

courtesy translation – only the Italian text is authentic

Annex A to Decision No 173/2021 of 6 December 2021

**Indications and requirements concerning the
“Network Statement 2023” submitted by the infrastructure manager
of the national rail network, R.F.I. S.p.A.,
and the “Network Statement 2022”**

Index

Introduction	3
1. General information	5
1.1 RNE Information Systems	5
2. Characteristics of the infrastructure	5
2.1 eNS Portal. Access credentials	5
2.2 Rail networks connected to the national railway infrastructure	5
3. Conditions of access to the infrastructure	6
3.1 Capacity changes and renewal of Framework Agreements.	6
3.2 Insurance obligations of applicants	9
3.3 For of FA for PSO services: minimum quality standard for FAs for transport services subject to Public Service Obligations and functionality for the purpose of tendering procedures	10
4. Allocation of capacity	11
4.1 Agreements with the operators of connected facilities to request paths of the freight segment.	11
4.2 Schedules for submission of path requests during the working timetable period	15
4.3 Information provided by the IM before the transport services in respect to capacity reductions.	17
4.4 Late applications	17
4.5 Transport of dangerous goods	18
4.6 TTR project	20
5. Tariffs and services	21
5.1 Tariff system	21
5.2 Services included in the minimum access package and information to customers.	21
5.3 Assistance to Persons with Reduced Mobility (PRM) as defined in Regulation (EC) no. 1371/2007 and Regulation EC no. 782/2021	22
5.4 Penalties for exceeding scheduled layover times at border stations	25
6. Execution of the contract	25
6.1 Operating procedures for passenger announcements in the case of snow/ice emergency conditions	25
6.2 Notification obligations of RUs and international coordination between IMs.	26
6.3 New procedures for the rail infrastructure clearance operations with equipped emergency vehicles	27
6.4 Management rules, customer satisfaction	29
7. Service facilities	29
7.1 Procedure for processing compensation claims for Persons with Reduced Mobility (PRM) pursuant to Measure 5.2 of Decision No 106/2018	29
7.2 Facilities features, data on passenger traffic at stations and stops	30
7.3 Ticket office/customer reception premises in railway stations	32

Introduction

By note no RFI-DCO\PEC\P\2021\2212 of 30 September 2021, registered as received under ART ref. no. 15162/2021, Rete Ferroviaria Italiana S.p.A. (hereinafter: RFI or, alternatively, IM) submitted the final draft of the Network Statement 2023 (hereinafter: NS 2023), together with the comments received from stakeholders following the consultation, as well as its ensuing assessments. The structure of the sections of the NS 2023 is the same as in the previous NS 2022 which was an innovation compared to the previous versions, as RFI intended to apply a new common standard defined by the organisation of European railway infrastructure managers “Rail Net Europe” (hereinafter: RNE), i.e. the “*Network Statement Common Structure and Implementation Guide for Timetable 2022*”.

This document — whose objective scope refers exclusively to the national railway infrastructure managed under a concession agreement by RFI S.p.A. pursuant to the Decree of the Minister for Transport and Navigation No 138T of 31 October 2000, under the conditions laid down therein and in its later additions, as well as in the Programme Contract concluded with the State — the Authority provides its indications and requirements, pursuant to Article 14 (1) of Legislative Decree no 112 of 15 July 2015 and Article 37 of Decree-Law no 201 of 6 December 2011, converted with amendments into Law no 214 of 22 December 2011, with respect to sections 1, 2, 3, 4, 5, 6 and 7 of the a.m. NS 2023.

For each of these sections and for each of the subjects under consideration, reported below are:

1. the Authority’s relevant assessments following the analysis of the draft NS 2023 sent by RFI on 30 September 2022;
2. the ensuing indications and requirements for the Infrastructure Manager of the national rail network.

In providing such indications and requirements, account has been taken of the outcome of the Authority’s activities carried out in the area of interest over the last year, including in relation to the reports received and the findings from the IM’s hearing on 20 October 2021 and to the remarks of the IM submitted by note of 28 October 2021 (ART ref. no. 17085/2021); special attention was paid, *inter alia*, to the following: issues relating to TTR project, transport of dangerous goods; accessibility for persons with reduced mobility; correct attribution of causes of delay for international transport services; capacity allocation at border stations; timing for submission of applicable working timetable requests, renewal of Framework Agreements.

The indications and requirements to be applied already from the 2021/2022 timetable are highlighted with **blue formatting** (in this case, although the numbering of sections, subsections, and paragraphs is referred to the NS 2023, it shall be understood as referring to the sections, subsections, and paragraphs of the NS 2022 which, while possibly presenting a different numbering, relate to the same subjects).

Main abbreviations used in the document:

Authority:	Transport Regulation Authority (<i>Autorità di regolazione dei trasporti</i>);
DD:	Delegated decision;
ERA:	European Union Agency for Railways;
FA:	Framework agreement;
HS/HC:	High Speed/High Capacity;
IM:	National railway infrastructure manager;
MIT:	Ministry of Infrastructure and Transport;
NS:	Network Statement;
NSCS:	Network Statement Common Structure and Implementation Guide for Timetable 2022;
PCS:	Path Coordination System;

PR:	Performance Regime;
PRM:	People with reduced mobility;
PSC:	Public Service Contract;
PSO:	Public Service Obligations;
Regulation:	Implementing Regulation (EU) 2017/2177;
RFI:	Rete Ferroviaria Italiana S.p.A.;
RNE:	Rail Net Europe;
RU	Railway undertaking;
TSI:	Technical specifications of interoperability;

1. General information

1.1 RNE Information Systems

1.1.1 Assessments by the Authority

Since June 2020, RNE, together with the Union Internationale pour le Transport Combine Rail-Route (UIRR), has taken over the management of the *Rail Facilities Portal* from the European Commission. Therefore, in paragraph 1.7.2 of the NS, RFI should list the *Rail Facilities Portal* among the information systems made available by RNE.

1.1.2 Indications

1.1.2.1 The IM is given the indication to include, in paragraph 1.7.2 of the NS, the Rail Facilities Portal as one of the information systems made available by RNE.

1.1.3 Requirements

No requirements are provided.

2. Characteristics of the infrastructure

2.1 eNS Portal. Access credentials

2.1.1 Assessments by the Authority

Paragraph 2.1 of the NS clearly indicates that access to the eNS portal is possible by using login details, but not that such details are issued to anyone upon request. On the contrary, this information is available on the IM's website, where it is reported, on the relevant access page to the eNS portal, that: *"In order to consult eNS, users simply need to access the portal and register by clicking on the 'Create account' button, or use their authentication credentials for the RFI Applications Portal (credentials used to access the previous portal, which is no longer updated, NS WEB)."* This possibility should therefore also be made clear in the document under consideration.

2.1.2 Indications

2.1.2.1 The IM is given the indication to clearly express, in paragraph 2.1 of the NS, that the issuance of credentials for access to the eNS portal is immediately granted to whoever might requests so, as indicated in the instructions on the IM's website.

2.1.3 Requirements

No requirements are provided.

2.2 Rail networks connected to the national railway infrastructure.

2.2.1 Assessments by the Authority

In paragraph 2.2.2 of the NS, the IM lists the connecting stations between the national rail infrastructure and other networks; with reference to the foreign network interchange station, the Authority noted that the agreements concluded by the IM apply different criteria depending on the station. For example, at Ventimiglia station, capacity allocation is "led" by SNCF Réseau, while RFI is responsible for leading capacity allocation for Modane; while it is not clear which infrastructure manager a railway undertaking should turn to (presumably to the respective manager of the internal section at the State borders), for the use of the infrastructure

capacity, railway undertakings are clearly obliged to enter into an access contract with the infrastructure manager responsible for the State borders.

A different situation arises at the border with Slovenia, where the IM RFI allocates the capacity of the Gorizia Centrale-Nova Gorica section, while the infrastructure manager Slovenske železnice-Infrastruktura d.o.o. is responsible for the allocation of capacity of Sezana-Villa Opicina and Stanjel-Villa Opicina section and the infrastructure access contract is concluded by the railway undertakings with the infrastructure manager responsible for the allocation of capacity of the section used (i.e. for Villa Opicina station, the trains ending their journey in Villa Opicina, originating from Slovenia, do not conclude an access contract with the IM RFI, but with the IM of the Slovenian network. In this regard, RFI stated at the hearing that this case should not occur in the future because the activities to amend the agreement are already underway, in cooperation with the Slovenian IM, for the purpose of bringing it in line with the model in force for the other crossing points.

It should be also noted that, at the hearing, the IM clarified how, as regards the crossing points with France:

- in the case of Ventimiglia crossing point: RFI provides allocation of capacity at Ventimiglia station, while the French IM schedules capacity from Ventimiglia to the IT/FR State border,
- in the case of Modane crossing point: traffic from the IT/FR State border to Modane is scheduled by RFI, while SNCF Réseau provides allocation of capacity at Modane station and scheduling of incoming traffic to Ventimiglia station.

Although the above peculiarities are certainly known to applicants for capacity already operating on international routes, they are not clear under paragraph 2.2.2 of the NS; since the information for access to the infrastructure must be provided in a transparent manner, the NS should be therefore supplemented so as to clearly identify both the infrastructure manager responsible for receiving the requests for capacity and the infrastructure manager with which the railway undertakings must conclude the infrastructure access contract.

As regards the process of amending the agreement with the Slovenian manager, RFI is required to inform the Authority of the progress that will be achieved in 2022, so that the latter may evaluate the adoption of measures during the procedure for the definition of requirements and indications for the NS 2024.

2.2.2 Indications

2.2.2.1 The IM is given the indications to inform the Authority, in the first instance no later than 15 June 2022 and, as an update, no later than 14 October 2022, on the progress of the procedure for amending the agreement concluded with the Slovenian national network manager, aimed at aligning the management model of the stations concerned with that already adopted for the other national crossing points.

2.2.3 Requirements

2.2.3.1 The IM is required to supplement paragraph 2.2.2 of the NS by specifying, for each station and border sections with foreign networks, the IM to which applicants shall submit their requests for capacity and the IM with which to conclude the infrastructure access contract.

3. Conditions of access to the infrastructure

3.1 Capacity changes and renewal of Framework Agreements.

3.1.1 Assessments by the Authority

In paragraph 3.3.1 (a) of the NS, the IM provides that, for the purposes of the renewal of a FA, the applicant shall submit its request at least 15 months before the start of the relevant working timetable, together with the authorisation granted by the Authority. This provision has been subject to several comments by the

participants in the consultation, both with regard to the possibility of submitting such authorisation during the procedure of renewal of the FA by RFI, and with regard to the need that, in order to ensure certainty in the procedural schedules and limit unsustainable uncertainty for industrial processes, the Authority identifies a time limit within which the applicant must submit its request for authorisation to the Authority.

To meet the needs expressed by the economic operators involved in the consultation, the Authority considers it appropriate to set the deadline for submitting applications for authorisation for the renewal of a FA; in view of the complex preliminary analyses to be carried out and the need not to exceed the deadline of X-15 for the submission of the request for renewal to the IM, this deadline should be fixed, including based on the findings of the latest hearing held with RFI on 15 March each year, so that the request is made immediately after the formalisation of the framework agreements in the current year, and therefore based on a stable background concerning the level of capacity reserved by the applicants on the network.

