



Federaal Agentschap voor
Regulering van Transport

Advice A-2025-06-S
regarding the procedure for taking into account temporary capacity restrictions in
the timetable

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1. Subject

On 11 June 2025, the infrastructure manager submitted a request for advice to the Federal Agency for Transport Regulation (hereinafter referred to as ART) regarding a new procedure they proposed for incorporating temporary capacity restrictions into the timetable. This new procedure offers applicants for infrastructure capacity the option of taking into account or disregarding the capacity restrictions included in the timetable.

In this advisory opinion, ART will address both the main principles of the current procedure and those of the proposed new procedure.

2. Legal basis

According to Article 63, § 1 of the Act of 30 August 2013 containing the Railway Code – hereinafter referred to as the Railway Code – the regulatory body shall issue opinions in the performance of its advisory role.

Article 27(2)(e) of the Railway Code states that the infrastructure manager may seek the opinion of the regulatory body on the compatibility of specific allocation rules with the provisions of the Railway Code and its implementing decisions.

3. Analysis

a. Context

The European Commission's Delegated Decision (EU) 2017/2075 of 4 September 2017 replacing Annex VII to Directive 2012/34/EU – hereinafter Annex VII – requires infrastructure managers to publish temporary capacity restrictions in good time so that applicants can adapt their activities and transport needs to the limited infrastructure capacity. If data on planned capacity restrictions are already published at the start of the application period for the inclusion of capacity in the annual timetable, the train paths already allocated would need to be rearranged less. To this end, Annex VII provides for certain publication and consultation rules, which vary according to the impact of the temporary capacity restrictions.

In this context, the infrastructure manager shall publish an annual list of capacity restrictions and organise consultation meetings with railway undertakings in order to inform them in good time of major works on the railway. These significant capacity restrictions are those categorised by Annex VII as (I) Major and High capacity restrictions and (II) Medium capacity restrictions for which no alternative can be offered. When this opinion refers to capacity restrictions, it therefore refers to these Major, High and Medium capacity restrictions.

During these consultation meetings, it is also discussed which of these capacity restrictions will be included in the timetable. This means that there are currently two types of capacity restrictions: on the one hand, capacity restrictions that are not integrated into the IT application for requesting capacity (ROMAN) and, on the other hand, capacity restrictions that are included in it.

Section 4.5 of the network statement explains how capacity requests that coincide with the capacity restrictions included in the timetable are handled. In its request for advice, the infrastructure manager proposed a new procedure for these cases. The current and new proposed procedures are discussed in more detail below.

b. The current procedure

i. Non-integrated capacity restrictions (point 2.1.1. request for advice)

Description of procedure

For capacity restrictions that are not included in the timetable, the infrastructure manager leaves it up to the applicant to decide whether or not to take these capacity restrictions into account in their capacity request.

If the request conflicts with capacity restrictions, the infrastructure manager will allocate the capacity if he is certain that sufficient capacity will be available to offer an alternative route at the time of the final allocation of the train path (no later than 28 days before departure).

If the infrastructure manager considers that there is insufficient capacity available to offer an alternative route, the capacity will be allocated in the final offer on a pro rata basis, in accordance with point 4.3.2.3 of the network statement.

ART findings

First of all, ART notes that the procedure set out in point 4.5 of the network statement does not fully correspond to the procedure presented by the infrastructure manager in its request for advice. For example, the network statement does not mention that the candidate has the choice of whether or not to take the capacity restriction into account. ART also refers to the analysis of the new procedure below, more specifically to the finding that these are two separate processes.

Conditional allocation of capacity?

In addition, ART has several questions about this procedure regarding the non-integrated capacity restrictions. The most important comment here is that the infrastructure manager appears to be allocating capacity that may not be available.

The text of the request for advice states: 'If the candidate submits its NPR applications¹ on the infrastructure under construction, Infrabel will allocate the train path to the final offer on the infrastructure under construction – even if this involves a total line closure – but only if Infrabel is sure that it has sufficient capacity to then allocate the train path on an alternative route, if necessary, at the time of the final allocation of the train path (no later than 28 days before the service runs)'.

Based on this text, it is unclear what capacity will be allocated, how it will be allocated and how it will be determined whether it is/will be available. ART also questions whether in practice it is possible to be completely certain that there will be sufficient capacity.

