

# COOPERATION AGREEMENT

BETWEEN THE REGULATORY BODIES SITUATED IN THE COUNTRIES OF THE  
ALPINE – WESTERN BALKAN CORRIDOR

*Salzburg-Villach-Ljubljana-/Wels/Linz-Graz-Maribor-Zagreb-Vinkovci/Vukovar-Tovarnik-Beograd-  
Sofia-Svilengrad*



## PREAMBLE

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, as last amended by Regulation 1316/2013 of the European Parliament and of the Council of 11 December 2013 (hereafter: Regulation), 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 the corridor. 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, as last amended by Commission Delegated Decision 2017/2075 (hereafter: Directive).

Article 57 of the Directive provides that the regulatory bodies established in the Member States shall cooperate closely and may establish working arrangements accordingly.

The treaty establishing the Transport Community (Official Journal of the European Union, L 278, 27 October 2017) signed between the Union and the South East European Parties provides for a legal basis for Serbia to participate in rail freight corridors by mentioning Regulation (EU) No 913/2010 among applicable provisions of Union law. On 24 November 2017 Serbia ratified the Transport Community Treaty which has been applied provisionally since 27 November 2017. The purpose of this agreement is to set up the guidelines for this cooperation as part of a coordinated and efficient approach in order to implement processes that are easily accessible to the market players.

The scope of regulation under this agreement is the Alpine – Western Balkan Corridor (Rail Freight Corridor No. 10), established on the basis of the Regulation and Commission Implementing Decision (EU) 2018/500 of 22 March 2018 in compliance with the proposal to establish the Alpine-Western Balkan rail freight corridor with Article 5 of Regulation.

The Corridor includes the railway lines *Salzburg-Villach (AT)-Ljubljana (SI)-Wels/Linz-Graz (AT)-Maribor (SI) -Zagreb-Vinkovci/Vukovar-Tovarnik (HR)-Beograd (SRB)-Sofia-Svilengrad (BG)*.

The Management Board of the Corridor is a European Economic Interest Group within the meaning of Council Regulation (EEC) No 2137/85 of 25 July 1985, with its registered office located in Ljubljana (SI).

## PARTIES

The signatories of this agreement are the regulatory bodies (hereafter: RBs) competent for monitoring the competition in the Corridor under the Regulation and the Directive:

- **Schienen-Control GmbH**, regulatory body of the Republic of Austria,
- **AKOS - Agencija za komunikacijska omrežja in storitve Republike Slovenije**, regulatory body of the Republic of Slovenia,
- **HAKOM – Hrvatska regulatorna agencija za mrežne djelatnosti**, regulatory body of the Republic of Croatia,
- **Direkcija za železnice Republike Srbije**, regulatory body of the Republic of Serbia,
- **Изпълнителна агенция „Железопътна администрация“**, regulatory body of the Republic of Bulgaria.

## *Article 1*

### **Functions of the regulatory bodies**

1. Article 20 of the Regulation in conjunction with the Directive provides the legal basis for the RBs to cooperate in monitoring the competition on the rail freight corridors to avoid discrimination.
2. In accordance with Article 13 (5) in conjunction with Article 20 of the Regulation, RBs are jointly responsible for monitoring competition in the RFC Alpine - Western Balkan by:
  - i. ensuring non-discriminatory access to the RFC Alpine - Western Balkan;
  - ii. ensuring the appeal function as defined by Article 56 of the Directive regarding international freight traffic related to the RFC Alpine - Western Balkan.
3. The jurisdiction of the RBs is territorially defined and framed by the applicable national and European legislations.

## *Article 2*

### **Responsibilities**

1. As the territorial principle applies, the RBs regulate the activity of the infrastructure managers and other national entities (in particular operators of service facilities) related to the RFC Alpine - Western Balkan in accordance with their national and European legislation.

Upon receipt of a complaint or having initiated an ex-officio investigation regarding international rail freight services related to the RFC Alpine - Western Balkan, the concerned RB shall consult the other RBs involved in RFC Alpine - Western Balkan.

#### **2. Handling complaints and ex-officio investigations regarding the C-OSS**

Without prejudice to the powers and duties of the RBs and in order to guarantee fast decision-making, as the management board for the RFC Alpine - Western Balkan is legally incorporated in Ljubljana (Slovenia), and owing to the multiple responsibilities for regulating the C-OSS, the responsible Regulatory Body (hereafter: RespRB) in the event of a complaint or an ex-officio investigation pertaining to acts of the management board or of the C-OSS, shall be **Agencija za komunikacijska omrežja in storitve Republike Slovenija (AKOS)**.

