

**FOR THE TIMETABLE PERIOD OF 2023/2024**

# **PERFORMANCE REGIME**

**Effective: from 24:00 of 9 December 2023  
until 24:00 of 14 December 2024**

## List of modifications

[illegible]

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## **I. Scope of the Performance Regime**

The scope of the Performance Regime covers:

- a)* railway company operating nationwide open access, not for own railway network (hereinafter referred to as infrastructure manager),
- b)* railway undertaking (RU),
- c)* rail regulatory body,
- d)* Rail Capacity Allocation Body (hereinafter referred to as VPE)

Territorial scope of the performance regime covers the nationwide open access railway networks in Hungary.

## **II. Legal framework**

- Directive 2012/34/EU of the European Parliament and of the Council on establishing a single European railway area,
- Paragraphs 67/K. (1) - (6) of Act CLXXXIII of 2005 on railway transport,
- Regulation No 57/2015. (IX.30.) of NFM on detailed rules of the Performance Regime

### III. Principles of the Performance Regime

Provisions of the Performance Regime shall equally and non-discriminatory apply both to the RUs and infrastructure managers. General requirement of the Performance Regime is simplicity, transparency, liability, cost-efficiency, usage of measurable data, as well as it must not impose exaggerated legal and/or administrative burden either on RUs or on infrastructure managers.

VPE shall regularly evaluate experience gained from the Performance Regime relating to the given timetable period or after the given timetable period at the latest. VPE shall also compare the results with the measurable objectives given in figures and shall draw conclusions of them so as to initiate changes in the schemes of the Performance Regime of the next period, if necessary.

Performance Regime includes:

- incentive scheme to facilitate punctual train run
- reservation fee
- incentives supporting environmentally friendly transportation
- special element on railway line 136.

**Payment obligation arising from incentive schemes mentioned above and financial compensations are related to the charges determined in Network Statement but not related to the mark-ups.**

Regarding the incentive schemes with kilometre-based accounting, the charging kilometre is taken as the base for accounting.

From accounting point of view exclusively Infrastructure Managers and Railway Undertakings are in legal relationship with each other.

As long as the request for rail capacity is submitted by a non-RU applicant determined in Paragraph 2 Section 3.8. of the Railway Act, financial compensations and penalties emerging from the incentive scheme can be claimed by/from the Railway Undertaking designated by the non-RU applicant, if the Railway Undertaking accepted the designation.

If the request for rail capacity is submitted by a non-RU applicant but the train path is not used, the payment obligation is imputable and compensation can be determined if they are included in the framework contract concluded as it is indicated in Paragraph 54/(4) of the Railway Act.

Accounting of acknowledged compensations and penalties related to the Performance Regime shall be carried out, at the same time as the network access charges are accounted.

Accounting of disputed items shall be carried out on the basis of the agreement between the parties, or of binding decision of the court and/or the Rail Regulatory Body.

Performance Regime shall always be established aim-oriented. Checking the achievement of the objectives that were previously defined is an inseparable part of the functioning of the system.

Regarding measures to be taken within the framework of the Performance Regime such measurable objective shall be set, the realisation of which would have an effect as it is anticipated. As a result, expectations towards the Performance Regime shall be determined accurately and in a transparent way so as to give information to the market players on the probable positive effects of the Regime.

Performance Regime shall motivate the schedulable and optimal use of railway services, and the increase of railway transportation flexibility, which is a very important factor in the competition with road transportation.

Performance Regime is part of the 'General Terms and Conditions for the Use of Railway Infrastructure' of the contractual connection concluded between the infrastructure manager and the RUs.

Definitions of the terminology used in the Performance Regime can be found in Annex 3.

## IV. Elements of the Performance Regime

### IV.1. Incentive scheme to facilitate punctual train run

The main element of the Performance Regime is one of the most important quality indicators, namely the punctuality of trains defined in relation to the timetable of the allocated train path. Higher punctuality of trains enhances the capacity, raises the planning ability to a higher degree, which enable more efficient use of the existing sources, reduction of operational costs and improvement of the general quality of services provided on the railway.