In addition, the text states that capacity will be **definitively** allocated no later than 28 days before the running of the train. In its Decision D-2020-01-S², ART found that the conditional allocation of capacity during works (known as NPR*) was contrary to Article 33 of the Railway Code. If capacity is only definitively allocated 28 days in advance, this also appears to be a form of conditional allocation.

ART also refers to Article 28 of the Rail Code, which states that the infrastructure manager shall allocate available capacity in an efficient and optimal manner and that he shall be able to inform any interested party of the capacity still available at any time. If not all capacity has been definitively allocated at the time of publication of the timetable, the infrastructure manager cannot say with certainty what capacity is still available. The infrastructure manager's approach in this procedure therefore appears to be in breach of this provision of the Railway Code.

Article 37 of the Railway Code

Furthermore, this procedure also appears to be in breach of Article 37 of the Rail Code, which states that capacity restrictions take the form of a capacity request submitted as a reservation during the preparation of the timetable. This means that when an application conflicts with these capacity restrictions, the infrastructure manager must, in accordance with Article 40 of the Railway Code, work out the most suitable solution through coordination. It is therefore his task to offer an alternative at this stage to the applicant whose capacity request conflicts with the temporary capacity restriction. In this way, the applicant also has the opportunity to comment at the time of publication of the draft timetable, in accordance with Article 35^{(2)(e)} of the Rail Code. This procedure also ensures that, when the timetable is published, the infrastructure manager has already allocated the alternatives and can therefore also comply with Article 28 of the Railway Code.

¹ NPR: New Path Request

² [D-2020-01-S concerning the precautionary measures within the framework of the audit assignment for the allocation of capacity in the 2020 timetable - Regul.be](#)

Conflicts on diversion routes

Finally, ART wonders how to deal with possible conflicts that arise when (in the course of the timetable) alternatives are drawn up. Is the capacity needed to divert train paths requested in NPR blocked in such a way that no LPR or Ad Hoc requests are allocated on this route? And what if several candidates need to be diverted? Will a coordination procedure be held at that point? How can equal treatment of the candidates be guaranteed in this case? ART would like to receive more clarity on this issues.

ii. TCR where capacity is completely unavailable (point 2.1.2.2. request for advice)

According to the procedure described in point 2.1.2.2. of the request for advice and point 4.5 of the network statement, capacity that is requested and is in conflict with a capacity restriction for which the capacity is completely unavailable will be refused.

However, as described above, Article 37 of the Rail Code requires the infrastructure manager to consider capacity restrictions as a capacity request when drawing up the timetable. This means that a coordination procedure must be followed and that applicants must be offered an alternative (if available) that is included in the draft timetable. ART also believes that this approach provides certainty that no alternative exists.

iii. Conclusion on the current procedure

ART is of the opinion that the procedures for non-integrated capacity constraints and capacity constraints where the capacity is completely unavailable do not appear to be in line with the provisions of the Rail Code, and in particular with Articles 28, 33 and 37.

c. New proposed procedure

In its request for advice, the infrastructure manager states that the new procedure is the same as the current one, with the addition of an optional possibility whereby the candidate does not take the capacity restriction into account in its application. However, ART notes that there is another difference with the current procedure, as no distinction is made between capacity restrictions for which the capacity is completely unavailable and those for which the capacity is partially unavailable. In addition, two 'special cases' are created, namely 'Medium capacity restrictions without alternative' and the case of 'abolition of capacity restrictions after the final offer'.

Finally, ART notes that the flowchart in the 'allocation process' section of the new proposed procedure states that allocation will take place in the NPR process. However,

this is not consistent with the written text, which still states that a final allocation will only take place during the timetable period in the case of non-integrated capacity restrictions.

i. Non-integrated capacity restrictions

Based on the text in the request for advice, the new procedure for non-integrated capacity restrictions remains unchanged from the current procedure. ART therefore refers to the comments made above (in the section on the current procedure) regarding this procedure. However, as stated above, there is an inconsistency between the text and the flowchart, which needs to be clarified. For example, the text states that capacity is allocated no later than 28 days before the train runs, but according to the flowchart, capacity is approved in the NPR process.

ii. Integrated capacity restrictions

For the capacity restrictions integrated into ROMAN, the infrastructure manager distinguishes between capacity requests that are requested directly on an alternative route and those that are requested in conflict with the works. These first capacity requests, where a railway undertaking immediately requests an alternative, are made possible by the publication requirements of Annex VII. This legislation obliges the infrastructure manager to publish important capacity restrictions in good time so that railway undertakings can anticipate them.

