

COOPERATION AGREEMENT

Between the Regulatory Bodies situated in the countries crossed by Rail Freight Corridor N° 3 as defined in Regulation (EU) No 913/2010: Oslo (NO) – Stockholm (SE) – Malmö (SE) – Copenhagen (DK) – Hamburg (DE) – Innsbruck (AT) – Verona (IT) – Palermo (IT)

and considering also the Scandinavian-Mediterranean Corridor of the TEN-T Core Network and Corridor B – ERTMS:



Norway:

Statens jernbanetilsyn
Karl Johans gate 41B
NO-0162 Oslo

Sweden:

Transportstyrelsen
Box 267
SE-78123 Borlänge

Denmark:

Jernbanenævnet
Edvard Thomsens Vej 14
Ørestad City
DK-2300 København S

Germany:

Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen
Tulpenfeld 4
DE-53113 Bonn

Austria:

Schienen-Control GmbH
Praterstrasse 62-64
AT-1020 Vienna

Italy:

Autorità di regolazione dei trasporti
Via Nizza 230
IT-10126 Torino

According to Article 20 of Regulation 913/2010/EU in conjunction with Articles 56 and 57 of Directive 2012/34/EU Regulatory Bodies of Rail Freight Corridor no. 3 (hereinafter referred to as 'RBs') agreed on the following way of cooperation.

Principles of cooperation

Article 20 of Regulation (EU) No 913/2010 (hereinafter referred to as 'Regulation') in conjunction with Directive 2012/34/EU, provides the legal basis for RBs to cooperate in monitoring the competition on the rail freight corridors to avoid discrimination.

In accordance with Article 13.5 in conjunction with Article 20 of the Regulation, RBs are responsible for monitoring the activities of the Corridor-One-Stop Shop (hereinafter referred to as 'C-OSS') and for ensuring non-discriminatory access to the corridors.

In case of complaints or ex-officio investigations (hereinafter referred to as 'procedures') against C-OSS there must be one responsible RB, which makes the decision.

a) Procedures relating to infrastructure managers:

As the territorial principle applies, RBs regulate the activity of Infrastructure Managers (hereinafter referred to as 'IM') in their country in accordance with their national provisions (Article 20 of the Regulation).

b) Procedures related to the Corridor one-stop shop:

In order to foster quick decision-making process, referring to the Regulation and taking into account the responsibilities for regulating and monitoring the C-OSS, the responsible RB - for making a decision in the event of a procedure regarding the C-OSS and in particular the allocation process of Pre-arranged Paths, will be identified as follows:

1. if the cause of the case is related to the C-OSS, in particular concerning two or more countries, the competent RB is that of
 - the country where the C-OSS has its legal seat, if the C-OSS is organized as a separate legal entity or
 - in case the C-OSS is not organized as a separate legal entity the country where the Management Board has its seat ;
2. if the cause of the case is related to only one country (i.e. not to the C-OSS), the competent RB is the one of that country.

All RBs concerned by a procedure must be involved in the decision-making process. The process of co-operation in case of complaints is set out below.

c) Procedures related to the decision making

Upon receipt of a complaint relating to the C-OSS, the Regulatory Body (a) – hereinafter referred to as 'RB(a)' – acknowledges receipt. The documentation must be presented by the complainant (in paper and preferably in digital format as well) to RB(a) in the language of the country where RB(a) is located (and preferably in English as well).

RB(a) conducts a formal review of the complaint and checks if the information given by the complainant is complete and sufficient to initiate a case.

If there is some information missing, especially to identify the Responsible RB, RB(a) requires to be provided with the additional information without delay.

RB(a) provides information about the complaint to the other RBs of countries crossed by the corridor.

All the RBs referred to above determine jointly within two weeks if:

1. the cause of the complaint is related to only one country or not.

In the case where the cause of the complaint is related to only one country (i.e. not to C-OSS) and RB(a) is not the RB of that country, the investigations will be executed according to the rules of the RB which is territorially concerned – hereinafter referred to as 'RB(b)'.

If RB(a) may transfer complaints and if RB(b) may receive complaints on a referral basis, then RB(a) forwards the complaint to RB(b).

If RB(a) may not transfer complaints, then it informs the complainant about its non-competence as well as the necessity to lodge the complaint at RB(b).

If RB(b) may not receive any complaint on a referral basis from other RBs, then RB(a) informs the complainant about this impossibility as well as the necessity to lodge the complaint at RB(b).

In those last two cases the language to be used will be specified by RB(a) in accordance with RB(b).

2. the complaint is related to C-OSS in particular concerning two or more countries

If RB(a) is not the responsible RB – hereinafter referred to as 'RB(c)' - there are two options:

- RB(a) forwards the complaint to 'RB(c)' and informs the complainant about the redirection. This can be done under the condition that RB(a) may forward a complaint according to its national procedural requirements. If this is the case RB(a) sends all the relevant information together with any comments to RB(c) in English and/or in one of the official languages of the country of RB(a). If necessary, the complainant will be informed that he has to provide translations of the complaint and other related documents in the official language of RB(c) and/or in English.
- RB(a) informs the complainant that it is not competent to handle the complaint on the basis of its own competency rules and advises the complainant to submit the complaint to RB(c). If this is the case the complainant should send the complaint to the RB(c) in the official language of RB(c).

RB(c) contacts all the other RBs of countries crossed by the corridor asking for comments within two weeks.

Comments of other RBs will only be provided to third parties if this is required by national administrative law.

The proceeding has to be based on the national law of RB(c) in the context of the Regulation. The final decision is taken no longer than six weeks after having received all information (in paper and preferably in digital format as well).

RB(c) starts the investigation and asks for comments on the complaint to involved parties. RB(c), if necessary, requests further information.

RB(c) sends the results of the investigation together with a proposed decision in English to the other RBs of countries crossed by the corridor for comments. These RBs can comment on the proposed decision within a deadline of two weeks. After the consultation RB(c) finalizes the decision.

RB(c) decides on the complaint in its official language and delivers the decision by e-mail and post (complainant, C-OSS and, where applicable, IMs).

The decision is subject to judicial review according the national legislation of RB(c).

RB(c) sends a summary of the decision in English to the other RBs and publishes the decision in its own website according to national law.

The formal decision will be written in the official language of RB(c).

After the publication of the decision, the RBs must monitor together whether the C-OSS complies with it.

If the C-OSS does not comply with the decision, RB(c) in cooperation with the other RBs follows an enforcement procedure.

In order to assure the transparency of this Cooperation Agreement, the signatory RBs will:

- publish this Cooperation Agreement on their websites;
- ask their IMs to refer to it in national Network Statements;
- jointly ask the management board to publish it in the Corridor Information Document.

The signature of the present Cooperation Agreement expresses the consent of the signatory RBs to respect it.

This Cooperation Agreement becomes effective on the day when signed by the duly authorized representatives of all signatory RBs.

Signatory RBs agree – if at least one of them considers it is necessary – to review this Cooperation Agreement within one year after implementation.

Signed in English language.

Signatories:

 26.3.2015

For Statens jernbanetilsyn

Erik Ø. Reiersøl-Johnsen

For Transportstyrelsen

10.04.2015



Mats Andersson

For Jernbanenævnet

21.04.2015



The Chairman

PER BALTZER OVERGAARD

 05.03.2015
For Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen

Dr. Wilhelm Eschweiler

For Schienen-Control GmbH

28.1.2015

Mag. Maria-Theresia Röhler, LL.M., MBA




For Autorità di regolazione dei trasporti

Chair Andrea Camanzi