Basis of this performance element is the divergence of the fact data from the planned data of the timetable of the train path. Divergences must be recorded by the infrastructure managers at each measuring point. Performance Regime shall evaluate the punctuality of trains on the basis of delays measured at the destination stations. Train paths submitted to VPE 5 days before the scheduled train run and allocated by VPE do not come under the ruling of the incentive scheme of 'Punctuality of the train run compared to the time data of the timetable of the allocated train path'. Detailed prescription of the measuring and coding systems of the infrastructure managers can be found in Annex 1. The content of codes providing the underlying basis of delay analyses are determined by UIC Leaflet 450-2, and they are also listed in Annex 1 of 57/2015. (IX.30.) NFM Directive.

#### a. Delay management

Legislation in force allows the taking into consideration of handling of primary delays within the framework of the Performance Regime (Directive 57/2015. (IX.30.) NFM Paragraph 7 Section (3)). The regime does not apply to secondary delays.

Delay is such an event when - for any reason/reasons - a train runs diverging from the timetable set to the allocated train path, and arrives to the stops assigned in the timetable of the train path at a later time. Delay is the positive sign difference between the fact time of the train run and the scheduled time of the train run measured in whole minutes.

**Primary delay:** a disturbance in terms of a train run in the relationship of the Infrastructure Manager (or railway infrastructure unit of an integrated railway company) and a Railway Undertaking (or a railway undertaking unit of an integrated railway company), which can be provably attributed directly to any of the given railway companies.

**Secondary delay:** When another train in delay causes delay to the particular running train irrespectively of the owner of the train path and the original reasons of the another train's delay. This type of delay is a consequence of constraint induced by another train.



### **b. Product groups**

From the Performance Regime's point of view three product groups can be distinguished: passenger trains, empty trains and freight trains. Dissimilar tolerances shall be determined for these product groups. When determining groups of products, Performance Regime considers trains indicated with markings (A,B) in Annex 4.5-2 to the Networks Statement for 2023/2024 as passenger trains, with the marking (C) as empty trains and with markings (D,E) as freight trains.

### **c. Tolerances**

Tolerance means a delay determined for each group of products on the network in the case of which no penalty had to be applied. The determination of tolerance for delays is minute-based.

For determination of the tolerance value, general punctuality data of the timetable period prior to the year of publishing the Performance Regime must be taken into consideration.

Tolerance limits are:

- passenger trains: 15 minutes
- empty trains: 40 minutes
- freight trains: 60 minutes.

### **d. Accounting points**

Only measuring points can serve as accounting points.

Regarding Performance Regime, three different types of accounting points shall be distinguished as follows:

- end (destination) point accounting points
- last measuring point of a certain infrastructure manager,
- intermediate accounting points

Intermediate accounting point can be appointed and accounted on the basis of custom agreement between the infrastructure managers and the railway undertakings.

### **e. Calculation methodology**

Calculation related to the incentive scheme shall be made at the accounting points by taking into account delay codes and delay data recorded by the infrastructure manager.

It is accounted from "Delay at accounting points" so that the value for tolerances of the product group, the secondary delays (no penalties shall be applied to secondary delays for parties since secondary delays do not come under the scope of the Performance Regime) and delays coded as force majeure are subtracted from the running fact-plan time difference calculated at accounting point.

After the subtractions, value of deviation from the remaining positive facts given in minutes is to be accounted and shall be linked to the causers of the delay in accordance with the split of all delay.

Delays which are not coded must in every case be considered as delays from the part of the infrastructure manager as an organisation which is responsible for ensuring of coding. Example:

Table 1

	Minute
Delay at accounting points	$x=y+z+v+w+q-c$
Total delays occurred up to the accounting point	$u=y+z+v+w+q$
from these, delay caused by reasons from the infrastructure Manager's side	y
from these, delay caused by reasons from the railway undertaking's side	z
from these, force majeure	v
from these, non-coded delays	w
from these, secondary delays	q
decrease of delays	c
Tolerance	t
↓	
Total delays to be accounted	$x'=x-t-v-q$
↓	
If $x' > 0$	
from this, delays caused by reasons from the infrastructure manager's side	$y' = y / (y+z+w)$
from this, delays caused by reasons from the railway undertaking's side	$z' = z / (y+z+w)$
from this, non-coded delays	$w' = w / (y+z+w)$
↓	
Number of proportioned minutes burdening the railway undertaking	$z'' = z' * x'$
Number of proportioned minutes burdening the Infrastructure Manager	$y'' = y' * x'$
Number of proportioned minutes burdening the Infrastructure Manager due to non-coded delays	$w'' = w' * x'$

In order to reduce delays, parties are obliged to perform any activity falling within their competence.