If a railway undertaking wants to be sure of having infrastructure capacity available during the capacity restrictions, they can already request a commercially viable alternative themselves in the normal NPR procedure.

Not an optional choice but two separate procedures

ART would like to point out that the infrastructure manager refers to this as an optional choice, but according to ART, these are two separate procedures. On the one hand, there is the request for capacity that conflicts with capacity restrictions (in other words, the procedure for which advice is requested) and, on the other hand, there is a normal NPR request.

As described above, because they are informed of planned capacity restrictions, railway undertakings have the opportunity to secure their commercial needs and immediately request an alternative. If they decide not to do so, the infrastructure manager must still hold a coordination procedure and offer alternatives, in line with Article 37 of the Railway Code.

ART considers that the wording ‘optional choice’ is confusing, as it seems to suggest that requesting an alternative immediately is the normal, preferred procedure. However,

railway undertakings are free to decide for themselves whether to request an alternative for the period of the capacity restriction, or to disregard the capacity restriction in their request and have an alternative (if available) offered to them through the coordination procedure. It seems appropriate to clarify this in the network statement as well.

Procedure for capacity requests that coincide with capacity restrictions

For requests that are in conflict with a capacity restriction, the infrastructure manager will offer an alternative in the draft offer, provided there is sufficient capacity. If no alternative is available (on the requested capacity or a diversion route), the capacity will be allocated on a pro rata basis in accordance with the principles set out in section 4.3.2.3 of the network statement. ART believes that this approach is in line with current legislation.

iii. Special cases

Medium capacity restrictions without alternative

According to the request for advice, in these cases all capacity requests that conflict with the capacity restriction are refused, as the infrastructure manager does not have an alternative. ART wonders how it is decided that there is no alternative. Is in this case, the procedure set out in Article 37 of the Railway Code followed so that it can be officially determined through consultation with the applicants? Or is it the infrastructure manager itself that decides that there is no alternative?

ART believes that Article 37 of the Rail Code should also be followed for these capacity restrictions. In addition, ART would like the infrastructure manager to provide more clarity about this procedure and the determination of whether or not an alternative exists.

iv. Conclusion on the new procedure

ART notes that there is a discrepancy between the text in the request for advice and the flowchart that needs to be clarified. The text of the procedure for non-integrated capacity restrictions included in the request for advice does not appear to be in line with the provisions of the Rail Code, specifically Articles 28, 33 and 37.

In addition, ART is of the opinion that these are two separate procedures and not a mandatory and an optional procedure. The railway undertaking must decide for itself whether or not to take the capacity restrictions into account. If it does so and immediately requests an alternative, the NPR procedure applies. If it does not, the infrastructure manager must act in accordance with Article 37 of the Railway Code.

In the specific case of medium capacity restrictions without an alternative, it is unclear whether a coordination procedure is also provided for here. ART asks the infrastructure manager to clarify this.

4. Advice

In view of the above comments, ART is of the opinion that the infrastructure manager's procedures with regard to taking capacity restrictions into account in the timetable should be amended or clarified as follows:

With regard to the current procedure:

- Bring the procedure into line with the legislation, and more specifically Articles 28, 33, and 37 of the Railway Code;
- Provide more explanation on how to deal with any conflicts when allocating alternatives in the course of the timetable;
- Align the procedure applied with the text in the network statement.

With regard to the new procedure:

- Bring the procedure into line with the legislation, and more specifically Articles 28, 33, and 37 of the Railway Code;
- Resolve the inconsistency between the text and the flowchart of the new procedure;
- Clarify in the network statement that this does not concern different options but two separate procedures in which the railway undertakings themselves have the choice to immediately request an alternative via the NPR;
- Provide ART with greater clarity on the procedure for medium capacity restrictions without alternatives.

Brussels, 3 December 2025,

For the Federal Agency for Transport Regulation,

Serge DRUGMAND

Chair

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