

COOPERATION AGREEMENT

between the Regulatory Bodies situated in the countries along
the Rail Freight Corridor named “Amber” (RFC11)

*Koper — Ljubljana —/Zalaszentivan — Sopron/Csorna —/(Hungarian-Serbian border) —
Kelebia — Budapest —/— Komárom — Leopoldov/Rajka — Bratislava — Žilina —
Katowice/Kraków — Warszawa/Luków — Terespol — (Polish-Belarusian border)*



Legend:
— Principal line - - - Diversionary line ⋯ Connecting line — Expected line
— Future principal line — Planned double line (principal line)

Article 20 of Regulation 913/2010 of the European Parliament and of the Council of 22 September 2010 concerning a European rail network for competitive freight, (EU Journal of Laws L 276 of 20 October 2010, p. 22, as amended) (hereafter: Regulation 913/2010), provides that the regulatory bodies shall cooperate in monitoring the competition in the rail freight corridors and shall in particular ensure non-discriminatory access to such corridors. Moreover, regulatory bodies shall be the appeal bodies provided for under Article 56(1) of Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area, (EU Journal of Laws L 343 of 14 December 2012, p. 32, as amended) (hereafter: Directive 2012/34/EU).

Art. 57 of the Directive 2012/34/EU provides furthermore that the regulatory bodies established in the Member States shall cooperate closely and may accordingly establish working agreements.

The purpose of this Agreement is to establish guidelines for such cooperation within the framework of coordinated and efficient approach in order to implement processes that are easily accessible to market players.

The scope of regulation under this Agreement is the Rail Freight Corridor, named “Amber” (RFC11), established based on the Regulation 913/2010 and the Regulation and Commission Implementing Decision (EU) 2017/177 of 31 January 2017 on the compliance with Article 5 of Regulation 913/2010 of the joint proposal to establish the “Amber” Rail Freight Corridor (notified as document no. C(2017) 141) (EU Journal of Laws L28 of 2 February 2017, p. 69).

The Parties to this Agreement hereby set the principles which are to govern the cooperation among them in order to ensure that all matters falling within their competences in relation to the “Amber” Rail Freight Corridor (hereafter referred to as the “Corridor”) are efficiently and effectively dealt with.

The signatories of the Agreement are the following regulatory bodies:

Hungary: Innovációs és Technológiai Minisztérium

Piacfelügyeleti és Utasjogi Főosztály

Vasúti Igazgatási Szerv

Fő u. 44-50.

1011 Budapest

Poland: Prezes Urzędu Transportu Kolejowego

Aleje Jerozolimskie 134

02-305 Warszawa

Slovakia: Dopravný úrad

Letisko M.R. Štefánika

823 05 Bratislava

Slovenia: Agencija za komunikacijska omrežja in storitve Republike Slovenije (AKOS)

Stegne 7,

1000 Ljubljana

I. Principles of cooperation

Article 20 of Regulation 913/2010, in conjunction with Directive 2012/34/EU, provides the legal basis for Regulatory Bodies (hereafter referred to as “RBs”) to monitor the determination of train paths in order to avoid discrimination.

In accordance with Article 13(5) in conjunction with Article 20 of Regulation 913/2010, the RBs are responsible for monitoring of the activities of the Corridor One Stop Shop (hereafter referred to as “C-OSS”) and for ensuring non-discriminatory access to the corridors.

In order to foster quick decision-making process, taking into account the rules of Regulation 913/2010 concerning the responsibilities for regulating and monitoring the C-OSS and the national law of the Member States along the Corridor, we determine the decision-making competences of the RBs (hereafter referred to as “RB-signatories”) along the Corridor with regard to complaints or ex-officio investigations (hereafter referred to as “procedures”), as follows:

A. Procedures relating to infrastructure managers / service facilities operators

According to the territorial competence, RB-signatories regulate the activities of Infrastructure Managers (hereafter referred to as “IM”) and other national entities (in particular operators of service facilities) following their national provisions. Consequently, if the cause of the case is related to one or more individual networks along the Corridor (i.e. not to the C-OSS), the bodies competent for handling of the procedure are the RB-signatories of the national networks involved. In the context of such a procedure, the RB-signatories shall cooperate but shall ultimately issue separate decisions, each within its national jurisdiction.