Accordingly, AKOS will be the RespRB to handle complaints concerning in particular:

- i. decisions taken by the C-OSS with regard to applications for pre-arranged train paths pursuant to article 13 (3) and specified in Article 14 (3) and for the reserve capacity specified in Article 14 (5) of the Regulation;
- ii. failure of the C-OSS to provide applicants with the basic information according to Article 13 (2) of the Regulation and to forward infrastructure requests to the competent bodies.

#### **3. Handling complaints and ex-officio investigations regarding national infrastructure managers / service facilities operators**

For other complaints and ex-officio investigations, the RespRB shall be the regulatory body of the country where the concerned infrastructure manager or the service facilities operator is located. In particular, the scope of responsibility includes:

- i. decisions taken under Article 13 (4) of the Regulation;
- ii. decisions related to the allocation of train paths by a national infrastructure manager;
- iii. decisions related to the access to service facilities.

### *Article 3*

#### **Principles of cooperation between the regulatory bodies**

1. RBs shall consult each other and exchange all relevant information that they themselves have the right to request under their national legislation. The RBs shall exchange all necessary information before taking any decision. They shall make it available to the other RBs as soon as possible.
2. The exchange of information comprises information concerning both individual complaints and ex-officio investigations by the RBs, pursuant to Article 20 (3), (4) and (5) of the Regulation.
3. As all RBs concerned by a complaint or by an ex-officio investigation must be consulted in the investigation process regarding international rail freight services related to the RFC Alpine - Western Balkan and, if necessary, transfer all relevant information that they have the right to request, in accordance with Articles 20 (3), 20 (4) and 20 (5) of the Regulation, the process of cooperation is set out in Articles 4 and 5.

### *Article 4*

#### **Cooperation process**

##### *Initial review*

1. Any RB on the RFC Alpine - Western Balkan can be addressed by a complainant pursuant to 56 (1) of the Directive and in conjunction with Article 20 of the Regulation. Upon receipt of a complaint, the receiving RB acknowledges the receipt according to its national legislation.

The RB receiving the complaint conducts a formal review of the complaint and checks whether the information given by the complainant is complete and sufficient to initiate a case. When the information is incomplete or insufficient, the RB receiving the complaint requests the complainant to provide with that information without delay.

The RB receiving the complaint consults the other RBs according to the provisions of Article 20 of the Regulation, transfers to them the relevant information and asks them for comments and information.

2. Within five working days from the receipt of the complete information, RBs shall determine unanimously if the cause of the complaint is related to acts of the management board or of the C-OSS or not in order to determine the RespRB according to Article 2 of this Cooperation Agreement.

When the RB receiving the complaint is not the RespRB, it sends information to the RespRB without undue delay and informs the complainant that it is not competent to handle the complaint and provides the complainant with the contact details of the RespRB.

Without prejudice to paragraph 1 of this article, the RBs shall not accomplish any act, any proceeding or take any measures regarding the parties concerned as long as they do not have designated the RespRB.

The RespRB shall review the complaint according to the procedure set out in section *Review and decision* below.

3. Whenever a RB decides on its own initiative to start investigations regarding international rail freight services related to the RFC Alpine - Western Balkan in order to correct discrimination against applicants, market distortion and any other undesirable developments relating to RFC Alpine - Western Balkan, it shall inform the other RBs without undue delay and ask them for comments and information.

The RBs shall determine unanimously if the cause of the investigation is related to acts of the management board or of the C-OSS or not in order to determine the RespRB according to Article 2 of this Cooperation Agreement.

When the RB having started investigations is not the RespRB, it sends without undue delay all relevant information to the RespRB.

Once the RespRB has been designated, the other RBs shall not accomplish any act, any proceeding or take any measures regarding the parties concerned.

The investigations are carried out according to the RBs' national legislations.

#### *Review and decision*

4. The proceeding is based on the national legislation of the RespRB in the framework of the Regulation and of the Directive.

5. In case of a complaint, the RespRB sets the deadlines for handling the complaint according to its national rules.

The RespRB informs in writing the parties concerned that it has received the complaint. Subsequently, it sends to these parties appropriate information, including the complaint, and asks for comments. Such parties might include railway undertakings, infrastructure managers, the C-OSS, other regulatory bodies or any other stakeholders.

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

6. All RBs of RFC Alpine - Western Balkan ensure their cooperation in the investigation of the RespRB by providing all information legally available to them. In particular, RBs shall cooperate in order to ensure that the RespRB complies with the deadlines applicable under national law.

7. The RespRB drafts a decision and consults the RBs involved and the parties when required by national legislation. The RBs involved can comment on the proposed decision. The RBs shall provide the RespRB with their comments without undue delay. The RespRB shall take into account every comment made on the proposed decision by all the RBs before taking a decision.

