

COOPERATION AGREEMENT

Between the Regulatory Bodies situated in the countries on Rail Freight Corridor N° 1 from Regulation (EU) 913/2010:

Zeebrugge – Antwerpen / Rotterdam/Aachen – Köln – Mannheim – [Basel] – Milano / Novara - Genova

The Netherlands: Autoriteit Consument & Markt, P.O. Box 16326, 2500 BH Den Haag

Belgium: Service de Régulation du Transport ferroviaire et de l'Exploitation de l'Aéroport de Bruxelles-National, CCN, Rue du Progrès 80 boîte 5, 1030 Bruxelles

Germany: Bundesnetzagentur Abteilung Eisenbahnregulierung, Tulpenfeld 4, 53113 Bonn

Italy: Ufficio per la Regolazione dei Servizi Ferroviari (URSF), Viale dell'Arte, 16, 00144 Roma



- For the time being Switzerland is negotiating the implementation of Regulation (EU) No 913/2010 in Swiss legislation; as long as Regulation (EU) No 913/2010 has not been duly incorporated into Swiss law, the Railways Arbitration Commission will not sign this agreement but will cooperate based on a letter of intent.
- In accordance with Article 20 of Regulation (EU) No 913/2010 in conjunction with Article 57 of Directive 2012/34/EU, the Regulatory Bodies of Belgium, Germany, Italy and the Netherlands (countries of Rail Freight Corridor 1, hereafter 'Corridor 1') have agreed on the following way of cooperation.

The signature of the present agreement expresses the consent of the signatory Regulatory Bodies to be bound by this agreement. Signatory Regulatory Bodies agree to review this agreement if at least one of them considers it is necessary.

Principles of cooperation

Article 20 of Regulation (EU) No 913/2010, hereafter 'the Regulation', in conjunction with Directive 2012/34/EU, provides the legal basis for Regulatory Bodies to monitor the definition of train paths to avoid discrimination.

In accordance with Article 13.5 in conjunction with Article 20 of the Regulation, Regulatory Bodies are jointly responsible for monitoring the activities of the Corridor One-Stop Shop and for ensuring non-discriminatory access to the corridor.

a) Complaint relating to infrastructure managers:

As the territorial principle applies, national Regulatory Bodies regulate the activity of infrastructure managers in accordance with their national provisions (Article 20 of the Regulation).

The Regulatory Body concerned should inform the other Regulatory Bodies involved in the corridor.

b) Complaint related to the Corridor One-Stop Shop:

Owing to the multiple responsibilities for regulating the Corridor One-Stop Shop, and in order to guarantee fast decision-making, the Regulatory Body responsible for taking a decision in the event of a complaint regarding the Corridor One-Stop Shop will be identified as follows:

- 1) Should the Regulatory Bodies of the corridor jointly come to the conclusion that the cause of complaint is related to only one single country, the Regulatory Body responsible (hereafter "RespRB") will be the competent Regulatory Body for that country.
- 2) For other cases, the Regulatory Bodies involved in this corridor have agreed the responsibility should be held by one of them on behalf of all. In this case, Bundesnetzagentur (BNetzA) in Germany is designated as "RespRB".

Depending on the circumstances, it is possible that more than one Regulatory Body could be involved in a matter concerning the regulation of the corridor. As all Regulatory Bodies concerned by a complaint must be consulted in the investigation process, in accordance with Article 20.3 of the Regulation, the process of cooperation is set out below.

Initial review:

Any regulatory body, hereafter referred to as RB(a), on the Corridor can be solicited by a complainant. Upon receipt of a complaint related to the Corridor One-Stop Shop, the RB(a) acknowledges receipt.

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.

When the information is incomplete or insufficient, RB(a) requests the complainant to provide that information without delay.

RB(a) informs other Regulatory Bodies concerned and asks them for comments.

Regulatory Bodies determine jointly if the cause of the complaint is related to only one single country or not.

If the cause of the complaint is related to one single country, the responsible Regulatory Body of that single country will be the competent Regulatory Body (RespRB in the process below) for handling the complaint.

If the Regulatory Bodies determine that the complaint is not related to one single country, the complaint will be handled by BNetzA (RespRB in process below).

If RB(a) is not the competent Regulatory Body, it sends all relevant information to the RespRB, informs the complainant that it is not competent to handle the complaint and advises the complainant to introduce the complaint at the RespRB.

The RespRB continues with the review of the complaint.

Review:

The proceeding is based on RespRB's national law in the context of the Regulation. The Regulatory Body which is responsible for the complaint sets the deadlines according to its national rules. The final decision is taken no more than two months after having received all information (in compliance with the time frame foreseen in the applicable European legislation).

RespRB informs concerned parties in writing that it has received the complaint. Subsequently, it sends to these parties appropriate information, including letter (in English and/or in one of the official languages of the country where the RespRB is located), and asks for comments on the complaint. Such parties might include railway undertakings, infrastructure managers, the Corridor One-Stop Shop, other Regulatory Bodies or any other stakeholders.

RespRB reviews all the information and comments received from the applicant and other parties and, if necessary, requests further information.

All Regulatory Bodies on the Corridor 1 ensure their cooperation in the investigation of the RespRB by providing all information legally available within their powers.

RespRB drafts a decision and informs the Regulatory Bodies involved. The Regulatory Bodies involved can comment on the proposed decision (deadline defined by RespRB on a case to case basis).

After having consulted the Regulatory Bodies involved, the RespRB decides and informs properly (according its national legislation) the complainant, the Corridor One-Stop Shop and, where applicable, the infrastructure manager that is involved.


RespRB sends the decision and a summary of the decision in English to all Regulatory Bodies affected by the decision.

RespRB informs the other Regulatory Bodies whether or not the concerned parties complied with the decision.

The exchange of information between Regulatory Bodies will be in English and by e-mail.

The decision is subject to judicial review according the national legislation of the RespRB.

For Service de Régulation du Transport ferroviaire et de l'Exploitation de l'Aéroport
de Bruxelles-National,
Serge Drugmand

Serge DRUGMAND
Directeur

10 OKT. 2013

For Bundesnetzagentur,
Dr Iris Henseler-Unger



For Ufficio per la Regolazione dei Servizi Ferroviari,
Alessandro Violi



For Autoriteit Consument & Markt,
Mark te Velthuis