**Degree of incentive scheme:** Penalty to be paid for the delay is set on a minute-based accounting in a value of 20 HUF/minute. No payment obligation or penalty is imposed in case of delays of corridor trains (freight trains running along international rail freight corridors).

Infrastructure Manager has possibility for coding a delay as a timetable compilation fault only in those cases, if the Infrastructure Manager can demonstrate that despite correct and accurate network core data, traffic management circumstances and information transmitted to VPE, delay has arisen from the improper compilation of timetable or allocation of the train path. Also in this case, penalty to be paid to the railway undertaking coded as timetable compilation fault shall be paid by the infrastructure manager when accounting, since from Performance Regime point of view the Infrastructure Manager and the railway undertaking are in contractual legal relation with each other. As a next step, the infrastructure Manager will have the possibility to demand from VPE the reimbursement of the compensation that the Infrastructure Manager had to pay to the railway undertaking due to timetable compilation fault.

Table 2

Accounting of penalties on the basis of caused delays

Penalty due to delays	p (HUF/minute)
Penalty to be paid by the Infrastructure Manager	$(y''+w'')*p$
Penalty to be paid by the railway undertaking	$z''*p$

#### IV.1.1 Accounting method of the incentive scheme

Process of accounting:

Infrastructure Manager shall in every month for every train path calculate financial compensations and penalties which emerge in connection with the Performance Regime, and shall distribute them liability-proportionate to itself and to parties who are in contractual legal relationship with the Infrastructure Manager.

1. Until the end of the month which follows the actual month, Infrastructure Manager shall sum up separately for every railway undertaking the payment obligations and compensations arising from the Performance Regime with the exception of disputed cases involved in conciliation process which shall be handled after the successful ending of the dispute in the course of the monthly accounting.
2. Infrastructure Manager shall prepare the invoice-attachments in order to account acknowledged compensations and penalties arisen from the Performance Regime.

Accounting of the incentive scheme is based on fact data. In case of paths running on both infrastructure networks the calculation is separately conducted per infrastructure managers.

### IV.1.2 Hypothesis relating to the incentive

The expected result of better punctuality is, that the average delay of trains with not instant train paths should not exceed the following target values in the particular product group at the destination station in the timetable period concerned.

Product group	Target value
Passenger trains	6 minutes
Empty trains	1 hour
Freight trains	3 hour 35 minutes

The average delay of train paths in the certain product groups at destination stations is determined according to the following formula:

$$\begin{array}{l}
 \text{The average delay of trains with} \\
 \text{not instant train paths in the} \\
 \text{certain product groups at} \\
 \text{destination stations during the} \\
 \text{timetable period concerned}
 \end{array}
 =
 \frac{
 \begin{array}{l}
 \text{The sum of delays of trains with not} \\
 \text{instant train paths in the certain} \\
 \text{product groups at destination stations} \\
 \text{during the timetable period concerned}
 \end{array}
 }{
 \begin{array}{l}
 \text{The number of late trains with not} \\
 \text{instant train paths in the certain} \\
 \text{product groups during the timetable} \\
 \text{period concerned}
 \end{array}
 }$$

### IV.1.3 Division of tasks in connection with the incentive scheme

Regarding punctuality of trains compared to the timetable of the allocated train path, Infrastructure Managers are obliged to record with codes the reasons and the causers of the positive divergences from the timetable. Infrastructure manager is also bound to ensure dispute right for railway undertakings regarding their own recorded data, and to ensure access right exclusively for VPE to fact data and coding of any train event, as well as dispute right for VPE in case of the events coded to timetable failures.

