

RULES OF PROCEDURE OF THE EUROPEAN NETWORK OF INFRASTRUCTURE MANAGERS - PRIME

PRIME, THE EUROPEAN NETWORK OF INFRASTRUCTURE MANAGERS, hereinafter referred to as 'Network',

Having regard to the Declaration of Intent to establish the Platform of Rail Infrastructure Managers in Europe opened for signature on 16 October 2013, hereinafter referred to as 'PRIME Declaration of Intent',

Having regard to Directive (EU) 2016/2370 of the European Parliament and of the Council of 14 December 2016 amending Directive 2012/34/EU as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure¹, and in particular the new Article 7f inserted to Directive 2012/34/EU,

HAS ADOPTED THE FOLLOWING RULES OF PROCEDURE:

Point 1

Mandate and scope of action of the Network

1. With a view to facilitating the provision of efficient and effective rail services within the Union, the Platform of Rail Infrastructure Managers in Europe PRIME, established on 16 October 2013, will uptake the role of the European Network of Infrastructure Managers as foreseen in Article 7f of Directive 2012/34/EU, as amended by Directive (EU) 2016/2370.
2. The Network will accordingly commit to fulfil all the tasks of the European Network of Infrastructure Managers as provided for in this Directive:
 - (a) develop Union rail infrastructure;
 - (b) support the timely and efficient implementation of the single European railway area;
 - (c) exchange best practices;
 - (d) monitor and benchmark performance;
 - (e) contribute to the market monitoring activities referred to in Article 15 of the Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area²;
 - (f) tackle cross-border bottlenecks; and
 - (g) discuss the application of cooperation in relation to charging systems and the allocation of infrastructure capacity on more than one network, as foreseen respectively in Articles 37 and 40 of the Directive 2012/34/EU.

¹ OJ L 352, 23.12.2016, p. 1.

² OJ L 343, 14.12.2012, p. 32.

3. For the purpose of paragraph 2(d), the Network shall identify common principles and practices for the monitoring and benchmarking of performance in a consistent manner.
4. Tasks under paragraph 2(b) relating to early preparation of implementing and delegated acts or other legislative proposals and policy initiatives, shall be carried out by the PRIME Commission Expert Group (c.f. Point 5(5)).
5. In order to avoid duplication of work and encourage convergence, the Network shall take into account and, where possible, build on the finished work and work in progress as carried out in other cooperation forums, working groups and expert groups.

Point 2
Membership

1. The Network shall be composed of Infrastructure Managers from EU Member States and EFTA states, and the European Commission.
2. For the purpose of this document, the Infrastructure Managers shall be:
 - (a) *rail infrastructure managers* as defined in Article 3(2) of Directive 2012/34/EU, as amended by Directive 2016/2370/EU: any body or firm responsible for the operation, maintenance and renewal of railway infrastructure on a network, as well as responsible for participating in its development as determined by the Member State within the framework of its general policy on development and financing of infrastructure;
 - (b) *allocation bodies and charging bodies*, where not part of the rail infrastructure managers as specified above, and where they have been entrusted with the performance of essential functions of rail infrastructure management as defined in Article 3(2f) of Directive 2012/34/EU, as amended by Directive 2016/2370/EU.
3. Infrastructure Managers consist of:
 - i) the Main Infrastructure Managers, as determined by each EU Member State³ or an EFTA state having incorporated Directive 2012/34/EU in their national legislation, and
 - ii) Other Infrastructure Managers.

Point 3
Appointment process

1. All the Infrastructure Managers being signatories to the PRIME Declaration of Intent will remain members of the Network, subject to their consent to these rules of procedure.

³ C.f. Recital (22) of Directive (EU) 2016/2370

2. In accordance with Article 7f of Directive 2012/34/EU, as amended by Directive (EU) 2016/2370, participation in the Network of the Main Infrastructure Managers, as determined by each Member State, is mandatory. If not yet members of PRIME, they shall join the Network by notifying the Network Co-chairs⁴.
3. Other Infrastructure Managers shall send an application to the Network Co-chairs in order to join the Network. They will be appointed by the Network Co-chairs if they fulfil the conditions in Point 2(2).
4. Members shall be appointed for an unlimited period.
5. Other Infrastructure Managers may resign their membership of the Network at any time by notifying the Network Co-chairs. Resigned members shall no longer be committed to any of the decisions or activities of the Network.
6. Members shall nominate their representatives to Network Plenary meetings and other structures, and shall be committed to ensuring that their representatives provide appropriate level of management and expertise as provided for in Point 5(4).