As regards the timing of the response by the applicant for capacity, in the final FA draft drawn up by the IM, it is noted that the proposed five-day deadline compared to the 10 days in the previous editions of the NS seems, at a first analysis, to be inconsistent with the potential complexity of the verification activities on the document for the purpose of its final acceptance; in its counter-arguments with respect to the comments submitted by the participants following the consultation, RFI stated that *"The proposal to amend the timeframe for returning the signed draft Agreement, in full acceptance thereof, within 5 days of receipt of the proposal is considered consistent with the deadlines for the return of the Infrastructure Access Contract and, moreover, sustainable by the Applicants as the same clauses and annexes to the FA are, at this stage, already shared in advance between the Parties. For these reasons, the proposed timetable is deemed reasonable to carry out the appropriate final verifications"*. This counter-argument by RFI is based on the assumption that the documentation building the final FA proposal has been agreed in advance with the applicant; however, in the Authority's view, this assumption cannot be considered as an adequate guarantee of the possible reduced timing for the legitimate technical and organisational needs of verification by the applicants, and this reduction, on the other hand, was not justified by RFI on the basis of its own precise and clear procedural needs. Therefore, the 10-day period currently provided should be maintained, both in the light of the above considerations and in view of the absence of potential criticalities, as stated by the IM at the hearing.

In addition, in its accompanying report to the first draft of the NS 2023, RFI underlined that in paragraph 3.3.1: *"Finally, it has been made clear — under point (c) "capacity changes" — that capacity changes may concern only increases in the frequency of the already allocated capacity."* In response to the opposite comments made by the participants in the consultation, RFI argued: *"With the proposed amendment, the IM intends to specify that the priority guaranteed in the annual allocation to the paths covered by FA can be extended even beyond the operating days guaranteed in the FA and up to a maximum limit of 10 % compared to the allocated capacity. On the contrary, a time slot other than that guaranteed in the FA for O/D, stops, rolling stock, etc., cannot have the same priority as what was already verified by the IM when harmonising the FAs. What has already been provided does not, of course, exclude the possibility for the Applicant to annually request paths that are not guaranteed in the FA, it being understood that these paths do not enjoy the same priority as the paths in the FA"*. At the hearing, RFI clarified, at the request of the Authority's offices, how the proposed provision does not extend to the requests for capacity changes of Framework Agreements through appropriate amending/supplementing arrangements, and therefore this limit is related only to the request for annual capacity.

In this regard the Authority notes that, although the intention of RFI has been clarified and while it must be considered acceptable and correctly reasoned, it is necessary to better specify it in the paragraph, also with reference to the NS 2022, as a misinterpretation of the proposed text would prevent the request, by the applicants holding FAs, for the integration of a FA with new services, as it was largely carried out to date and provided under Article 23 (4) of Legislative Decree No 112/2015, which reads: *"Amendments or limitations to the terms of the framework agreement shall be allowed provided that they are designed to enable better use to be made of the railway infrastructure."* In view of the above, it is also necessary to provide for an *ad hoc*

specification in Article 9 of the draft FA of the NS (Annex 2 to Section 3) and in Article 8 of the draft FA for PSO services of the NS (Annex 3 to Section 3).

With reference to the provisions concerning the processing of personal data, the Anti-Bribery Management System and IT security, introduced by the IM — in compliance with the relevant legislative developments — in the contractual forms annexed to Sections 3 and 7 of the NS 2023, as no critical issues are found in this respect, the proposal of the IM, as anticipated at the hearing and confirmed by note of 28 October 2021 (ART ref. no. 17085/2021), to make these updates also in the corresponding contractual forms of the NS 2022, may be accepted.

3.1.2 Indications

3.1.2.1 The IM is given the indication to ensure, in the contractual forms referred to in Sections 3 and 7 of the NS 2022, the updates included in the corresponding contractual forms of the NS 2023, relating, in particular, to: processing of personal data, Anti-Bribery Management System and IT security.

3.1.3 Requirements

3.1.3.1 The IM is required to supplement paragraph 3.3.1 (a) of the NS with the following timeframes for the applicant's request to the Authority for authorisation to renew the FA:

- the submission of the request for authorisation for the renewal of the FA shall be submitted to the Authority within the mandatory deadline of 15 March of the year in which the renewal of the FA is intended to be requested to the IM.

3.1.3.2 The IM is required to keep the 10-day deadline from receipt of the final FA proposal under paragraph 3.3.1 (b) for the applicant's response.

3.1.3.3 As regards point "c) Capacity changes" of paragraph 3.3.1 of the NS, the IM is required to replace:

- a) the following paragraph *"the upscaling of the capacity, within the limits set out above, may exclusively concern increases in capacity frequency already assigned in the Framework Agreement and may be granted by the IM subject to the availability of capacity and to compliance with the ceiling laid down in paragraph 4.4.2.1."* as follows: *"Regarding the annual capacity allocation process, the upscaling of the capacity, within the limits set out above, may exclusively concern increases in capacity frequency already assigned in the Framework Agreement and may be granted by the IM subject to the availability of capacity and to compliance with the ceiling laid down in paragraph 4.4.2.1.";*
- b) the following sentence *"For any greater capacity demands, with respect to that covered by the Framework Agreement, and beyond the variation threshold provided for, the Applicant must submit an appropriate request."* with the following: *"For any greater capacity demands, with respect to that covered by the Framework Agreement, both in terms of periodicity beyond the variation threshold provided for and also with reference to requests for modification of other capacity characteristics established in the Agreement (such as, for example, different transport links and missions), the Applicant must submit an appropriate request for amendment of the Framework Agreement."*

3.1.3.4 The IM is required to specify, in Article 9 "Agreed capacity" of the standard form of Framework Agreement (Annex 2 to Section 3 of the NS), that the alterations within the limit of $\pm 10\%$ concern only increases in the periodicity of the capacity already allocated

in the Framework Agreement and can be made provided that they allow a better use of the railway infrastructure.

- 3.1.3.5** The IM is required to specify in Article 8 “Agreed capacity with the Railway Undertaking” of the standard form of Framework Agreement for PSO services (Annex 3 to Section 3 of the NS), that the alterations within the limit of $\pm 10\%$ concern only increases in the periodicity of the capacity already allocated in the Framework Agreement and can be made provided that they allow a better use of the railway infrastructure.

3.2 Insurance obligations of applicants

3.2.1 Assessment by the Authority

Paragraph 3.3.2.3 of the NS requires, among the requirements of the Third Party Civil Liability insurance, an explicit “reference also to the international agreements (e.g. CIV, RIV, AIM, Regulation EC No 1371/2007)”. The Authority notes that Article 40 of Regulation (EC) No 782/2021 (recast) provides for the repeal of Regulation (EC) No 1371/2007 on 7 June 2023 and, in Article 41, the application of the new Regulation (EU) 782/2021 from the same date. Therefore, the reference to Regulation (EC) No 1371/2007 should be amended, by making reference to both regulations and indicating that the application of Regulation (EU) No 782/2021 is scheduled to start on 7 June 2023; a similar amendment shall also be made in Annex 6 to section 3 of the NS, which contains the form “Third-party Liability Insurance Declaration of cover”.

The Authority notes that paragraphs 3.3.1.3 “Termination” and 3.3.2.6 “Contract termination” provide, respectively, that the termination of the FA and of the Infrastructure Access Contract shall take place after a notice has been sent by the IM exclusively by registered letter with proof of receipt. Having regard to the provisions of Article 5 of Decree-Law No 179/2012, converted with amendments into Law No 221/2012, concerning certified e-mail (CEM), and Article 48 of the Digital Administration Code, it should be provided that that such communication can also be forwarded via the corporate CEM.

3.2.2 Indications

- 3.2.2.1** In the context of paragraphs “3.3.1.3 Termination” and “3.3.2.6 Contract Termination”, the IM is required to supplement the text by providing, in the event of a request for termination of the FA and of the Infrastructure Access Contract, respectively, by the IM, also for the transmission via CEM. The IM will update the relevant contractual forms accordingly.
- 3.2.2.2** The IM is given the indication that, among the requirements set out in paragraph 3.3.2.3 of the NS for the Third Party Civil Liability insurance, the reference be specified to Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 “on rail passengers’ rights and obligations”, highlighting that this replaces Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers’ rights and obligations as of 7 June 2023. A similar amendment should be made to Annex 6 to Section 3 of the NS, which contains the form “Third-party Liability Insurance Declaration of cover”.

3.2.3 Requirements

No requirements are provided.

3.3 Standard forms of FA for PSO services: minimum quality standards for FAs for transport services subject to Public Service Obligations and functionality for the purpose of tendering procedures.

3.3.1 Assessment by the Authority

Measure 15 “*Quality indicators in FAs or Agreements other than the PSC*” of ART Decision No 16/2018 provides for the obligation to supplement the FA for PSO services between the Awarding Entity and the IM with the services to be provided by the IM (including minimum levels of service, monitoring procedures and penalty system). Article 9 of the standard form of Framework Agreement for PSO services set out in Annex 3 to Section 3 of the NS (former Article 8 of the corresponding form in the NS 2022) provides for this obligation, but with the possibility to comply even after the conclusion of the Framework Agreement. However, in the opinion of the Authority, this possibility is not consistent with the provision under the above-mentioned measure of ART Decision No 16/2018, and it is therefore necessary to provide that Annex G to the FA, where such content must be inserted by mutual agreement between the Awarding Entity and the IM, be annexed at the time of the conclusion of the FA.

Moreover, in response to the remarks on the conclusion and/or renewal of the FAs for regional and medium-long distance PSO services (Piedmont Region and Puglia Region, MIMS), the last paragraph of Article 9 of the FA concerning the minimum quality standards to be ensured by the IM, in accordance with Measure 15 of Annex A to ART Decision No 16/2018, and subject to negotiation with the awarding entity, should be supplemented by referring, for the sake of clarity, also to the related penalty system, among the issues considered,.

Finally, it is necessary to point out that Article 3 (2) of the form of Framework Agreement in question (which governs the case where the FA is functional to the tendering procedure for the award of the public transport service), defines the following: “... *the availability of the capacity hereunder is guaranteed for the term hereof, effective from the “first useful working timetable period”, downstream of the completion of the functional procedure ensuring the effective operation of the company that has been awarded the contract.*”. In this respect, it is not clear how the IM operates as regards the validity of the FA if the procedure is not concluded. It should be noted that tendering procedures (but, in general, award procedures) take place in the last period of validity of the PSC, typically in the last year and close to the expiry of the contract (usually at the end of the year); the request for FA must take place, in accordance with the NS, at a time prior to “X-15” compared to the relevant working timetable; therefore, any award could take place downstream of the process of submitting a request for framework capacity. In the event that, for different reasons, the awarding entity could not proceed with the final award (e.g., for any appeals), it would be forced to extend the existing PSC not to interrupt the service. Even if the current FA were to expire (and were no longer renewable), the request for FA submitted to the IM, since the award procedure has not been concluded, could not be used— even after being amended — for the services under extension, which would therefore not be covered by the FA, and would not be allowed, for example, to take advantage of the priorities guaranteed by the FA in the case of conflicting path requests. On the point at issue, RFI stated at the hearing that this case has not occurred yet. However, RFI should propose to the Authority a solution to address this case, which, although rare, could take place with potential negative effects on the supply of rail PSO services in a given territory.

3.3.2 Indications

No indications are provided.