Tasks related to accounting of delays shall be carried out by the infrastructure managers on the basis of acknowledged codes recorded at accounting points in compliance with 'Calculation Methodology' defined in Chapter IV.1. After this, infrastructure managers prepare in every month invoices as attachments for enforcing the payment of compensations and penalties.

Task of VPE is to receive delay data recorded by the infrastructure managers. After receiving data, VPE shall connect fact data to the available planned data. With the help of the data base - established this way-, VPE shall carry out impact assessments and shall prepare monitoring report. VPE shall inform Infrastructure Managers and the Rail Regulatory Body about the results.

VPE shall carry out the assessment work set out in Chapter IX with the involvement of the infrastructure managers.

## **IV.2. Reservation fee**

Unjustified capacity reservation has significant role in determining available free capacity. Until its cancellation it blocks the allocation of other requests. To avoid this situation the infrastructure manager introduces a reservation fee.

The reservation fee shall be charged for those RUs who regularly do not use the train paths allocated to them. The regularly unused train paths are considered as a certain ratio of the total allocated but cancelled train paths for the examined month, as well as train paths concerned in cancellation failure for the examined month.

The followings are not counted in the cancelled train paths, as well as train paths concerned in cancellation failure:

- the partly used allocated train paths
- “technical cancellation” initiated by VPE because of infrastructure data changes during the request administration
- modification involving cancellation and new request

### **IV.2.1 The aim of the incentive scheme**

The reservation fee is an incentive, that promotes better use of the infrastructure. Undue path requests should not hamper the allocation of free capacity.

### **IV.2.2 Degree of incentive scheme**

Reservation fee is determined based on the proportion ratio of all train paths allocated for the examined month and all for the examined month allocated but cancelled train paths, as well as train paths concerned in cancellation failure. It will be set in percentage. Percentage determination applies rounding rules, it operates with whole numbers.

Reservation fee will be charged for the examined month if the ratio of cancelled train paths, as well as train paths concerned in cancellation failure reaches 60% within the sum of all allocated train paths having running day.

The reservation fee is 1% of basic service charges (not related to the mark-ups) of the paths cancelled, as well as concerned in cancellation failure.

### **IV.2.3 Methodology for accounting the incentive scheme**

RU is obliged to pay the reservation fee.

If the allocated and cancelled, as well as concerned in cancellation failure train paths affect both infrastructure managers, the number of train paths would be taking into account in both infrastructure managers' case.

If the ratio of cancelled train paths, as well as train paths concerned in cancellation failure reaches 60% within the sum of all allocated train paths in the case of the particular RU at the concerned infrastructure manager, the infrastructure managers count the reservation fee connected to the network part managed by own themselves, based on the ratio of basic service charges of concerned paths, which is determined as degree of the incentive scheme.

Reservation fee is invoiced by the Infrastructure Managers on a monthly basis as an invoice attachment in a way that it can be clearly identified.

In case of dissolution with legal successor, or companies merge, or if the RU transforms in such other way where the right of ownership - connected to the train path and service requests handled by it formerly - is designated unambiguously for another legal entity: it does not have to pay the reservation fee even if - because of IT facilities - it has to cancel its train paths and service requests ordered earlier and has to withdraw the submitted demands, so that the successor can submit them again.

### **IV.2.4 Procedure in exceptional cases**

In case of emergency, extreme weather conditions, or possessions for safety of operation Infrastructure Managers are entitled to withdraw train paths requested by the applicants and allocated by VPE. Withdrawal of a train path by the Infrastructure Manager due to emergency, extreme weather conditions, or possessions for safety of operation is not qualified as train path cancellation, rules of reservation fee in this case is out of scope. The same rule is to be applied in case of withdrawal initiated by Infrastructure Managers due to possession if it is implemented by VPE and not the train path owners cancel the affected train paths.

#### **IV.2.5 Division of tasks related to the incentive scheme**

VPE registers the train path cancellations made before the scheduled time of the train run in accordance with aspects defined by the system. Infrastructure Managers invoice reservation fees to railway undertakings on the basis of data registered partly by VPE and partly by their own IT system.

