



Access to service facilities

The RFC Regulation in the light of the legal framework of Directive 2012/34/EU and the draft implementing act

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RFC Regulation – specific provisions for terminals

Art. 2(2)(a)

'freight corridor' means all designated railway lines [...], linking two or more terminals, along a principal route and, where appropriate, diversionary routes and sections connecting them, including the railway infrastructure and its equipment and relevant rail services in accordance with Article 5 of Directive 2001/14/EC;

Art. 2(2)(c)

'terminal' means the installation provided along the freight corridor which has been specially arranged to allow either the loading and/or the unloading of goods onto/from freight trains, and the integration of rail freight services with road, maritime, river and air services, and either the forming or modification of the composition of freight trains; and, where necessary, performing border procedures at borders with European third countries;

RFC Regulation

Specific rules on publication of information on terminals

Art. 18

'corridor information document'

- incl. all the information contained in the network statement for national networks regarding the freight corridor, drawn up in accordance with the procedure set out in Article 3 of Directive 2001/14/EC
- incl. the list and characteristics of terminals, in particular information concerning the conditions and methods of accessing the terminals

Access to service facilities - recast

Recast contains rules on service facilities applying to the following facilities:

- Passenger stations
- Freight terminals
- Marshalling yards and train formation facilities, storage sidings
- Maritime and inland port facilities linked to rail activities
- Maintenance facilities
- Cleaning and washing facilities
- Refuelling facilities

Recast

Rules on publication of information on service facilities

Art. 27 and Annex IV - network statement

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.

The network statement shall contain a section on information on **access to and charging for service facilities referred to in Annex II. Operators of service facilities which are not controlled by the infrastructure manager shall supply information on charges for gaining access to the facility and for the provision of services and information on technical access conditions** for the inclusion in the network statement or shall indicate a website where such information is made available free of charge in electronic format.

Draft implementing act

Rules on publication of information on service facilities

Art. 4 and 5

- Define a list of **minimum information to be published** by service facility operators, including inter alia
 - Technical characteristics of the facility
 - The list of all rail-related services provided in a facility
 - Charges for access to the facility and services provided in the facility
 - Info on the possibility to self-supply services
- Publication can be done by the SFO on its own website, a common webportal (in both cases a link has to be inserted in the IM's network statement) or by providing the info to the IM, which in turn has to include it in the network statement
- A **common template** for provision of that information should be developed in 2018 by the sector in cooperation with regulatory bodies
- RB may grant exemptions from some publication requirements, but not basic info such as technical access conditions and information on charges

Additional provisions on access to service facilities – recast

- SFOs have to grant **non-discriminatory access** to their facilities
- Rejections of access requests only possible, if there is a **viable alternative**; rejections need to be justified (Art. 13(4))
- Even if a facility is full, RB may require facility operator to grant access to a railway undertaking whose request was rejected in the first place (Art. 13(5))
- **Regulatory body supervises access to service facilities**, verifies charges and accounting separation (on own initiative or upon complaint) (Art. 56)
- Use it or lease it (Art. 13(6))
- **Charging rules**: max. full cost + reasonable profit (Art. 31(7) & (8))
- Organisational and decision-making **independence for SFOs**; accounting separation requirements (Art. 13(3))

Additional key provisions on access to service facilities – draft implementing act

- IMs and SFOs should **cooperate on allocation of capacity** with the objective of ensuring consistency between train paths and capacity in service facilities (Art. 7(2))
- IMs, applicants and SFOs should **exchange info on train tracking and tracing** and ETA (Art. 7(3))
- Clarification the SFOs cannot deny access when capacity in the facility is available (- even if there is a viable alternative) (Art. 10(2))
- Requirement to carry out a **coordination procedure** when a SFO receives an access request that is in conflict with another request or capacity already allocated -> objective: try to find ways to accommodate all requests e.g. by slightly modifying slots, adjusting opening hours, etc. (Art. 10)
(note: modifications to capacity already allocated are only possible with agreement of the applicant concerned)

Additional key provisions on access to service facilities – draft implementing act

- Clarification of the process on assessing viable alternatives in case a request for access to a facility cannot be accommodated
 - **SFO to assess**
 - Substitutability of operational characteristics,
 - Substitutability of physical and technical characteristics
 - Impact on attractiveness and competitiveness of rail transport service envisaged by applicant
 - Estimated additional cost of applicant
- Applicant to assess whether using proposed viable alternative would allow to operate envisaged rail transport service under economically acceptable conditions

Conclusions

- New legal framework for service facility operators under the recast applies to all terminals, incl. RFC terminals
- Obligations for terminal operators stemming from recast and draft implementing regulation are broader than those set out in the RFC Regulation
- Being a RFC terminal does not mean being subject to stricter rules than other terminals

Questions?