3.3.3 Requirements

3.3.3.1 The IM is required to replace, in Article 9 of the form of Framework Agreement for PSO services, the sentence: “*The minimum quality standards and the relative system of penalties, relating to the services referred to in letters i-v, are negotiated between the Applicant and the IM.*” with the following: “*The minimum quality standards and the relative system of penalties, relating to the services referred to in letters i-v, are*

negotiated between the Applicant and the IM, referred to in Annex G, forming an integral part of this FA”.

3.3.3.2 The IM is required to replace the last sentence of Article 9 of the Form of Framework Agreement for PSO services (Annex 3 to Section 3 of the NS) as follows: *“The minimum quality standards and the relative system of penalties, relating to the services referred to in letters i-v, are negotiated between the Applicant and the IM, referred to in Annex G, forming an integral part of this FA”.*

3.3.3.3 The IM is required to propose, no later than 15 March 2022, a solution aimed at mitigating any negative effects due to the absence of a PSO FA in force, due to simultaneous late award of the tender for PSO services by a contracting authority (for reasons that are not attributable to its responsibility), resulting in no binding force of the new PSO FA and expiry of the corresponding PSO FA in force.

4. Allocation of capacity

4.1 Agreements with the operators of connected facilities to request paths of the freight segment.

4.1.1 Assessments by the Authority

In section 4.2 “Description of the process”, as part of the annual capacity allocation process, the IM has changed the timing of the applicant’s submission of the agreements with the owner/manager of the connected (service and non-service) facilities or, with the manager, if any, of RFI freight yards (which are necessary for the paths linked to the entry/exit from connected facilities); this was anticipated at the time of submission of the path request (at least eight months before the start of the working timetable) compared to the deadline previously in force, coinciding with the submission of comments for the timetable project (within 5 months before the start of the working timetable). The IM has justified this intention with greater efficiency of the allocation process, but, in the Authority’s view, it does not take into account the needs of the remaining actors in the transport system (including not only RUs, but also the owners/managers of the connected facilities/facilities of the IM, as well as the service providers in this area): these consider it excessive to assign time obligations for the definition and coordination of access agreements and service provision in the absence of any specification of even indicative time slots relating to arrival/departure of the trains concerned. On the other hand, this reference is to date represented by the draft timetable project, which therefore is a first complex coordination document on the entire national railway network by the manager, which allows the wide audience of interested parties to define, even provisionally, more detailed agreements on the different connected facilities. The IM, at the hearing, justified the proposal with the importance of ensuring that path requests for freight transport services are accompanied by a responsible consideration of the need to timely ensure the necessary capacity with regard to “last mile” facilities; however, it should be noted that the IM has never specified the existence of operational criticalities in this respect, with reference to the correct application of the existing rules.

Further, in view of the needs expressed by the IM, the latter should publish by 15 January each year a list of (service and non-service) facilities that are not owned by the IM, for which a siding connection agreement as referred to in paragraph 1 (tt) of Article 3 of Legislative Decree No 112/2015 has been regularly concluded; this type of contract, as the only instrument governing the commercial relationship between the IM and the owner/manager of the connected facilities, can well represent, for the applicants for capacity, a guarantee for the effectiveness of the above agreements with the owner/manager of the connected facilities.

The IM also inserted the following sentence, again with reference to the submission of the aforementioned agreements: *“With respect to requests relating to the subsequent timetable, in the event the agreement proposal is presented at a later date with respect to the deadline established under paragraph 4.2 (4) the*

submitted request will be considered late and reassessed based on specific timeframes reported in the NS"; in the light of the above considerations, this text should be amended by providing only for non-allocation of the path in the final project in the absence of the submission of the required specific agreements and its provision as reserve capacity within the freight catalogue referred to in Section 4.5.4 of the NS.

Finally, with reference to international services, any need to extend the obligation to communicate the foreign origin/destination of the service and the foreign railway partner undertaking, currently provided only for freight services, should be pursued also for passenger services. During the consultation, in fact, a railway undertaking has highlighted:

- 1) that the information related to the partner foreign railway undertaking and the foreign origin/destination are already available to RFI via the PCS system (i.e., RNE information system to be used for capacity requests related to international passenger services);
- 2) that *"the redundancy of the same information also in the ASTRO system is an unjustified burden for the activities of the RU"*;
- 3) that *"in a spirit of cooperation, [...] provides to include international path requests into Astro, in addition to the PCS system. In the latter case, the application of the flag "continues on another network" by RFI allows RFI to differentiate the paths ending on its network and those that continue abroad."*;
- 4) the request to remove these obligations *"or, where appropriate, to limit their scope only to cases of international path requests not conveyed via the PCS, but exclusively via ASTRO and in any case referring only to the foreign O/D and not to the commercial partner, as this information does not affect the graphics and allocation of the paths"*.

In its counter-remarks RFI has consistently underlined that this information is primarily attributable to the need to correctly identify the recipients of any penalties so as to ensure the correct and efficient capacity management at border stations, and how such penalties, as prescribed by the Authority, are to date limited only to freight services.

The Authority notes that:

- 1) the correct management of international transport, whether freight or passenger, requires the IM to know both the origin/destination of the train and the railway undertaking operating on that train and at the Italian station or border section on the foreign side;
- 2) this information is of particular importance in the case of exceptional conditions that may affect international traffic and for which the IM is clearly subject to cooperation obligations, including in terms of information sharing, with the managers of foreign neighbouring infrastructure. Article 36 (1) of Legislative Decree No 112/2015 provides that: *"In the event of disturbance to train movements caused by technical failure or accident, the infrastructure manager shall take all necessary steps to restore the operation of the service to normal. To that end, it shall draw up a contingency plan listing the various bodies to be informed in the event of serious incidents or serious disturbances to train movements. **In the event of disturbance having a potential impact on cross-border traffic, the infrastructure manager shall share any relevant information with other infrastructure managers, the network and traffic of which may be affected by that disturbance and shall cooperate with them to restore the cross-border traffic to normal.**"* (emphasis added);
- 3) the need for the IM not to require railway undertakings and applicants in general to provide data already made available through dedicated information systems (PCS, as in the case of international routes) is considered correct with a view to the efficiency of the industrial processes of economic operators;
- 4) the supply of information into the systems by the IM through the information available on ASTRO-IF, as observed by a railway undertaking association, is also carried out by means of email

communications between railway undertakings and the IM; however, these communication modes are not formally described in the NS;

- 5) paragraph 4.2 of the NS, last indent of point 2), as regards the information to be communicated by the RUs at the time of the path request (during the annual allocation process, for the applicable working timetable or short-notice) provides as follows: *“In requests for international train paths the foreign point of origin/destination (for passenger and freight segments), and the foreign RU partner (for freight segments) must be indicated in the request made through the Astro-IF.”* Indeed, PIC and PCS systems can also be used for path requests, and it is therefore necessary to make the appropriate additions.

With respect to the previous remarks, the Authority, also taking note of the absence of objections raised by the IM at the hearing, considers it necessary that the IM itself provides for the application of the reporting obligations of the foreign railway undertaking partner and of the origin/destination of the international train also to passenger transport services, where ASTRO-IF or PIC applications are used for path requests. If the PCS system is used, for freight and passenger services the information must be drawn, by the IM, from this system, to feed its databases that are usually powered by Astro-IF and PIC. To better specify the operating modalities of this “interface” between PCS and ASTRO-IF/PIC, to be specified in the NS, it is finally considered necessary that the IM supplements the NS appropriately.

The cases, referred to in paragraph 4.4.1, which allow to forward five years in advance the request for capacity to the IM for the conclusion of the FA, include the following: *“d. the scheduling of the services stipulated in the request is related to the transport activities provided in a public service contract.”* The following paragraph reads as follows *“The former 5-year limit from the planned start of the service is reduced to 18 months compared to the start of the service time in the event that the request for framework capacity is finalised: upon the renewal of existing FAs; upon signing a new FA, submitted by an applicant holding an existing FA and no longer renewable.”*. Considering that for PSO services the entity holding a FA is always the same (typically the Region) and that, according to the wording of paragraph 4.4.1, both limits would be simultaneously applicable, with ensuing inconsistency with respect to the existing rules, it should be specified that the reduction to 18 months, referred to in the second paragraph, should not be applicable to the requests for FAs made by entities awarding PSO services.

Finally, paragraph 4.4.2.2 *“Coordination process in the framework capacity allocation procedure”* stipulates that *“[...] the IM shall perform a second round of coordination pursuant to Article 10, paragraph 5 of Regulation 2016/545/E, and apply the priority criteria of section 4.4.5.2 with a view to arriving at a further proposal for the allocation of framework capacity for new Applicants and any existing Framework Agreement holders.”*; in this regard, it should be noted that the reference to paragraph 4.4.5.2 is incorrect, as it is not in place in the NS. Therefore, this reference should be amended by referring to paragraph 4.6.2 *“Train path priority criteria”*.

4.1.2 Indications

- 4.1.2.1** With regard to paragraph 4.4.2.2 of the NS, the IM is given the indications to replace the incorrect reference to the non-existent paragraph 4.4.5.2 with the correct reference to paragraph 4.6.2 of the NS.

4.1.3 Requirements

- 4.1.3.1** The IM is required, in section 4.2 of the NS, to keep, as part of the annual capacity allocation process, as the time limit for the submission of agreements between the owner/manager of connected facilities or with the operator of RFI freight yards, the deadline corresponding to the submission of observations on the timetable project.
- 4.1.3.2** The IM is required to replace, in section 4.2, the following period *“With respect to requests relating to the subsequent timetable, in the event the agreement proposal is presented at a later date with respect to the deadline established under paragraph 4.2 (4), the submitted request will be considered late and reassessed based on specific timeframes reported in the NS.”* as follows: *“With respect to requests relating to the*

subsequent timetable, in the event the agreement proposal is presented at a later date with respect to the deadline established for the presentation of observations regarding the draft working timetable, the train path will not be assigned and will be available as a residual capacity in the freight catalogue indicated in sub-sect. 4.2."