#### **IV.2.6 Hypothesis relating to the incentive**

Expectation connected to the incentive, that the RUs' cancellation ratios per infrastructure managers should not exceed 60% on yearly basis (except those special values, which have explanatory reason).

### **IV.3. Incentives supporting environmentally friendly transportation**

#### **IV.3.1 Aims of the incentives**

The aims of the incentives supporting environmentally friendly transportation are to increase the competitiveness of rail freight transportation compared to other modes, to switch over the freight traffic to railway, respectively to keep the current traffic on rail hereby fostering to achieve the environment protective goals of European Union.

#### **IV.3.2 Conditions for applying the incentives**

The incentives listed below can be applied in case of fulfilment of conditions required at the particular element.

- I) Freight transportation switched over from road to railway at least in a 300-kilometre train path

The railway transportation of goods switched over from road to railway at least in a 300-kilometre train path is certified by the RU clearly and demonstrably.

To applying for this incentive MÁV Co. requires the declarations in Annex 5.a. Declaration on the use of environmentally friendly modes of transport - Shipper, and in Annex 5.b. Declaration on the use of environmentally friendly modes of transport - Railway Undertaking as follows:

- Shipper's declaration signed by the authorised representative about the road transportation parameters of the type of goods to be transported: from when, on what route and in what volume;
- Copy of at least 3 pieces of road consignment notes in even distribution according to the declaration above, which include at least the routes, the type of goods, code of goods. The other fields of the consignment notes can be covered;
- RU's declaration signed by the authorised representative about that the goods switched over from road to rail means new railway traffic, and about its knowledge whether that the particular type of goods were transported by rail to the destination in the previous timetable period.



MÁV Co. shall issue a certificate of the possibility of using the incentive element within 30 days after the evaluation of the declarations above and the registration of RU's declaration signed by the authorised representative at MÁV Co. The discount may be claimed from the date of issue of the certificate. The incentive may be used for a maximum of 3 consecutive timetable periods for a given route. The first period shall be the timetable period running on the date of issue of the certificate.

MÁV Co. reserves the right to request additional documents in addition to the documents detailed above in order to clearly clarify eligibility.

Beyond those listed above the capacity request is considered to come under the scope of the incentive scheme if the applicant indicates this intention in the capacity ordering IT system of VPE during the train path ordering.

This incentive can be used in the case of standard freight trains and in case of corridor freight trains out of special freight trains. It cannot be combined with other discounts and incentives available in Network Access Contract, Network Statement and Performance Regime, except in the case of corridor freight trains, where the RU is also entitled to a fee discount for corridor trains and exemption from PR element as well.

## II) Freight transportation taking place between primary stations

The standard freight train runs in at least 50 km long train path and with maximum 700 gross ton train load (fulfilling both previously mentioned conditions at the same time) between stations belonging to the scope of the incentive as follows:

- Budaörs (01032)
- Debrecen (13912)
- Fényeslitke-Déli rendező (42127)
- Győr-Rendező (01271)
- Kiskundorozsma (17194)
- Soroksár-Terminál (11064)
- Soroksári út rendező (40196)
- Székesfehérvár (03269)

Regardless of the parameters specified in the order, the given train transport can be considered to be under the scope of the incentive if the above criteria are fulfilled when using the network access service. This incentive element can only be used in the case of standard freight trains, and cannot be combined with other -different from the charge of standard freight trains- discounts and incentives available in the in Network Access Contract, Network Statement and Performance Regime.

#### **IV.3.3 Degree of the incentive scheme**

The RU is exempted from a fixed percentage of the basic service charge out of the network access fee payable for the particular train path.

- I) Freight transportation switched over from road to railway at least in a 300-kilometre train path
  - 85% of the basic service charge without mark-ups
- II) Freight transportation taking place between primary stations
  - 35% of the basic service charge without mark-ups

#### **IV.3.4 Methodology of the accounting of the incentives supporting environmentally friendly transportation**

The incentive elements are bonuses on the amount of the payment obligation of the RU. Incentives are invoiced by MÁV Co. on a monthly basis as an invoice attachment in a way that it can be clearly identified.