8. After having consulted, where applicable, the RBs involved, the RespRB decides and informs according to its national legislation the parties concerned, the C-OSS and, where applicable, the infrastructure manager or the service facilities operator that is involved.

9. The final decision is taken no more than six weeks after receiving all relevant information in compliance with the applicable European and national legislation.

10. The RespRB sends the decision to the involved parties in the original language and the summary of the decision in English to the other RBs.

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

12. The language to be used in the RespRB's procedure is determined in accordance with the applicable national legislation.

#### *Article 5*

##### **Formal requirements**

The exchange of information between RBs will be in English. The RBs shall exchange contact details and ensure that they are up to date.

#### *Article 6*

##### **Review of the agreement**

The RBs of the RFC Alpine - Western Balkan agree to review this agreement if at least one of them considers it is necessary.

#### *Article 7*

##### **Miscellaneous provisions**

The signatory RBs will send this agreement to the Management Board of the RFC Alpine - Western Balkan, to be integrated in the Corridor-Information-Document.

The signatory RBs will publish this agreement on their respective websites.

#### *Article 8*

##### **Entry into force**

Due to COVID-19 situation, each RB confirms content of this agreement in a separate annex. Signed annexes are part of this agreement. This agreement comes into force on the day following the day when the last signature is given.

Annex 1

Adoption of the  
**COOPERATION AGREEMENT**

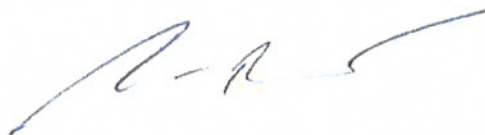
BETWEEN THE REGULATORY BODIES SITUATED IN THE COUNTRIES OF THE  
ALPINE – WESTERN BALKAN CORRIDOR

*Salzburg-Villach-Ljubljana-/Wels/Linz-Graz-Maribor-Zagreb-Vinkovci/Vukovar-Tovarnik-  
Beograd-Sofia-Svilengrad*

I hereby declare that **Schiene**n**-Control GmbH** agree with the content of the  
Cooperation Agreement and I consider it adopted.

Maria-Theresia Röhler, LL.M.

Managing Director



Date of signature

*2.9.2020*



AKOS

AGENCY FOR COMMUNICATION  
NETWORKS AND SERVICES OF THE  
REPUBLIC OF SLOVENIA

Annex 2

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*Salzburg-Villach-Ljubljana-/Wels/Linz-Graz-Maribor-Zagreb-Vinkovci/Vukovar-Tovarnik-  
Beograd-Sofia-Svilengrad*

I hereby declare that **Agencija za komunikacijska omrežja in storitve Republike Slovenije (AKOS)** agree with the content of Cooperation Agreement and I consider it adopted.

Tanja Muha, MSc

Director of Agency

Date of signature

*2.3.2020*





Annex 3

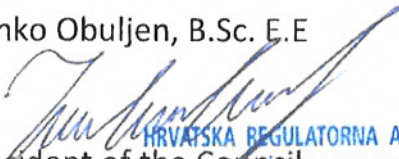
## Adoption of COOPERATION AGREEMENT

BETWEEN THE REGULATORY BODIES SITUATED IN THE COUNTRIES OF THE  
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Beograd-Sofia-Svilengrad*

I hereby declare that **Hrvatska regulatorna agencija za mrežne djelatnosti (HAKOM)** agree with the content of Cooperation Agreement and I consider it adopted.

Tonko Obuljen, B.Sc. E.E

  
President of the Council  
HRVATSKA REGULATORNA AGENCIJA  
ZA MREŽNE DJELATNOSTI  
Roberta Frangeša Mihanovića 9  
2 Z A G R E B

Date of signature

7th September 2020



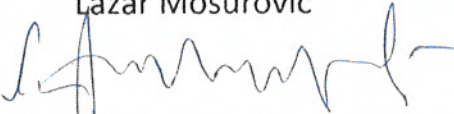
РЕПУБЛИКА СРБИЈА  
ДИРЕКЦИЈА ЗА ЖЕЛЕЗНИЦЕ

Annex 4

Adoption of **COOPERATION AGREEMENT**  
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Beograd-Sofia-Svilengrad*

I hereby declare that **Direkcija za železnice Republike Srbije** agree with the content of Cooperation Agreement and I consider it adopted.

Lazar Mosurović  
  
Acting Director

Date of signature  
*03.09.2020 g.*



**“RAILWAY ADMINISTRATION”  
EXECUTIVE AGENCY**

Annex 5

Adoption of the  
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Sofia-Svilengrad*

I hereby declare that **Изпълнителна агенция „Железопътна администрация“**  
agree with the content of Cooperation Agreement and I consider it adopted.



Veselin Vasiliev

Executive Director

*15 09 2020г.*

Date of signature