B. Procedures relating to Corridor One Stop Shop

If the cause of the case is related to the C-OSS and in particular to the allocation process of pre-arranged paths, the RB-signatories shall agree that there should be one responsible RB which shall receive the complaint and issue the decision regarding it (hereafter referred to as “the decision”). The RB-signatories, considering the rules of competence stemming from Regulation 913/2010 and the national law of the Member States along the Corridor as well as taking into account the fact that the C-OSS of the Corridor is situated in the Republic of Poland, agree that in such cases the responsible RB shall be the “Prezes Urzędu Transportu Kolejowego” (hereafter referred to as “The President of UTK”), the regulatory body of the Republic of Poland as defined by the relevant European Union regulations.

II. Process of cooperation

All RB-signatories concerned by the procedure must be involved in the decision-making process, in accordance with the Regulation 913/2010 and their respective national laws. The cooperation process of the RB-signatories in case of complaints and ex-officio investigations is presented below.

- 1) Upon receipt of a complaint, the Regulatory Body (a) – hereafter referred to as RB(a) – shall acknowledge its receipt if required by national legislation. The documentation must be presented by the complainant (in paper and preferably in digital format as well) to the RB(a) in the language stipulated in the national law of RB(a) (and preferably in English as well).
- 2) RB(a) shall conduct formal review of the complaint and check whether the information presented by the complainant is sufficient to initiate a proceeding. If any information is missing, especially the one necessary to identify the responsible RB-signatory, RB(a) shall immediately request the missing information from the complainant.

- 3) RB(a) shall inform by email other RB-signatories about the complaint and share with them the initial information.
- 4) Before further RB(a)'s actions, the RB-signatories shall jointly within five working days determine whether:

- a) the cause of the complaint is related to individual Member States and not to the C-OSS.

In the case where the cause of a complaint is not related to the C-OSS and RB(a) is not the territorially competent RB, the proceedings shall be held according to the rules of the concerned RB – hereinafter called “RB(b)”. If RB(a) is allowed to redirect complaints, and if RB(b) is allowed to receive redirected complaints, then RB(a) shall forward the complaint to the RB(b). If RB(a) is not allowed to redirect complaints, then it shall inform the complainant about its lack of authority and the necessity to have the complaint lodged at RB(b). If RB(b) is not allowed to receive any redirected complaints from another RB-signatory, then RB(a) shall inform the complainant about this fact as well as the need to lodge the complaint with the RB(b). In the last two cases the national administrative law of RB(b) shall stipulate which language(s) shall be used and which party shall undertake the necessary translations. RB(b) then carries out the proceeding according to its national law.

The same procedure applies accordingly if there are more than one responsible RBs, i.e. in case when the complaint involves several national networks.

- b) the cause of the complaint is related to the C-OSS

In this case, if RB(a) is not The President of UTK then RB(a) shall inform the complainant that it is not authorised to handle the complaint based on its own competency rules and shall advise the complainant to lodge the complaint with the President of UTK. The complaint should be prepared in Polish and also preferably in English. In case the complaint is not prepared in Polish and the complainant requests the issuing of the decision in a language other than Polish, the cost of translations shall be borne by the complainant.

The following steps concern the case when the complaint is related to the C-OSS

The proceeding is governed by the national regulations pertaining to the President of UTK in the context of Regulation 913/2010. The final decision shall be issued no later than two months after the President of UTK will have received all necessary information (in paper and preferably in digital format as well, if possible).

- 5) The President of UTK shall ask involved market players for comments on the complaint and, if necessary, request further information in accordance with its national legislation. The President of UTK may request information from other RB-signatories in accordance with Regulation 913/2010, which shall provide the information by way of an official letter as soon as requested information is available to them.
- 6) The President of UTK shall contact all RB-signatories in order to share the received information and request comments on it to be provided within two weeks. The sharing of information shall be done without prejudice to national acts regulating the protection of business secrets. Comments of other RB-signatories will not be provided to third parties but may be provided to other RB-signatories.
- 7) The President of UTK shall review the information and comments and, if necessary, in order to issue decisions, shall request further information in accordance with its national legislation and Regulation 913/2010.