The fulfilment of the conditions are controlled by MÁV Co.

- I) Incentive of freight transportation switched over from road to railway at least in a 300-kilometre train path will only be accounted, if the RU indicates that the train path is under the scope of incentive during ordering, provides the necessary documentation which is accepted by MÁV Co., and the minimum distance condition is fulfilled during the running.
- II) In case of freight transportation taking place between primary stations the designation that the train path is under the scope of the incentive is not necessary, the control of the factual fulfilment of the conditions takes place during the accounting.

#### **IV.3.5 Division of tasks related to the incentives**

MÁV Co. calculates the bonuses and makes the monthly invoice for RUs considering them.

MÁV Co. provides the VPE with the data necessary to assess the impact of the incentive elements.

#### **IV.3.6 Hypothesis of the incentives supporting environmentally friendly transportation**

- I) Freight transportation switched over from road to railway at least in a 300-kilometre train path:

In the first timetable period of applying the incentive the freight transportation switched over from road to railway at least in a 300-kilometre train path appears. In the following timetable periods the quantity of the bonuses provided by the incentive increases compared to the same term of the previous timetable period, with an unchanged degree that is through the growth of the performance.

- II) Freight transportation taking place between primary stations

In the first timetable period of applying the incentive the bonuses provided appears detectably. In the following timetable periods their quantity increases compared to the same term of the previous timetable period, with an unchanged degree that is through the growth of the performance.

GySEV Co. does not provide these incentives.

#### **IV. 4. Special element on railway line 136**

The border crossing at Kelebia operating as Balkan transit railway gate is not accessible because of development of Budapest-Belgrade railway line, and the alternative freight route towards Serbia is the border crossing at Röske, where there is infrastructure improvement too without possibility of replacement track's designation. The railway section has been declared as congested track section since August, 2022. The coordination procedure of 2023/2024 timetable period was not successful neither at the finalisation of annual working timetable nor at the judgement of annual late requests, so the congested condition still remained. For the sake of the more efficient utilisation of available capacity the special element on railway line 136, introduced in Modification 3 of Performance Regime for 2022/2023 timetable period -with the necessary changes - will be kept in the regime.

##### **IV.4.1 The aim of the element**

The aim of the element is to foster the more efficient utilisation of capacity with bottleneck by possible capacity re-allocation.

##### **IV.4.2 Applied procedures**

In case of train paths touching the section Röske - Röske oh. out of any directions,

- outwards: those train paths which were cancelled within 12 hours before the planned departure time being in the order at Röske [HU17673] or concerned in cancellation failure
- inwards: those train paths which were cancelled within 12 hours before the planned departure time being in the order at Röske oh. [HU07120] or concerned in cancellation failure

the railway undertaking (RU), in case of orders applied by authorised applicant the appointed RU is obliged to pay special cancellation fee.

Those train paths, which has already have „The train is ready to run” report or recorded factual data, are not under the scope of this special cancellation fee.

In case of special cancellation fee the deadline of concerningness in cancellation failure is the same as the deadline of cancellation.

In case if the time of cancellation is involved in the sanctioned period because of time need of the application process, but the RU applied it in time (timepoint of indication in the IT path requesting system), then the special cancellation fee is out of scope.

If the train path is under the scope of this special cancellation fee, then it is not counted at reservation fee.

#### **IV.4.3 Degree of the element**

The degree of special cancellation fee will be determined with impact analysis using factual data in that case if the procedure, regarding congested track in point 4.6 of the Network Statement, can no longer efficiently solve the lack of capacity.

The results of the analysis will be finalised based on agreements in consultation with concerned parties. After that the fee per path cancelled or concerned in cancellation failure defined in point IV.4.2 will be quantified and simultaneously the rules of point IV.4 regarding the payment obligation and accounting will also come into force.

#### **IV.4.4 Accounting method of the element**

The special cancellation fee is invoiced by the Infrastructure Manager MÁV Co. on a monthly basis as an invoice attachment in a way that it can be clearly identified.

The RU can dispute the accounting as described in chapter VII.1. Settlement of a complaint.