- 4.1.3.3** To provide a reference to applicants as part of the capacity allocation process, the IM is required to publish, as an annex available in the ePIR portal, by 15 January each year, a list concerning "Siding-connected systems not owned by the IM, for which a connection contract is in force", including, for each station of the IM, the (service and non-service) facilities not owned by the IM for which the connection contract referred to in Article 3 (tt) (1) of Legislative Decree No 112/2015 is in force. The IM shall update paragraph 4.2 of the NS accordingly. For 2022, upon first application of this requirement, the deadline for publication is 15 February 2022.
- 4.1.3.4** The IM is required to replace, in section 4.2 of the NS, the following sentence *"Thus, if the train path request for the next working timetable period concerns access to connected facilities, the RU shall specify the name of the connected facility using the ASTRO-IF application."* as follows *"Thus, if the train path request for the next working timetable period concerns access to connected facilities, the RU shall specify the name of the connected facility also using by way of reference the statement entitled "Siding-connected systems not owned by the IM, for which a connection contract is in force" published in the ePIR portal"*.
- 4.1.3.5** The IM is required to replace the following sentence in point 2 of paragraph 4.2 of the NS: *"In requests for international train paths the foreign point of origin/destination (for passenger and freight segments), and the foreign RU partner (for freight segments) must be indicated in the request made through the Astro-IF."* as follows *"In requests for international train paths relating to both the passenger and freight transport segments, the foreign point of origin/destination and the foreign RU partner must be indicated in the request made through the Astro-IF, PIC or PCS portals."*
- 4.1.3.6** The IM is required to:
- a) specify in section 4.2 of the NS that the obligation set out in the previous requirement does not apply, for freight services and passenger services, where the railway undertaking has made a path request for an international transport service via the PCS and has provided therein information on the foreign points of origin/destination and the foreign RU partner. In this case, the supply of the IM databases, usually guaranteed by RUs with the interfaces made available with ASTRO-IF and PIC, must be provided by the IM also through direct interface with the PCS system; in addition, the IM shall specify in the NS any operating procedures to supplement the information entered into PCS by RUs, for the correct feeding of ASTRO-IF and PIC systems.
 - b) update, as a result of point (a) above, its information systems no later than 30 June 2022, simultaneously notifying the Authority thereof.
- 4.1.3.7** The IM is required to communicate to the Authority, no later than 20 January 2022, the operating procedures to extract, through queries on the PIC system, the paths allocated by each RFC both in the annual allocation processes and upon changes made during the working timetable.
- 4.1.3.8** The IM is required to replace the following sentence of paragraph 4.4.1 *"The former 5-year limit from the planned start of the service is reduced to 18 months compared to the start of the service time in the event that the request for framework capacity is finalised"*

as follows: “The former 5-year limit from the planned start of the service is reduced to 18 months for those subjects requesting capacities which do not fall within the sphere of entities entrusting PSO-type services, compared to the start of the service time in the event that the request for framework capacity is finalised”.

4.2 Schedules for submission of path requests during the working timetable period

4.2.1 Assessment by the Authority

In the section “*Schedule for Working Timetable*” of paragraph 4.5.3.2, the IM proposed a review of the deadlines for the submission of path requests for the working timetable by applicants, adopting a rule of general anticipation of these requests as regards both requests up to two paths (less complex) and requests for more than two paths (more complex).

The proposal would involve:

- a. for requests for more than two paths, a time limit of at least 30 working days, in place of the existing limit of 30 calendar days; this change is associated with an increase in the response time of the IM, which would be set at 18 working days from the request compared to the 15 working days currently in force;
- b. for requests up to two paths, a time limit of not less than 12 working days compared to the 10 working days currently in force; in this case, the limit of days within which the IM provides a response (5 working days from the request) remains unchanged.

Beyond these variations, the IM would formalise the following response time limits by the applicants, through the Astro-IF system, to project proposals submitted to them (limits which are not provided at present):

- a. for requests for more than two paths, a response time, by the applicant for capacity, of six working days from the provision of the project by the IM;
- b. for requests up to two paths, a response time, by the applicants, of 24 hours from the provision of the project by the IM.

Noting that the IM has justified its proposals on this issue with the provisions of RNE guidelines for *ad hoc* path requests and with the technical and IT need to respect the technical validation times of the alterations during the applicable working timetable period, i.e. 4 calendar days before the first train movement, also in view of the statements made by RFI at the hearing, the Authority notes that:

- 1) as commented by the applicants in the consultation, the response time for operators of rail transport services to market demands is of particular importance for rail mode. Furthermore, the objectives of the TTR project itself also include anticipated timing of the provision to transport services users of the timetables resulting from the annual capacity processes compared to what is currently provided; therefore, strategically linked to the competitiveness of the rail mode is also the speed of response to the requests for capacity submitted to the IM, which, in fact, has made significant investments in the information systems to support the planning of the timetable with *Optima* project, which is briefly described in the CdP-I and on which the Authority has repeatedly requested to provide appropriate clarifications;
- 2) an analysis of RNE guidelines “*Handbook for Ad-Hoc request Management (valid from TT2023)*”¹ shows that these guidelines differentiate between *ad hoc* requests of the *individual train path* type (trains with a single day of operation) and *ad hoc* requests of the *recurrent train path* type (trains with several

¹ The document is available on RNE website at the following link: https://rne.eu/wp-content/uploads/1.2_HB_Ad_Hoc_Management_V3.0_2020-12-09.pdf.

days of operation); for each of these two sets different schedules are provided. As regards only the response times by the applicant for capacity (*"Acceptance of an offer from applicants"*), the following schedules are provided:

- a. individual train path: *"The applicants' acceptance should be sent within 24 hours of receipt of the path offer, excluding Saturdays and Sundays."* Therefore, for *ad hoc* paths providing for the movement of a given train for a single day, the applicable response time for applicants is 24 hours from receipt of the offer, excluding Saturdays and Sundays.
- b. recurrent train path: *"The applicants' acceptance should be sent within 7 calendar days of receipt of the path offer."* Therefore, for *ad hoc* paths that provide for the movement of a given train for several days, the applicable response time for applicants is 7 calendar days from receipt of the offer.

These response times by applicants are evidently longer than those proposed by the IM in the draft NS 2023;

- 3) while the current cases considered to date by the IM to distinguish between requests with greater or less complexity, albeit different from those used in the aforementioned RNE document, have never been subject to requests for alteration by the applicants or the IM (even less by the Authority, as they appeared reasonable), on the other hand, concerning the timing of processing/acceptance of allocation requests/proposals, it should be noted that, while the intention of the IM to set a time limit for responses to path project proposals by applicants is correct and while the application of the limit of six working days for accepting allocation proposals of a certain importance is reasonable, on the contrary, the limit of only 24 "solar" hours for acceptance in the case of allocation proposals related to up to two paths (i.e. related to less complex path requests) is considered extremely strict and short.
- 4) At the hearing on 20 October 2021, the IM highlighted that this change in the NS had been proposed following a survey by RNE on the application of RNE Guidelines concerning changes made during the applicable working timetable period. RFI intended to propose the limits defined in the RNE handbook within the classification adopted by the IM for changes during the applicable working timetable period; in addition, based on the specifications of the information systems used, these changes must be validated by RFI at least 4 days before the actual movement of the train. As regards less complex requests, the 24 hours for the applicant's response after delivery of the project by the IM may be understood as referring to a working day (excluding Saturday) and not a solar day; whereas, in the case of major re-schedulings, the IM considers it necessary to keep the proposal and therefore ensure to the applicant a response time of six working days starting from the delivery of the path project.

In the light of the above analyses and clarifications, the time changes proposed by the IM, in the opinion of the Authority, seem essentially aimed at ensuring longer processing time for requests for capacity during the working timetable which, at this stage of evolution of the capacity allocation process, can be considered appropriate for the time being, while they remain subject to further examination by the Authority, in relation to the feedback of experience that will be accrued upon its implementation. However, to balance the different needs of stakeholders participating in the process (IM and applicants for capacity), it is considered necessary to explicitly provide that, for less complex requests, the limit of response by the RUs to the allocation proposals made by the IM is not less than one working day (excluding Saturdays).

4.2.2 Indications

No indications are provided.

4.2.3 Requirements

- 4.2.3.1 The IM is required to provide, in the section *"Requests in connection with the annual timetabling process"* of section 4.5.3.2 *"Schedule for Working Timetable"*, that, for less

complex requests, the response time limit for the applicant is not less than one working day (excluding Saturday) from receipt of the proposal sent by the IM.

4.3 Information provided by the IM before the transport services in respect of capacity reductions

4.3.1 Assessment by the Authority

With reference to paragraph 4.3.2 *“Information to be provided by the IM before and during the transport services, in respect of capacity reductions”*, in compliance with Commission Delegated Decision (EU) 2017/2075, the IM provided for appropriate procedures and timing to determine and report capacity reductions including in relation to the percentage service re-routing/cancellations.

In the interviews with the Authority’s offices, the IM stated (note ref. ART 1664/2021) that the capacity reductions for which a 24 month-notice is required do not include those for which, *“without any measure”*, it is possible to modify the train route because it is set on *“parallel”* lines.

The Authority notes that this possibility is guaranteed by Article 14.7 of the Train Movement Regulation, under which for certain parallel line sections between two stations it is possible to provide that *“trains set on one line are re-routed on the corresponding track of another line if necessary, retaining their number, without any cancellation and performance operations being carried out”*, pursuant to specific rules issued by the peripheral units of the IM. In the Authority’s view, this measure, against a greater burden on the RUs regarding the extension of the requirements for rolling stock movements and staff skills also to the parallel line, ensures a greater and more timely capacity to react to any exceptional conditions and offers the IM various possibilities for scheduling capacity reductions. However, it is equally evident that the use of this possibility even between non-adjacent lines that overlap or at least come close only in some points, during scheduled unavailability, could result in delays even above the punctuality threshold for passenger trains (5 minutes as set by the IM), and could consequently affect both the results of both the perceived punctuality and the performance regime.

Finally, it should be noted that *“re-routing”* in the NS (in paragraph 1.8) means *“any alterations to the train itinerary vis-à-vis the allocated path;”*, without making any reference to performance and cancellation operations that are not necessary in the case of adjacent lines. The Train Movement Regulation, too, points out that the train is *“set”* on a line, i.e., it is assigned to a specific route and therefore, based on a literal interpretation of the NS, the train operation on an alternative line must necessarily be equivalent to re-routing. Therefore, the Authority considers it necessary that the definition of re-routing in paragraph 1.8 of the NS is appropriately supplemented so as to ensure adequate transparency of access conditions.

4.3.2 Indications

No indications are provided.

4.3.3 Requirements

- 4.3.3.1** The IM is required to replace the definition of *“re-routing”* in paragraph 1.8 *“Glossary”* of the NS with the following: *“any alterations to the train itinerary vis-à-vis the allocated path; this also includes those cases where a train has to follow an alternative route with respect to that set by the path in the case of two or more parallel lines”*.

4.4 Late applications

4.4.1 Assessments by the Authority

Paragraph 4.5.2 provides that requests submitted as a result of any needs accruing after the deadline referred to in paragraph 4.5.1 shall be processed and allocated only after the resolution of all requests submitted in accordance with such previous deadlines and in any case in chronological order. However, for the purpose of full compliance with DD (EU) 2017/2075, with reference to point 6 of the Annex to the DD, paragraph 4.5.2

should specify that *“The infrastructure manager may reschedule an allocated train path if it is necessary to ensure the best possible matching of all path requests and if it is approved by the applicant to which the path had been allocated.”*; therefore, while it is correct to deal with late applications after those received within the deadline set in the NS, the IM should be able to make any changes to these train paths, subject to the approval of the applicant concerned, in order to meet any late requests and pursue the objective of capacity allocation allowing an effective and optimal use of the railway infrastructure, as provided for in Article 22 (2) (b) of Legislative Decree No 112/2015.

4.4.2 Indications

No indications are provided.

4.4.3 Requirements

- 4.4.3.1** The IM is required to supplement paragraph 4.5.2 as follows: *“In the allocation of late requests, the infrastructure manager can re-plan an assigned train path if re-planning is necessary to reconcile as effectively as possible all requests concerning train paths and if it is approved by the applicant to which the path was assigned.”*

4.5 Transport of dangerous goods

4.5.1 Assessments by the Authority

In paragraph 4.7 concerning transport of dangerous goods, the IM proposed to include measures to limit the traffic of dangerous goods due to the need for: *“control and maintenance of risk acceptability levels in accordance with the rules communicated by the MIT with regard to the draft rail risk standard by note of 8/2/2021 (MIT ref. no. U0000942)”*. On the basis of the brief description in the NS, the IM plans to monitor the *“risk unacceptability thresholds in terms of type of freight class and number of trains”* and, on the basis of the results of such monitoring, impose – where appropriate - monthly traffic restrictions for specific classes of dangerous goods, specific routes and service locations (*“communicates to RUs the list of line sections and service locations where, by immediate measure, trains having a formation with classes of dangerous goods identified as responsible for exceeding the thresholds may no longer be operated;”*), or warn RUs of the potential exceeding of the risk acceptability thresholds and of the ensuing decisions on the limitation of the movement of trains carrying dangerous goods.