- 8) The President of UTK shall send the result of the investigation (hereafter referred to as “the summary of findings”) to other RB-signatories in English via e-mail. The RB-signatories may provide their comments on the summary of findings within five working days. After the consultation the President of UTK shall issue its decision.
- 9) The President of UTK shall issue the decision on the complaint in the official language determined in accordance with Polish administrative law and deliver it by registered mail to the complainant, the C-OSS, and, where applicable, also to the IMs and all other concerned parties. In order to ensure that the stakeholders receive information of the outcome of the procedure as soon as possible, the President of UTK shall also prepare a summary of the issued decision in English and send it to the parties concerned together with the decision. The English summary of the decision shall have no legal force. The decision may be subject to juridical review according to the legislation of the Republic of Poland.
- 10) The President of UTK shall send the English summary of the decision to all RB-signatories and publish it and its English summary on UTK’s website without prejudice to the protection of business secrets. Should there be any translations of the decision, the Polish version shall be binding.
- 11) After the publication of the decision, the RB-signatories shall together assist the President of UTK in the monitoring of whether the C-OSS complies with it.
- 12) If the C-OSS does not comply with the decision, the President of UTK shall begin and conduct the proceeding aiming at the execution of the duty to oblige to the decision, in accordance with the national law as binds the President of UTK. The President of UTK shall then inform other RB-signatories about the initiation of such procedure and, if it considers such action necessary, request from them information in accordance with Regulation 913/2010.

In order to ensure the transparency of this Cooperation Agreement, the RB-signatories shall:

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

This Cooperation Agreement shall not entail any financial commitment on the part of the signatory RBs.

This Cooperation Agreement shall enter into force on the day on which it is duly signed by authorised representatives of all signatory RBs. Each Party will receive one original version of this Agreement.

Signatory RBs agree to review this Cooperation Agreement if any of them shall deem such action necessary.

Signed in English language.

Annex No. 1

**Adoption of the
COOPERATION AGREEMENT
BETWEEN THE REGULATORY BODIES SITUATED IN THE
COUNTRIES OF THE RAIL FREIGHT CORRIDOR “AMBER”**

Koper — Ljubljana —/Zalaszentivan — Sopron/Csorna —/(Hungarian-Serbian border) — Kelebia — Budapest —/— Komárom — Leopoldov/Rajka — Bratislava — Žilina — Katowice/Kraków — Warszawa/Łuków — Terespol — (Polish-Belarusian border)

I hereby declare that the President of Urząd Transportu Kolejowego of the Republic of Poland agrees with the content of Cooperation Agreement and I consider it adopted.

.....
IGNACY GÓRA

President – Urząd Transportu Kolejowego



Date of signature

2021 07. 19

Annex No. 2

**Adoption of the
COOPERATION AGREEMENT**

**BETWEEN THE REGULATORY BODIES SITUATED IN THE
COUNTRIES OF THE RAIL FREIGHT CORRIDOR “AMBER”**

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I hereby declare that Dopravný úrad of the Slovak Republic agrees with the content of Cooperation Agreement and I consider it adopted.

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PAVOL HUDÁK

Head – Dopravný úrad

TRANSPORT AUTHORITY

M. R. Stefanik Airport
823 05 Bratislava
Slovak Republic

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Date of signature

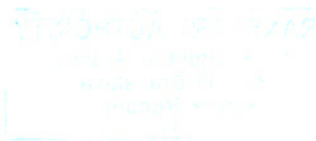
18.08.2021

Annex No. 3

**Adoption of the
COOPERATION AGREEMENT
BETWEEN THE REGULATORY BODIES SITUATED IN THE
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I hereby declare that Vasúti Igazgatási Szerv of Hungary agrees with the content of Cooperation Agreement and I consider it adopted.



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TAMÁS VERÉB
Head – Vasúti Igazgatási Szerv



2021. 01. 31.

Date of signature

Annex No. 4

**Adoption of the
COOPERATION AGREEMENT
BETWEEN THE REGULATORY BODIES SITUATED IN THE
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I hereby declare that Agencija za komunikacijska omrežja in storitve of the Republic of Slovenia agrees with the content of Cooperation Agreement and I consider it adopted.


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TANJA MUHA


Director General – Agencija za komunikacijska omrežja in storitve

Date of signature

9.9.2021

