFE – The European Rail Industry. The former IRG-Rail Chair and Vice-President of the French Regulatory Body, Ms. Anne Yvrande-Billon, moderated the ensuing debate, which was sober and objectively focused on the opportunities and threats of digitalization and data, as assets for the Mobility sector.

The second session started with a discourse by Lisbon's Deputy Mayor for Mobility and Safety, Mr. Miguel Gaspar, proceeded by presentations from Josef Schneider from EPF – European Passenger's Federation, Tiago Lopes Farias, President of Companhia Carris de Ferro de Lisboa, representing UITP – Union Internationale des Transports Publics, Luís Cabaço Martins, Board Member of Barraqueiro, representing EPTO – European Passenger Transport Operators, and Carlos Nogueira, President of CP - Comboios de Portugal (the Portuguese railway incumbent operator). The former IRG-Rail Chair and President of the Italian Regulatory Body, Mr. Andrea Camanzi, directed the following discussion with a clear focus on the fundamental need to shift passengers from the private to the public and sharing transportation modes, as a means to achieve Europe's ambitious goal of decarbonizing Transportation.

The Portuguese Secretary of State for Mobility, Professor José Mendes, closed the Workshop by stressing that the Mobility Sector is permanently evolving and that transportation demand is expected to double by 2050, along with an increasing complexity for the services demanded. Professor José Mendes emphasized that more and better Mobility is fundamental to cohesion, economy, but especially for creating opportunities for people which may create more impacts, that need be mitigated by regulation and technology.

All documents published by IRG-Rail in 2019 are available on the Group's website.

Information about Elections and Plenary Meetings

1. Elections

- According to its Memorandum of Understanding, IRG-Rail is represented by a Chair and a Vice-Chair, who are both appointed for a term of one year. Each year, the Plenary Assembly elects a representative amongst its members to be Vice-Chair during the following year and Chair the year after.
- From January to December 2019, the Group was chaired by João Carvalho, President of the Portuguese Regulatory Body, AMT – Autoridade da Mobilidade e dos Transportes and vice-chaired by Serge Drugmand, of the Belgian Regulatory Body for Railway Transport and Brussels Airport Operations. At the 2019 November Plenary Meeting in Funchal, Maria-Theresa Röhslér, Managing Director of Schienen-Control (GmbH), Austrian Regulatory Body, was appointed as IRG-Rail Vice-Chair for 2020.

2. Plenary Meetings

- The Plenary Assembly is composed of the Heads of the Regulatory Bodies that are members of IRG-Rail and/or any senior executive designated by the Heads of the member Regulatory Bodies.

The main tasks of the Plenary Assembly are to:

- take the necessary decisions to comply with IRG-Rail's objectives;
- approve relevant documents;
- admit new members and/or exclude members;
- approve any amendments to the Memorandum of Understanding;
- adopt and/or amend its own rules of procedure and/or working arrangements;
- approve the annual Working Programme and monitor its progress;
- appoint its Chair and Vice-Chair.

In 2019, two Plenary Meetings were hosted by AMT, one in Oporto, on the 27th of May and one in Funchal, on the 25th of November.

Annex I – Published Documents

- IRG-Rail (19) 1 - IRG-Rail Annual Report 2018
- IRG-Rail (19) 2 - Seventh Annual Market Monitoring Report
- IRG-Rail (19) 3 - Update of Review of Regulatory Bodies competences and remedies
- IRG-Rail (19) 4 - A survey of congested infrastructure, priority criteria and capacity charges in Europe
- IRG-Rail (19) 5 - Report on the outcomes of monitoring of Rail Freight Corridors' KPIs
- IRG-Rail (19) 6 - Report on the state of development of the TTR project and its pilots
- IRG-Rail (19) 7 - Report on experiences regarding exemptions granted under Article 2 (2) of Commission Implementing Regulation (EU) 2017/2177
- IRG-Rail (19) 8 - Review of Reservation Charges Across IRG Rail Members
- IRG-Rail (19) 9 - Benchmark on Financing of Main Railway Infrastructure Managers in Selected European Countries
- IRG-Rail (19) 10 - Initial report on the charging principle of Article 31 (7) of Directive 2012/34/EU
- IRG-Rail (19) 11 - An overview of Charges and Charging Principles for Passenger Stations
- IRG-Rail (19) 12 - Working Programme 2020
- IRG-Rail (19) 13 - Report on the Classification of Service Facilities (Confidential)
- IRG-Rail (19) 14 - Paper on the European Rolling Stock Market – Initial findings (Confidential)

Annex II – Members of IRG-Rail

Austria

Schienen-Control GmbH

Belgium

Service de Régulation du Transport Ferroviaire et de l'Exploitation de l'Aéroport de
Bruxelles – National

(Regulatory Service for Railway Transport and for Brussels Airport Operations)

Bulgaria

ИЗПЪЛНИТЕЛНА АГЕНЦИЯ "ЖЕЛЕЗОПЪТНА АДМИНИСТРАЦИЯ"

(Executive Agency - Railway Administration)

Croatia

HAKOM – Hrvatska regulatorna agencija za mrežne djelatnosti

(Croatian Regulatory Authority for Network Industries)

Czech Republic

UPDI - Úřad pro přístup k dopravní infrastruktury

(Transport Infrastructure Access Authority)

Denmark

Jernbanenævnet

(Danish Railway Regulatory Body)

Estonia

Konkurentsiamet

(Estonian Competition Authority)

Finland

TRAFCOM – Liikenne- ja viestintävirasto

(Finnish Transport and Communication Agency)

France

ART - Autorité de Régulation des Transports

(Regulatory Authority for Rail, Road and Airport sector)

Germany

BNetzA - Bundesnetzagentur

(Federal Network Agency)

Greece

RAS - Ρυθμιστική Αρχή Σιδηροδρόμων

(Regulatory Authority for Railways)

Hungary

NKH - Nemzeti Közlekedési Hatóság

(National Transport Authority)

Ireland

CRR – Commission for Rail Regulation

Italy

ART - Autorità di Regolazione dei Trasporti

(Transport Regulation Authority)

Kosovo

ARH - Autoriteti Rregullativ i Hekurudhave

(Railway Regulatory Authority)

Latvia

VDA - Valsts dzelzceļa administrācija

(State Railway Administration)

Lithuania

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

Luxembourg

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

Netherlands

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

Norway

SJT - Statens Jernbanetilsyn
(Norwegian Railway Authority)

Poland

UTK - Urząd Transportu Kolejowego
(Office of Rail Transportation)

Portugal

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

Republic of North Macedonia

ARTZU - Agenzija Za Regulaciju Tržista Željezničkih Usluga
(Rail Market Regulatory Agency)

Romania

Romania Consiliul Concurenței
(Raiway Supervision Council)

Serbia

Raildir - Direkcija za železnice

(Directorate for Railways)

Slovakia

DU - Dopravný úrad

(Transport Authority)

Slovenia

APEK - Adencija Za Komunikacijska Omrežja In Storitve Republike Slovenije

(Agency for Communications Networks and Services of the Republic of Slovenia)

Spain

CNMC - Comisión Nacional de los Mercados y la Competencia

(National Commission on Markets and Competition)

Sweden

Transportstyrelsen

(Swedish Transport Agency)

Switzerland

SKE - Schiedskommission im Eisenbahnverkehr

(Railways Arbitration Commission)

United Kingdom

ORR - Office of Rail and Road