At the hearing, RFI pointed out that these limitations, which concern only the rail mode under its remit and not also the road mode, arise from a technical comparison with MIMS and ANSFISA, followed by precise formal provisions by the MIMS to be applied by RFI. RFI also highlighted some differences between the same proposal advanced last year in the NS 2022 and related to the rail mode only, which had been rejected by MIMS, and the proposal under the draft NS 2023. The methodology proposed the previous year was based on the principle of preventing that the maximum number of trains carrying dangerous goods operated in the past in a given period of time is exceeded, while the current proposal by RFI, approved by the MIMS, consists in a risk analysis linked both to the quantities transported and to the population density of the areas crossed; this analysis, however, is not able to provide traffic limits *a priori*, but rather only *a posteriori*, as a result of the actual train movements and the observation of the evolution of the related risks. As a result of this model structure, it may occur that such limits must be imposed on a given route at a given time during the working timetable, depending on the quantity and type of dangerous goods transported up to that time and the corresponding evolution of the risk curves observed in relation to the areas crossed.

On this subject, it is considered useful to confirm the considerations made by the Authority in Annex A to Decision ART No 187/2020 on the same issue: *“The Authority notes that this limitation impacts on available capacity and on capacity allocation rules by identifying criteria that have not so far been adequately made public by RFI with the NS and on which no provisions or requirements appear to be available when interfacing with RUs; furthermore, no explicit legislative and/or regulatory reference that has imposed such limitations is*

mentioned in the NS. The European Commission itself and, in particular, the Directorate General for Mobility and Transport, by a note of 25 September 2020 (ref. no. ART 14002/2020) expressed some concerns, including – with reference to the issues within the Authority’s remit – the failure to explain such limitations in the NS 2020 and NS 2021”.

Further, it should be pointed out that those risk analyses are limited to the rail mode alone and do not seem to take into account the effects of risk transfer onto the most important alternative mode of transport, i.e. road, which will evidently be affected by the restrictions at issue, if, as a result of those limitations, the client intends to choose — as is quite likely — the modal shift from rail to road.

It is therefore necessary to confirm, with the necessary adjustments due to the new methodological model that the IM intends to apply, the conclusions already provided for in Annex A to Decision ART No 187/2020, which did not apply in the NS 2022 due to the decision of the IM to withdraw its proposals from the NS, and which are set out below for convenience of consultation:

“For this reason, according to the Authority it is necessary for RFI to supplement the NS:

- *by explicitly mentioning at least the references to laws and regulations (including internal) underlying these limitations;*
- *by including in the ePIR, in due time with respect to the deadline set for the request for capacity for the timetable 2021-2022, and also with reference to the NS 2021, a technical annex containing the daily/monthly/annual volumes of dangerous goods that can be transported for each section/line of the relevant rail network.”*

It is to be noted that — as the regulation proposed by the IM provides for the imposition of specific limits by type of dangerous goods, on the quantity that can be transported within certain routes and service locations, and since the periodicity of risk monitoring, the outcome of which may result in such imposition, is on a monthly basis, the IM has identified a maximum capacity rate attributable to this type of transport, in the context of the amount of infrastructure capacity that can be overall allocated, according to the different levels of observed risk. Both during the capacity allocation process and during the working timetable, a (business) “risk” for capacity applicants is potentially in place, linked to the use of limited capacity for dangerous goods, which is not proportional to the general capacity allocated to each RU. Therefore, the Authority considers it necessary to establish criteria to ensure the balanced use of this limited capacity among the applicants concerned, in order to avoid breach of the principles of non-discrimination, equity and transparency.

4.5.2 Indications

No indications are provided.

4.5.3 Requirements

- 4.5.3.1 The IM is required to supplement paragraph 4.7 “Transport of dangerous goods” of the NS with references to the laws and regulations underlying the capacity limitations imposed by the IM on the transport of dangerous goods, and provide for full publication of these provisions as an annex to Section 4 of the NS.**
- 4.5.3.2 The IM is required to publish, in the Annex referred to in the previous requirement, the applied methodology of risk analysis, including the information (also numerical) useful to enable the applicants concerned to carry out — *inter alia* — independent checks and simulations with respect to the risk analysis results periodically published by the IM.**
- 4.5.3.3 The IM is required to publish in the ePIR portal, by 31 January of each year, as a technical annex, a table containing, for each type of dangerous goods “with significant impact”, its estimate — made according to the methodological model proposed, and expressed both in absolute values and in percentages — of the maximum number of trains and the maximum monthly quantities of dangerous goods that can be carried for each route/**

line/service location of the network according to the risk levels beyond which the IM considers that the risk is unacceptable, in the light of the underlying legislative/regulatory provisions. The IM shall update paragraph 4.7 of the NS accordingly.

- 4.5.3.4** The IM is required to specify, in paragraph 4.7 of the NS, that for each RU carrying dangerous goods, the respective number of trains and mass of dangerous goods transported may not exceed, in each quarter, the corresponding quantity that can be identified by applying, to the total capacity share allocated to the RU, the monthly limits set out in the previous requirement.

4.6 TTR project

4.6.1 Assessment by the Authority

Paragraph 4.9 “TTR Project” describes the new operating modalities of the capacity allocation process leading to 2024-2025 working timetable.

Already since August 2021, the IM has launched the first step to define the so-called *capacity strategy*, “also through the sharing carried out with the applicants and the managers of the neighbouring infrastructure”, which will end by the start of the next step, i.e. the definition of the *capacity model* in June 2022.

In order to exercise the competences referred to in Article 37 (3) of Legislative Decree No 112/2015, the Authority considers it necessary to: (i) receive all communications sent by the IM to the applicants and neighbouring infrastructure managers when defining the *capacity strategy* and subsequent *capacity model*, by supplementing the relevant parts of paragraph 4.9 of the NS; (ii) receive by 30 June 2022 a detailed and comprehensive report by the IM on the process of definition of the *capacity strategy*, with a focus on sharing with the applicants, defining the future available infrastructure capacity and identifying expected development needs.

Finally, to ensure an equitable, transparent and non-discriminatory allocation process, the documents defined by the IM at the end of each procedural step provided for in the TTR and indicated in the time schedule referred to in paragraph 4.9.3 of the NS (*capacity strategy*, *capacity model*, etc.) should be published as a specific annex to the NS and in a dedicated section of the website of the IM.

4.6.2 Indications

No indications are provided.

4.6.3 Requirements

- 4.6.3.1** The IM is required to include the Authority among the recipients of all communications sent to capacity applicants and neighbouring infrastructure managers when defining the Capacity Strategy and the subsequent Capacity Model; the IM shall update the relevant parts of paragraph 4.9 of the NS accordingly.
- 4.6.3.2** The IM is required to publish, in an annex to the NS and in a dedicated section of its website, at the end of each procedural step of the TTR referred to in the time schedule of paragraph 4.9.3 of the NS, the final documents that are necessary for the applicants to participate in the following steps of the TTR process. The IM shall update paragraph 4.9 of the NS accordingly.
- 4.6.3.3** The IM is required to submit by 30 June 2022 a detailed and comprehensive report on the *capacity strategy* process, with a focus on the process of sharing with the applicants, defining the future available capacity of the infrastructure and identifying the expected development needs.

5. Tariffs and services

5.1 Tariff system

5.1.1 Assessments by the Authority

In point 5 (a) of Decision No 114/2021, RFI was required, with regard to the MAP, to “*apply the provisions of point 2 (B) of Measure 4 of Annex 1 to Decision No 96/2015, with reference to the “provisional scheme”, temporarily adopting, both for 2022 and 2023, the tariff levels applied in 2021, increased annually by the planned inflation rate, as resulting from the economic and financial planning documents approved and published by the national government on the date of submission of the tariff proposal under ART ref. no. 8851/2021*”.

Therefore, RFI holds all the information necessary to determine the MAP tariffs for the 2022-2023 working timetable and provide for their publication in paragraph 5.3.2 of the NS 2023.

With regard to extra-MAP services, by Decision No 172/2021, in order to complete the verification of compliance of the tariff proposal submitted by RFI pursuant to point 6 (b) and (d) of Decision No 114/2021, the Authority required RFI to publish in the relevant sections 5 and 7 of the NS 2023, within the deadline provided for in Article 14 (5) of Legislative Decree No 112/2015, the tariffs set out in the tariff proposal, with some amendments, showing that these may be subject to further amendments following the public consultation and further inquiries and verifications provided for in Decision No 172/2021.

The obligations relating to the content of the NS 2023 deriving from those decisions should therefore be clarified and specified with *ad hoc* requirements.

5.1.2 Indications

No indications are provided.

5.1.3 Requirements

- 5.1.3.1 With reference to the MAP, RFI is required to report, in paragraph 5.3.2 of the NS, the charges calculated on the basis of the provisions of point 5 (a) of Decision No 114/2021, thereby amending the text of paragraph 5.2.
- 5.1.3.2 With regard to extra-MAP services, RFI is required to include, in the relevant paragraphs of sections 5 and 7 of the NS 2023, the charges set in compliance with the provisions of Decision No 172/2021, highlighting that they may be subject to amendments following further inquiries and verifications provided for in the aforementioned decision. The text of paragraph 5.2 shall be amended accordingly.

5.2 Services included in the Minimum Access Package and information to customers.

5.2.1 Assessments by the Authority

During the hearing, the IM was asked to highlight the information that is usually provided to customers within the MAP activities (for practices or legislation) and the information that, on the contrary, is required from the RU for commercial reasons, such as the location of any carriages used for the transport of bicycles (for the purpose of further developing the combined bike + rail mode). The IM clarified that the information related to the MAP is associated with the train movement (delays, cancellations, any location of a certain car, such as that for PRM, etc.), that is already partially detailed in the technical annex to Ministerial Decree 43/T or provided for by RFI due to the need to ensure regular services. All other information is to be considered outside the MAP and is therefore regarded, in fact, as complementary information. Therefore, the information on the location of the car used for the transport of bicycles falls under these complementary cases. However, such information is already provided by the information systems of the IM.

As the types of information considered by the IM, for legislative and opportunity reasons, to be included in the MAP are not explicitly indicated in the NS, the IM should therefore supplement the NS (paragraph 5.3.1 “Minimum access package”, sub-paragraph “*All other information needed to perform or manage the service for which the capacity has been granted*”) following appropriate involvement of the applicants; this supplement is also necessary to better detail the information requirements imposed on railway undertakings before the operation of the train.

5.2.2 Indications

No indications are provided.

5.2.3 Requirements

5.2.3.1 Following the involvement of the applicants and providing for the publication of a special edition of the NS no later than 30 September 2022, the IM is required to supplement the sub-paragraph “*All other information needed to perform or manage the service for which the capacity has been granted*” of paragraph 5.3.1 of the NS, specifying the information to the customers falling within the scope of the MAP. The IM shall further send an explanatory report to the Authority no later than 30 September 2022.