#### **IV.4.5 Hypothesis relating to the element**

The expectation connected to the element is that the quantity of the re-allocable capacity available in time for other RUs should increase on line 136.

## **V. Border points of the network**

### **V.1 Country borders points**

The Performance Regime in Hungary handles the country border points separated, delays arising on the connecting foreign network are considered as secondary delays, so the Performance Regime will not apply to them, while accounting of delays transferred to the foreign railway network shall happen on the basis of data registered on the last domestic measuring point in front of the connecting foreign network.

### **V.2 Domestic network border**

Network border points of the domestic network shall be handled from the Performance Regime's point of view in the same way as country border points. Accounting of delays arising on the connecting network shall happen on the basis of measurings recorded on the last measuring point before the change of the network border, while delays transferred to the next railway network shall be considered as secondary delays to which the Performance Regime does not apply.

If a train comes from a non-open access network to the nationwide open access network the delays suffered shall be considered as secondary delays to which the Performance Regime does not apply.

If a train leaves the nationwide open access network for another open access network or for a non-open-access network, the accounting point must be the last station of the nation wide open access network, further delays are not handled by the Performance Regime.

Border points between MÁV Zrt and GYSEV Zrt, and their infrastructure parameters can be seen for the timetable period 2023/2024 in Annexes 5.2-4 and 5.2-5 of the Network Statement.

## **VI.Data-demand connected to the Performance Regime**

Infrastructure Managers are obliged to deliver to VPE data defined in the Performance Regime.

### **VI.1 Incentive scheme related to the facilitating of punctuality of train run**

Punctuality data are available at the Infrastructure Managers. Information to be compulsorily delivered by the Infrastructure Managers to VPE can be seen in Annex 2.

### **VI.2 Reservation fee**

Information on reservation fee' account is available partly at VPE and partly at Infrastructure Managers' side. In order to perform impact assessment for the Performance Regime, Infrastructure Manager is obliged to deliver data to VPE concerning information on reservation fee.

### **VI.3 Incentives of supporting environmentally friendly transportation**

VPE provides MÁV Co. with data of train paths ordered which were indicated in the request as under the scope of incentive.

MÁV Co. provides the VPE with the data on the volume of kilometres run by trains operated by RUs which have been proven to have switched over traffic from road / data on the certified train paths which are under the scope of the incentive element, as well as the amount of the bonuses generated.

In case of freight transportation taking place between primary stations in addition MÁV Co. also provides the VPE with the results of the verification of the factual fulfilment of the conditions and the amount of the bonuses generated.

### **VI.4 Special element on railway line 136**

In order to conduct impact assessments for the Performance Regime, Infrastructure Manager is obliged to deliver its data to VPE, which are necessary to the calculations concerning the special cancellation fee.

## **VII. Settlement of disputes, appeal**

There is a possibility for settling of disputes relating to the Performance Regime as follows.

### **VII.1 Settlement of a complaint: between the Infrastructure Manager and the RUs**

Principles of disputing of data used as basis of incentive element of the Performance Regime and disputing of penalties to be paid by RU upon invoices prepared by the infrastructure managers on the grounds of the Performance Regime:

- 1) Infrastructure manager is obliged to hand over information and ensure access for RUs to any kind of information (basis of calculations, breaking down of the amount to be paid per train path) deriving from the application of the incentive elements of the Performance Regime as regards train paths required by them.
- 2) Infrastructure manager and RU are obliged to agree in the network access, or equivalent contract on possibilities to be used during the settlement of complains by parties concerned (possibility of an inside view of dossiers, making remarks, debating, corrections, etc.), what obligatory procedural times can be applied for certain phases of actions, feed-backs and commenting, and also time limit must be defined beyond which parties lose the right to complain if any procedural term are qualified as a term of preclusion.
- 3) When setting the rules of the complain-settlement procedure, it shall be unambiguously fixed how comments, feed-backs, debates and conciliation would happen.
- 4) It must be fixed in the rules, in which cases is it possible to debate data at the rail regulatory body, and also, in which cases data as the basis of the charge to be paid can be considered to be final (accepted), i.e. the charge that cannot be disputed any more in the framework of the Performance Regime.
- 5) The applicable legal consequences must also be defined in the rules of the complaint-settlement for cases when parties go beyond time limits, or fail to reply or fail to make feedbacks.