5.3 Assistance to Persons with Reduced Mobility (PRM) as defined in Regulation (EC) no. 1371/2007 and Regulation EC no. 782/2021

5.3.1 Assessments by the Authority

As provided for in paragraph 5.4.6.1 “*Assistance to Disabled Persons and Persons with Reduced Mobility (PRM) for boarding and leaving the train at TSI-PRM compliant stations and stops*” of the NS, the provision and management of boarding aids devices at stations and stops open to passenger services must be assessed, agreed, justified and formalised in appropriate agreements between the station manager and railway undertakings, to be concluded in accordance with the provisions of the applicable TSIs (PRM TSI 2008 or PRM TSI 2014), by ensuring full accessibility of PRM to rail transport and essentially implementing the provisions of Regulation (EC) No 1371/2007.

At the hearing, the IM notified the failure to conclude the expected agreements due to three main issues arising from its discussions with the railway undertakings Italo S.p.A., Trenitalia S.p.A. and Trenord S.p.A.:

- a) in the case of the high-speed system, the rolling stock fleet is not necessarily equipped with boarding aids for access (although it complies with PRM TSI 2008/2014). On this point, to meet the issue raised by the railway undertakings, RFI proposed to extend the scope of the offer of the assistance service coordinated by the Blue Rooms to the entire HS service network (under the current timetable it is expected that this would involve an extension of that scope to about ten stations that are not served at present);
- b) the RUs underlined a critical issue concerning the provision of an alternative transport service at their own care in the event that a deterioration in the accessibility of the service was attributable to the responsibility of RFI; the IM therefore made itself available to bear the costs for the proposal and supply of such alternatives by the RUs, but the latter did not agree thereupon. To solve the criticality, RFI has therefore decided to take charge, in the above-mentioned case, also of the organisation of the replacement service;
- c) in the case of regional rolling stock complying with the above TSI, certain issues arise, in some cases related to the excessive distance between the edge of the platform at h. 55 and the edge of the well wagon (distance of at least 7.5 cm horizontally and 5 cm vertically), which can be bridged with the use of boarding aids for access available in the above-mentioned regional rolling stock in compliance with the TSI. As regards regional transport, Trenitalia highlighted its intention not to use its PRM boarding

aids for access and disembarking. The RUs underlined the issues relating to communication to users on the possible changes in the conditions of accessibility to their rolling stock due to the need for unscheduled alteration of the rolling stock shifts, resulting in potential use of unsuitable materials; these criticalities have not been overcome.

By note of 22 November 2021 (ART ref. no. 18632/2021), the IM forwarded to the RUs a further draft agreement where the criticality referred to under c) above (*“a RU has, on several occasions, expressed the operating/management criticality with regard to the communication to end users, in time for travel scheduling or rescheduling, of the changes in the conditions of accessibility to rolling stock, requesting that this activity be carried out by RFI”*), could be partially overcome; the IM has proposed to make available its booking platform for assistance services to PRM clients, i.e. *“ReteBlu”*, to PRM which do not intend to use any assistance service also at stations and stops falling within the scope of PRM TSI 2008 and 2014 but which do not belong to the assistance service network offered by RFI. The possibility of registration to this platform by PRM that do not intend to use the assistance service of the IM, which remains absolutely voluntary and not mandatory for the PRM, will be subject to a special promotional campaign by the same IM. The IM also pointed out that, in the case of PRM that are not registered in the above booking platform, the information obligation on the changes in the conditions of accessibility to rolling stock rests with the RUs, in particular with regard to the case of services subject to public service obligations, as set out in measure 3.5 (a) of ART Decision No 106/2018.

The Authority notes that the time elapsed from the date of entry into force of Decision No 151/2019 has been unproductive, as these obligations to be borne by the IM and RUs had already been specified therein under requirement 5.5.3.1; pending the correct fulfilment of the above-mentioned obligations, the NS should specify that the burden of the correct information on the changes in the conditions of accessibility to rolling stock is always borne by the RUs pursuant to measure 3.5 (a) of ART Decision No 106/2018, since any use of the registration platform *ReteBlu* by PRM does not exempt RUs from these obligations. The IM should also inform the Authority about the RUs that they did not intend to conclude these agreements by the entry into force of the 2021-2022 working timetable; in this respect, the Authority had already highlighted in paragraph 5.4 of Annex A to Decision No 187/2020 the need to implement these agreements from the 2021-2022 working timetable, and the provisions of requirement 5.4.3.1 of the same Annex explicitly set out that in the NS 2022 *“in the stations and stops open to the passenger service falling within the scope of PRM TSI (TSI 2008 and TSI 2014), the provision of assistance services to Persons with Reduced Mobility (PRM), as referred to in Regulation (EC) No 1371/2007, shall be ensured in accordance with the agreements between the IM and RUs for the provision and management of boarding aids of PRM, as well as the provision of assistance and alternative transport.”*.

With respect to the aforementioned repeal of Regulation (EC) 1371/2007 as from 7 June 2023 and the application, from the same date, of Regulation (EU) 2021/782 in place thereof, it should be recalled that Article 23 of Regulation (EU) 2021/782 states inter alia: *«1. Persons with disabilities or persons with reduced mobility shall be assisted as follows:*

[...]

(d) for unstaffed trains, station managers or railway undertakings shall provide assistance free of charge, in conformity with the access rules referred to in Article 21(1), during boarding and alighting from a train when there is trained staff on duty at the station;

(e) on departure from, transit through or arrival at a staffed railway station, the station manager or the railway undertaking shall provide assistance free of charge in such a way that that person is able to board the train, to transfer to a connecting rail service for which he or she has a ticket, or to alight from the train, provided there is trained staff on duty. Where the need for assistance has been notified in advance in accordance with point (a) of Article 24, the station manager or the railway undertaking shall ensure that assistance is provided as requested;

(f) at unstaffed stations, railway undertakings shall provide assistance free of charge on board a train and during boarding and alighting from a train if the train is accompanied by trained staff;

(g) in the absence of trained accompanying staff on board a train and at a station, station managers or railway undertakings shall make all reasonable efforts to enable persons with disabilities or persons with reduced mobility to have access to travel by rail;

(h) railway undertakings shall make all reasonable efforts to provide persons with disabilities or persons with reduced mobility with access to the same on-board services as other passengers, where these persons cannot have access to those services independently and safely.”.

In view of the above, the IM should redraft paragraph 5.4.6 of the NS by including an explicit reference to Regulation (EU) 2021/782 (specifying that it will replace Regulation (EC) 1371/2007 from 7 June 2023); it is also necessary to provide a clearer description of the assistance services to PRM also in the case of stops/stations not covered by the Blue Rooms circuit. With regard to international transport services, the IM shall have to adjust, within the deadlines provided for in the Regulation (24 hours before the train departure time), the limits currently published on its website, which are set out below: *“For international journeys, requests for assistance must be sent by e-mail to the Blue Room of reference of the selected international train stations, or to the Sala Blu of Roma Termini (SalaBlu.ROMA@rfi.it, also by fax at 00 39 06 47308579) at least 48 hours before the journey.”*

Finally, the text under paragraph 5.4.6.1 *“Assistance to Disabled Persons and Persons with Reduced Mobility (PRM) for boarding and leaving the train at TSI-PRM compliant stations and stops”* should clarify that the “management of PRM boarding aids for access of PRM” is in fact also referred to disembarking.

5.3.2 Indications

- 5.3.2.1 The IM is given the indication to clarify, in paragraph 5.4.6.1 *“Assistance to Disabled Persons and Persons with Reduced Mobility (PRM) for boarding and leaving the train at TSI-PRM compliant stations and stops”*, that the management of boarding aids for access of PMR is in fact also referred to disembarking.
- 5.3.2.2 The IM is given the indication to supplement paragraph 5.4.6 *“Assistance to passengers with disabilities and with reduced mobility (PRM), in accordance with Regulation (EC) No. 1371/2007”* with the necessary reference to Regulation (EU) 2021/782, which is scheduled to enter into force on 7 June 2023 in place of Regulation (EC) 1371/2007.

5.3.3 Requirements

- 5.3.3.1 The IM is required to include the following period at the end of paragraph 5.4.6.1 of the NS: *“The RUs are responsible for informing users about changes in the conditions of accessibility to their rolling stock in accordance with the provisions of Measure 3 of ART Decision No 106/2018.”*
- 5.3.3.2 The IM is required to submit to the Authority, by 15 December 2021 at the latest, the list of RUs that have not concluded the agreements referred to in paragraph 5.4.6.1 of the NS by the start of the 2021-2022 working timetable.
- 5.3.3.3 The IM is required to supplement paragraph 5.4.6 with the expected cases of assistance services to PRM also in the case of stops/stations not covered by the Blue Rooms circuit. The IM shall also have to adjust the minimum notice for requesting the service to the provisions of Regulation (EU) 2021/782 (24 hours before the train departure) for all cases managed as station manager, no later than the entry into force of Regulation (EU) 2021/782.

5.4 Penalties for exceeding scheduled layover times at border stations

5.4.1 Assessments by the Authority

Paragraph 5.6.6 “*Penalties for the RU for exceeding layover times at foreign network connection stations [new]*” describes the rules under which the IM may impose penalties on the RUs of the freight segment that are responsible for exceeding scheduled layover times at border stations.

The Authority considers it necessary for the IM to assess, following discussions with the railway undertakings concerned, the need to extend those penalties also to trains providing passenger transport services, in order to ensure efficient capacity management of those stations.

5.4.2 Indications

No indications are provided.

5.4.3 Requirements

- 5.4.3.1** The IM is required to start discussions with passenger railway undertakings to allow the IM to assess the need to extend the penalty system referred to in paragraph 5.6.6 of the NS also to the passenger transport market segment. At the end of these discussions, the IM will send, by 30 September 2022 at the latest, a report which identifies, based on appropriate qualitative and quantitative information, the actual criticalities that may be encountered at border stations by trains operating in the freight transport segment and in the passenger transport segment, respectively, as well as any measures to ensure the efficient use of capacity of border stations.

6. Execution of the contract

6.1 Operating procedures for passenger announcements in the case of snow/ice emergency conditions

6.1.1 Assessments by the Authority

The Authority notes that the operating procedure for passenger announcements in the case of snow/ice emergency conditions (Annex 1 to Section 6 of the NS) should be properly integrated in relation to the activities carried out by the staff of RFI Blue Rooms regarding the swift reporting of PRM passengers aboard trains affected by operating exceptional conditions to the competent structures of railway undertakings; this is to ensure adequate assistance to this category of travellers. The topic was already commented in the consultation on the NS 2022 by a railway undertaking, which had proposed:

- to “*provide, in case of operating exceptional conditions, greater proactivity of Blue Rooms, which must play an active role in the timely reporting of PRM clients, by interfacing on their own initiative with Operating Rooms/Customer Assistance (ACAE).*”
- the addition of the following paragraph after (b) of paragraph “*Managing exceptional conditions*” of the aforementioned operating procedure: “*promptly report, through Blue Rooms, the PRM clients involved in the exceptional conditions to the Operating Room/Customer Assistance of the RU concerned, so as to identify timely targeted alternative solutions*”.

With regard to this proposal, RFI expressed its readiness to pursue any improvements in the communication flow with the RUs.

To achieve an adequate balance between the IM and the railway undertakings carrying out passenger transport, and therefore the ensuing integration of this operating procedure, the IM should start discussions on this issue by the first months of 2022.

6.1.2 Indications

No indications are provided.

6.1.3 Requirements

- 6.1.3.1** The IM is required to start, by February 2022, discussions with passenger railway undertakings aimed at identifying the best common measures for assistance to PMR passengers in the event of exceptional conditions, including with regard to the swift identification of these passengers aboard trains under exceptional conditions and ensuring the necessary cooperation between the designated structures of the IM (Blue Rooms and others) and the designated structures of the railway undertakings. These discussions shall be concluded no later than 31 May 2022 and the additions to the operating procedure for passenger announcements in the case of snow/ice emergency conditions (Annex 1 to Section 6) shall be reported in the first extraordinary update of the NS.

6.2 Notification obligations of RUs and international coordination between IMs.

6.2.1 Assessments by the Authority

The management of events that impact on international traffic, both in the case of major and minor events which affect traffic regularity, is of particular importance at the EU level. Articles 37 and 40 of Directive (EU) 2012/34 highlight the obligation to cooperate between IMs of neighbouring networks. The Authority considers that this cooperation should be also extended to the day-to-day traffic management, with regard to the correct attribution of the causes of delay and of the penalties at the border stations of international trains.

It should be recalled that COp 269/2010 “Operational Communication 269/2010 *“Attribution and validation of the causes of delay”*” (replaced by the current “Operational Communication 269/2010 *“Attribution of the causes of delay, determination of punctuality and performance regime”*” published in the eNS on 30 June 2021) provides, under paragraph II.2.2, that:

- a) *“Delays in arrival on the RFI network from another nation’s network or from railway networks under a concession agreement shall be coded 81XX if they are not attributable to events than may be referred to other code 81 occurring on the route immediately upstream of the entry point, or in relation to movements on non-RFI networks on the national territory.”;*
- b) *“Delays on the RFI network, which are not related to the direct liability of the IM or of the RUs operating on RFI network, shall be attributed to:*
 - 1. *the IM of the previous neighbouring network for incoming trains (code 8 1PI),*
 - 2. *the previous RU for incoming trains (code 81 PR),*
 - 3. *the IM of the next neighbouring network for outgoing trains (code 81 NI),*
 - 4. *the next RU for outgoing trains (code 81 NR),*
 - 5. *exceptional conditions due to external causes occurring in neighbouring networks (code 81 ES).”*

Pursuant to these instructions the causes of delay for liability of the IM or of the RU on the foreign side should be attributed to these players, rather than to companies operating in the Italian territory; on the other hand, the attribution of such causes is also intended to identify the correct penalties to be imposed on all railway undertakings, including those which have only access to the border station (including with reference to the implementation of the penalty system to be imposed on railway freight undertakings which are responsible, at border stations, for exceeding the maximum established layover times, as communicated by the IM to the interested parties in note under ART ref. no. 16404/2021 of 20 October 2021). In view of the above — since

the *Train Information System* (TIS), made available by RNE, is not adequate to retrieve information on the causes of delay abroad, as reported by RFI at the hearing — the IM should therefore conclude specific agreements with the IMs of foreign networks and define the ensuing operating procedures, keeping the Authority informed thereof.

6.2.2 Indications

No indications are provided.

6.2.3 Requirements

- 6.2.3.1** The IM is required to include, at the beginning of paragraph 6.2.8 *“International coordination in the event of events with an impact on international traffic”* the following: *“For the management of international traffic, in each station at the border of a jurisdiction, in the event of an occurrence of delays of trains arriving from abroad or departing towards a foreign country, the IM will coordinate in advance with the IM of the neighbouring foreign network in order to attain a correct attribution of the causes of delay and of responsibilities relating to exceeding the stopping times established at the border station in question. For the purpose of this coordination the IM will define specific agreements with the IMs of the neighbouring networks”*.
- 6.2.3.2** The IM is required to send, no later than 28 February 2022, a report on the actual attribution of the causes of delay for international trains (with the necessary reports also in editable format), with a particular focus on border stations, in relation to the 2020-2021 timetable.
- 6.2.3.3** The IM is required to send, no later than 30 September 2022, a report on the actual attribution of the causes of delay for international trains (with the necessary reports also in editable format), with a particular focus on border stations, in relation to the period from 12 December 2021 (start of the 2021-2022 timetable) to 18 September 2022.
- 6.2.3.4** The IM is required to send, no later than 30 September 2022, a report on the agreements concluded with the operators of the neighbouring foreign networks for the purpose of mutual communication of the causes of delays of international trains.

6.3 New procedures for the rail infrastructure clearance operations with equipped emergency vehicles

6.3.1 Assessments by the Authority

As stated in paragraph 6.3.3.2.7 of the NS *“New modality for evacuation activities with equipped emergency vehicles”*, the IM intends to test in the Palermo - Reggio Calabria Circulation Area (i.e. the regional territories of Calabria and Sicily) a new model of evacuation of the infrastructure with equipped emergency vehicles using, instead of traditional rail “breakdown cars” (i.e. vehicles composed of two or more rolling stock, with a diesel locomotive), specially equipped small-sized wheeled vehicles.

During the discussions held this year, the Authority’s offices highlighted (note ART ref. no. 10491/2021) some issues concerning the proposed model, in particular as regards the number of facilities planned for each regional territory; in fact, the IM expressed its intention to reduce, compared to the current situation, the number of territorial facilities and therefore cut down their density on the territories in question, by providing, for each of the two regions, only one location for the emergency centres (as highlighted in the note sent by the IM and filed under ART ref. no. 9005/2021), that may result in increased time required for the assistance operations as compared to the present model.

The Authority’s offices simulated, by means of common travel planning tools, the travel times of the emergency centres on road vehicles between the location of the centre and some points of the network taken as a sample. For Calabria, the following travel times were considered on wheeled vehicles: 1) from Catanzaro

Lido to Reggio Calabria, travel time of approx. 120 minutes over a distance of approx. 166 km; 2) from Catanzaro Lido to Paola, travel time of approx. 90 minutes over a distance of approx. 90 km; 3) from Catanzaro Lido to Metaponto, travel time of approx. 180 minutes over a distance of approx. 260 km; 4) from Catanzaro Lido to Rosarno, travel time of approx. 80 minutes over a distance of approx. 107 km. For Sicily, the following travel times were considered on wheeled vehicles: 1) from Carini (PA) to Catania, travel time of approx. 175 minutes over a distance of approx. 235 km; 2) from Carini (PA) to Syracuse, travel time of approx. 190 minutes over a distance of approx. 280 km; 3) from Carini to Messina, travel time of approx. 120 minutes over a distance of approx. 170 km).

In view of these considerations, which do not address the technical aspects of the new operating procedures proposed by the IM, the latter, concluding at the hearing that in its opinion the average level of service ensured by the new model is comparable to the current model, underlined that:

- the new model also includes efficiency objectives of the resources used for this service, compared to the actual volumes of production guaranteed so far;
- in any case, the existing contract between RFI and Trenitalia for the provision of the service sets out, in 2023, the reduction of the operating network to a single emergency vehicle location for Calabria and Sicily, respectively;
- following the analysis of the results of the first testing phase to be carried out in Calabria and Sicily, RFI will be able to evaluate any solutions aimed at adjusting the coverage of the service;
- the costs of this service are compensated by the State through the Programme Contract-Services (CdP-S), therefore, in the light of the savings resulting from the proposed reorganisation, there would be a corresponding reduction in the State contributions for that service;
- the service under consideration is relevant with regard to the traffic regularity, but does not directly affect the safety of rail traffic.

Noting that the locations of the emergency centres do not appear to have been identified as a function of the actual estimated operating needs, in view of the testing phase of the model under examination and the stated availability of the IM to assess any adjustments to the service coverage, the Authority — although the IM considers that the average service level of the new model is comparable to the current model — deems it necessary that RFI, as early as 2022, constantly keeps the Authority informed about the evacuation operations with equipped vehicles carried out both in the regions being tested for the new organisational model, and in the regions where the current model is still maintained. Based on this monitoring, the Authority will be able to adopt any necessary decisions in the light of the above-mentioned information.

6.3.2 Indications

No indications are provided.

6.3.3 Requirements

- 6.3.3.1** For the purposes of the assessments and ensuing decisions of the Authority, the IM is required to submit, starting January 1, 2022 and on a monthly basis, a report including adequately detailed information on infrastructure evacuation operations carried out through equipped vehicles, by specifying: number and position of the train/rolling stock subject to evacuation, type of vehicles used (wheeled, rail), time of request, time of “ready to go”, place of departure of the equipped vehicles, place and time of arrival of these equipped vehicles on site, end of operation of such vehicles, number of escorts of the IM in the operating team. In addition, a copy of the activity report issued by the staff responsible for equipped vehicles and evacuation operations shall be attached for each reported clearance/evacuation operation.

6.4 Management rules, customer satisfaction

6.4.1 Assessments by the Authority

In paragraph 6.3.2 of the NS, the IM describes an indicator to measure its performance in terms of punctuality of rail traffic; this indicator is calculated using the PIC platform available to all interested parties. To better assess the performance of the IM concerning activities for the provision of information to the public, the IM should make available a customer satisfaction indicator on a regional basis, calculated by using the surveys already carried out for the assessment of the KPI referred to in Article 8bis of the infrastructure access contract; the availability of a customer satisfaction measure, to be referred not to the entire national territory, but rather to the regional territory, would ensure to provide the necessary information to the awarding entities, the Authority, but also to railway undertakings and end users, regarding the actual quality of the information provided by the IM to travellers at the level of the individual regions. At the hearing, the IM confirmed the feasibility of setting up a customer satisfaction indicator for the provision of information to the public on a regional basis, as well as its readiness to verify the feasibility of a similar indicator also for the KPI on PRM services (with reference to Article 8bis); the IM also expressed its readiness to provide for the necessary additions in the NS, and to provide such data to interested parties.

6.4.2 Indications

6.4.2.1 The IM is given the indication to supplement paragraph 6.3.2. of the NS, with regard to the measurement of the performance of the IM, with the provision of a customer satisfaction indicator for the activities relating to the provision of information to the public on a regional basis, and to provide for the publication of these indicators from 30 September 2021 in the ePIR Annex on the performance of the IM.

6.4.2.2 The IM is given the indication to verify the feasibility of identifying and using, on a regional basis, the customer satisfaction indicator for PRM assistance services referred to in Article 8bis of the infrastructure access contract standard form annexed to the NS. The IM shall, no later than 15 June 2022, inform the Authority of the outcome of this verification and of the integration of paragraph 6.3.2. of the NS, similarly to the previous indication, within the first useful update of the NS.

6.4.3 Requirements

No requirements are provided.