## **VII.2 Dispute: Authority of the Rail Regulatory Body**

Also a dispute may be initiated at the Rail Regulatory Body if any of the parties infringes the stipulation of the contract concluded as regards the open access to the rail network, or if payment obligations based on the Performance Regime are settled contrary to regulations or the Performance Regime, or if the implementation of financial compensations or penalties fails due to the unlawful behaviour of the other party. After the finalisation, validation of data, data shall be delivered to VPE after the 10<sup>th</sup> day of the month following the month of finalisation, validation.

## **VIII. Method for publication or modification of the Performance Regime**

### **VIII.1 Modification of the Performance Regime**

With the involvement of Infrastructure Managers, applicants and the Rail Regulatory Body, VPE shall evaluate for every timetable period the experiences gained from the Performance Regime, particularly its impact on minimising the disruption of the railway network.

Based on the outcome of the evaluation, VPE may modify the elements of the Performance Regime. Should the incentive elements not reach the desired effect, they must be changed; if the incentive effect is successful, there should be possibilities for refining.

Procedure for modification regarding changes which arise from the hypothesis analysis of the Performance Regime, or which arise from amendments to legal rules or to the Network Statement:

- a) In order to ensure possibility for coordination, VPE is obliged to issue the draft of the Performance Regime on its homepage at least 30 days prior to its publication, at the same time electronically inform parties concerned by the scope of the Performance Regime about the issuing of the Performance Regime.
- b) Parties concerned may make notes, comments to the draft of amendments within 10 days after issuing the draft on the homepage of VPE. VPE shall take into consideration these notes and comments in the finalisation of the modification as much as possible.
- c) VPE shall publish this way finalized modification on its homepage mentioning also the date of its entry into force.

VPE shall record the fact of modifications with the date of its entry into force in the list of modifications which is an inseparable part of the Performance Regime.

### **VIII.2 Procedure connected to the Draft Performance Regime**

After an evaluation carried out by VPE with the involvement of the Infrastructure Managers, Railway Undertakings and the Rail Regulatory Body, VPE shall in every year prepare the draft of the Performance Regime.

- (1) The draft of the Performance Regime shall be issued on the homepage of the VPE 30 days prior to publication of the finalised version of it in order to give possibility to those who are concerned by the scope of the Performance Regime to give their opinion and make their notes to the draft. VPE is obliged to electronically inform those concerned on the issue of the draft of the Performance Regime without delay.
- (2) Parties concerned may make their notes and comments within 10 days after the issue of the Performance Regime. Rail Regulatory Body shall without delay be informed on the comments received, and on all the circumstances of the coordination process.

## **IX. Examination, analysis of other impacts affecting the optimal allocation of capacity**

VPE endeavours to make analyses on deeper level, which can be the base of suggestions regarding quality development, and of elaboration of concrete action plans.

### **Minimising timetable errors**

For minimising timetable errors VPE examines together with Infrastructure managers the frequency, the location, the affected trains and related errors of this kind of codes.

### **Detecting failure of timetable construction technology**

In the sake of detection and analysis of connections between regular divergences from timetables and to discover their reasons VPE shall coordinate discussions with the involvement of infrastructure managers concerned after the identification of regular divergences, but once a month as the maximum.

### **Searching delay concentration points and detection of their reasons**

Determining the focuses on the whole network where the delays are more concentrated than other areas. Regarding these focuses: analysis of breakdown of the delay codes, measure of delays, causer, with optional extension to the service location, or network line.

Further planned analyses aiming at the problem solving: delay events, disputed minutes, network disruptions, duration time.

VPE shall inform applicants about the result of the analyses.

## **X. Other measures**

Continuous supply of data by Infrastructure Managers.

For a smooth operation of the Performance Regime, Infrastructure Managers are obliged to immediately transmit finalised data in connection with the PR elements to VPE.

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*In case of any dispute, the Hungarian version shall prevail.*