7. Service facilities

7.1 Procedure for processing compensation claims for Persons with Reduced Mobility (PRM) pursuant to Measure 5.2 of Decision No 106/2018

7.1.1 Assessments by the Authority

With reference to Regulation (EU) 2021/782, Article 28 (*“Each railway undertaking and station manager of a station handling on average more than 10 000 passengers per day over a year shall set up a complaint-handling mechanism for the rights and obligations covered by this Regulation in their respective fields of responsibility. [...]”*) and to ART Decision No 28/2021, measure 4.1 (*“Station managers/terminal managing bodies and digital platform operators shall ensure that a user-friendly complaint-handling mechanism is available, having particular regard to the needs of users with disabilities [...]”*), the Authority considers that the provisions of the procedure in question are outdated, as compensation claims to be presented if *“the restoration of the*

availability of equipment for the accessibility of the stations does not occur within the terms established and indicated by the Station Manager according to the quantification indicated in the RFI Service Charter;" shall be submitted to the responsible station manager in accordance with the general cases regulated by the aforementioned rules and decisions.

With reference to Annex 4 to Section 7, "Standard framework agreement for specific functional areas for the installation by the company of tanks for the storage of waste water to be collected from trains by means of trolleys equipped with special tanks for emptying the trains' tanks", including by agreeing upon the proposal of the IM (note ART ref. no. 17085/2021), the IM should extend to the NS 2022 the possibility, guaranteed in the NS 2023, of contracting the use of these areas also to rolling stock not used for regional services.

7.1.2 Indications

7.1.2.1 The IM is given the indications to delete, from Annex 4 to Section 7 of the NS 2022, the limitation of the possibility of contracting the use of the areas indicated therein to regional trains only, thus extending this possibility to all rolling stock categories.

7.1.3 Requirements

7.1.3.1 The IM is required to delete from Annex 3 to Section 7 "Procedure for processing compensation claims for Persons with Reduced Mobility (PRM) pursuant to measure 5.2 of Decision No 106/2018", as it was superseded by the new provisions of Regulation (EU) 2021/782 and referred to in ART Decision No 28/2021. This procedure shall be considered in force until 31 December 2021 at the latest.

7.2 Facilities features, data on passenger traffic at stations and stops

7.2.1 Assessments by the Authority

In paragraph 7.3.2.3 of the NS, the IM included the following provision: "The Railway Undertakings providing passenger services transmit, by the end of February of every year, data relating to the number of passengers who have boarded and disembarked at each of the stations/passenger stops where they provide a commercial service. The data will correspond to monthly totals (values for each month) and daily averages on workdays and non-working days for the months of November and July. The data will be transmitted to the CEM address rfi-dce@pec.rfi.it. The IM guarantees the confidentiality of commercial data in accordance with the relevant legislation currently in force".

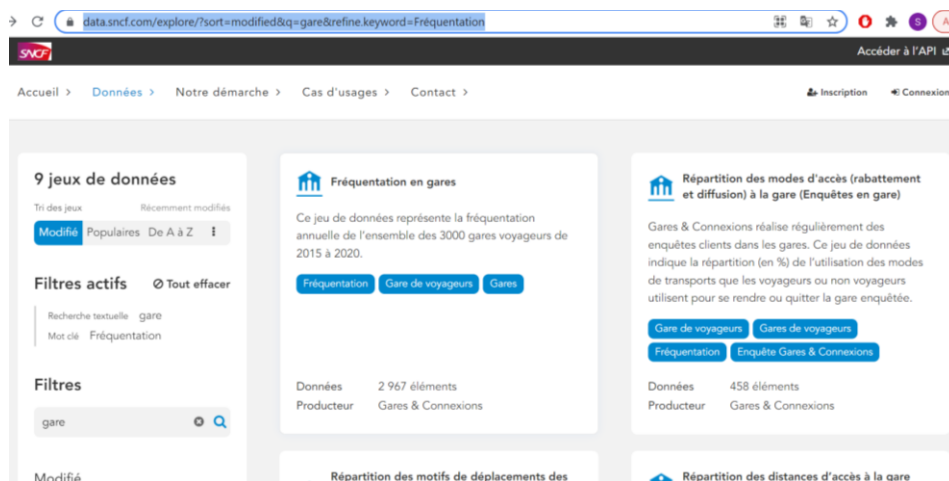
The railway undertakings, which participated in the consultation, highlighted the considerable value of these data for commercial purposes and therefore their confidentiality. The IM pointed out in its comments that "the availability of these data is essential for the correct classification of stations according to the criteria set out in the paragraph and not only for tariff purposes but to better guide the activities of the stations themselves."

At the hearing, RFI underlined that the specific testing of automatic systems for detecting passenger flow at stations has — to date — failed and that the programme of installation of station turnstiles is — except for large stations, where it continues as planned — being redefined. As for the usefulness of the required data, RFI recalled how these necessary to define the classification of facilities, process customer data, analyse and plan the development of stations and the services offered by RFI. Finally, RFI stated that it was able to ensure adequate treatment of the data confidentiality to guarantee the railway undertakings providing them, as it has been doing for some time with regard to data provided by RUs when requesting infrastructure capacity.

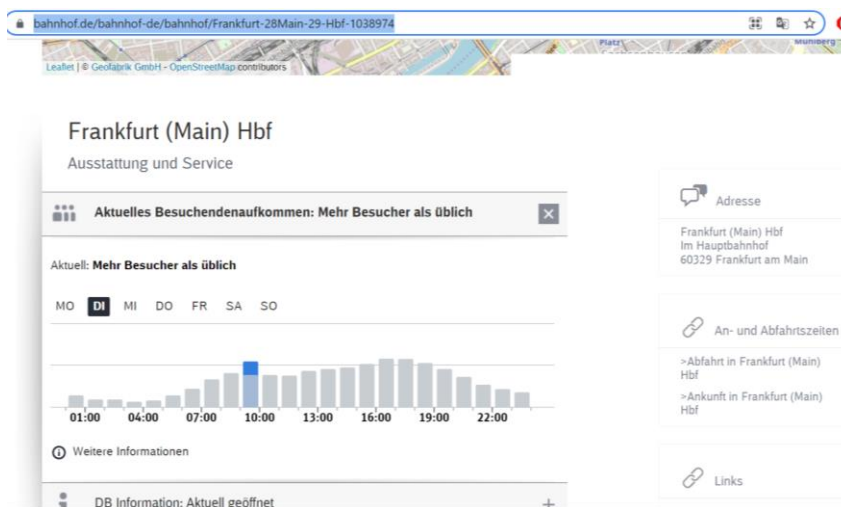
The Authority notes that:

- the data on station passenger traffic may present issues of confidentiality for railway undertakings if disseminated with extensive breakdown (e.g. by train, time slot, etc.), but where properly aggregated, it does not appear they reveal commercially or industrially confidential information;

- indeed, data on passenger traffic are already made available by other IMs in the EU; SNCF, for example, makes freely available annual data on the passenger traffic (from 2015 to 2020) of its stations on its open data site²;



- the website of the German IM DB Netz AG provides users with the levels of real-time crowding for some large stations of its network (e.g. Frankfurt³):



- In Italy, as regards PSO services for local public transport, the Regions already carry out campaigns to collect data on station passenger traffic, in collaboration with the railway undertaking in charge of the public service contract, and make them publicly available on their institutional site.⁴

² https://data.sncf.com/explore/dataset/frequentation-gares/table/?disjunctive.nom_gare&disjunctive.code_postal

³ <https://www.bahnhof.de/bahnhof-de/bahnhof/Frankfurt-28Main-29-Hbf-1038974>

⁴ <https://mobilita.regione.emilia-romagna.it/ferrovie/sezioni/passeggeri-transportati-i-dati-sulle-frequentazioni;>
[https://hub.dati.lombardia.it/stories/s/SFR-dati-di-frequentazione/52uy-dgwp/;](https://hub.dati.lombardia.it/stories/s/SFR-dati-di-frequentazione/52uy-dgwp/)

In view of the above, pending the definition by the IM of a process for implementation of automatic monitoring systems of passenger traffic at least for major stations, it is considered necessary to use the data already provided to the Regions by the railway undertakings which are awarded PSO services and which cannot therefore be characterised, also by the very nature of these services, by any confidentiality. As regards the data of station passenger traffic that may be derived from open access services, the IM should agree in advance with the railway undertakings concerned the levels of aggregation that are useful to protect reasonably enforceable confidentiality rights.

7.2.2 Indications

No indications are provided.

7.2.3 Requirements

- 7.2.3.1** The IM is required to replace, in paragraph 7.3.2.3 of the NS, the following period: *“The Railway Undertakings providing passenger services transmit, by the end of February of every year, data relating to the number of passengers who have boarded and disembarked at each of the stations/passenger stops where they provide a commercial service. The data will correspond to monthly totals (values for each month) and daily averages on workdays and non-working days for the months of November and July. The data will be transmitted to the CEM address rfi-dce@pec.rfi.it. The IM guarantees the confidentiality of commercial data in accordance with the relevant legislation currently in force”* as follows: *“The railway undertakings providing passenger services and which are assigned with PSO services transmit, by the end of February of every year, data relating to the number of passengers who have boarded and disembarked at each of the stations/passenger stops where they provide a commercial service. The data will correspond to monthly totals (values for each month) and daily averages on workdays and non-working days for the months of November and July. The data will be transmitted to the CEM address rfi-dce@pec.rfi.it. The IM guarantees the confidentiality of commercial data in accordance with the relevant legislation currently in force. The levels of aggregation of the information, to be transmitted by the railway undertakings providing passenger facilities for market services, are agreed upon by the latter and the IM at a specific common round table for the discussion of technical matters. Starting from 30 September 2022, in the absence of an agreement, the levels of aggregation already established for the railway undertakings providing PSO services will be adopted, except for the stations where the IM can already use automatic detection tools potentially useful for such measurements (e.g., turnstiles).*
- 7.2.3.2** The IM is required to launch, by 31 January 2022, technical discussions with railway undertakings providing open access services, in order to define by mutual agreement a level of aggregation of passenger traffic data to reconcile the needs of confidentiality of railway undertakings with the needs of information of the IM.
- 7.2.3.3** In respect of stations where turnstiles are installed or are expected to be installed, the IM is required to transmit to the Authority, no later than 31 January 2022, the scheme of the information stored in the management system of these turnstiles, that may be extracted through *ad hoc* queries to measure the level of passenger traffic at those stations.

7.3 Ticket office/customer reception premises in railway stations

7.3.1 Assessments by the Authority

The Authority noted that in the “Standard form of lease for renting ticket office/customer reception premises at the station of” (Annex 2 to Section 7 of the NS), Article 11 “Maintenance” has been significantly revised

by RFI, providing that the ordinary and extraordinary maintenance obligations (initially to be borne by RFI) are in charge of the lessee RU.

At the hearing, the IM clarified its understanding that, with the license for use of these areas, the IM ensures the ordinary and extraordinary maintenance of only the minimum equipment referred to in Article 2bis, as well as the extraordinary maintenance of the infrastructure. As regards the movable property added by the RUs to the above-mentioned areas licensed for use by RFI, the IM— having received such requests from some railway undertakings — considered it appropriate to specify how both the ordinary maintenance and extraordinary maintenance of the movable property in question should be borne by the lessee RUs, as the owners of those assets.

In view of the above, the Authority considers that RFI's request not to be held responsible for the maintenance of movable property added by railway undertakings to the regulated areas concerned is reasonable and that therefore Article 11 should be reworded accordingly.

7.3.2 Indications

No indications are provided.

7.3.3 Requirements

- 7.3.3.1 The IM is required to keep the current wording of Article 11 of Annex 2 to Section 7 of the NS 2022, clarifying, however, that RFI is not responsible for the ordinary and extraordinary maintenance of the movable property added by railway undertakings to the leased areas.**