Point 4

Observers

1. The European Union Agency for Railways and the supportive and representative associations of European rail IMs being signatories to the PRIME Declaration of Intent can participate in the Network Plenary meetings and other Network structures as observers and shall nominate their respective representatives.
2. The Network may decide to grant an observer status to other individuals, organisations or public entities, where relevant, for participation in specific structures of the Network.
3. Observers and their representatives may take part in the discussions and provide expertise: however they shall not have voting rights and shall not participate in the final stage of formulation of recommendations or advice of the Network.

Point 5

Operation of the Network

1. The Network is co-chaired by a representative of Infrastructure Managers ('the Industry Co-chair'), and a representative of the Commission ('the Commission Co-chair'), referred together as 'Network Co-chairs'.
2. The Industry Co-chair shall be appointed by the decision of Plenary. As a rule, nominations shall be invited every second year.

⁴ The deadline for Member States to ensure compliance with the obligations set out in Article 7f is 25/12/2018.

3. The Network decides on its working priorities on a yearly basis.
4. The Network works according to the following structures:
 - i) Plenary meeting, which is the decision making structure of the Network and is attended at high level (c.f. Point 6);
 - ii) Subgroups to develop cooperation and exchange of best practices between the Network members and are attended at expert level (c.f. Point 7);
 - iii) Joint meetings with other bodies to discuss matters falling within their respective areas of responsibility and to share information (c.f. Point 8).
5. Notwithstanding Point 5(4)(i) above, as regards the support to timely and efficient implementation of the single European railway area (c.f. Point 1(2)(b)), the tasks relating to the early preparation of implementing and delegated acts or other legislative proposals and policy initiatives are carried out by PRIME Commission Expert Group. In addition to PRIME Commission Expert Group, other Commission expert groups, with a wider range of participants, also provide advice and expertise to the Commission in the area of rail legislation. PRIME Commission Expert Group operates in line with the Horizontal Rules on the creation and operation of Commission Expert Groups⁵, it has its own membership rules⁶ and it elects its own chair, for which the Network can make a proposal. The Chair of the PRIME Commission Expert Group debriefs the Plenary meeting regularly about the activities of this Group.

The Infrastructure Managers and Observers may convene preparatory meetings for discussion and consolidation of their views so as to prepare their contributions to the PRIME Commission Expert Group.

6. All meetings and communications shall take place in English without interpretation or translation. All written communications will take place in electronic form.
7. Meetings shall be held in Brussels or, if held outside of Brussels, be hosted by one of the Infrastructure Managers or Observers.
8. All Network members may take part in the work of any structures of the Network and participate equally in the formulation of its decisions, opinions, recommendations or reports. As a principle rule, the Network shall adopt its decisions, opinions, recommendations or reports by consensus during the Plenary meeting.
9. In the exceptional event of a vote, the outcome shall be decided by simple majority. There is one vote per each State represented by the Infrastructure Managers present during the Plenary. The Infrastructure Managers representing several States shall announce their affiliation prior to the vote.

In case of opposing positions among the Infrastructure Managers of the same State, the prevailing position is determined as follows:

⁵ Commission Decision of 30.5.2016 establishing horizontal rules on the creation and operation of Commission expert groups, C(2016) 3301 final.

⁶ [add reference to the Terms of Reference and Rules of Procedure of the PRIME Commission Expert Group, when approved]

- i) the position of the Main Infrastructure Manager prevails, as a general rule;
- ii) the position of an allocation or charging body prevails in case the topic put on vote is under its responsibility in a given State;
- iii) the position of the Infrastructure Manager operating the longest network prevails, in case of EFTA states not having incorporated Directive 2012/34/EU in their national legislation and thus not having appointed their Main Infrastructure Managers.

The vote of the State in question will not be taken into account in case of:

- i) opposing positions among two or more Main Infrastructure Managers of the same State;
- ii) absence or missing delegation of the Infrastructure Manager with the prevailing position.

The European Commission has also one vote. In its absence, an Infrastructure Manager may delegate its voting right to another Infrastructure Manager, by sending a request to the Network co-chairs in advance to the meeting. The members who have opposed or voted against shall have the right to have a document summarising their position annexed to the decisions, opinions, recommendations or reports.

10. Without prejudice of paragraph 9, for the purpose of identifying common principles and practices for the monitoring and benchmarking of performance (c.f. Point 1(3)), only the Infrastructure Managers who are regularly participating⁷ in the work of the relevant subgroup, shall be entitled to vote on proposals for agreeing on such principles and practices.
11. The offices of Network Co-chairs in place shall provide or arrange support for the Network Secretariat. The Commission shall support the Network in its work.
12. This framed cooperation is without prejudice to the participation of the Infrastructure Managers or Observers in other forms of sectoral cooperation.

Point 6 **Plenary meetings**

Chairing and secretariat

1. The Plenary meetings are chaired by the Network Co-chairs.
2. The Network Co-chairs shall agree on their duties so as to lead and chair the agenda items that relate to their respective areas of responsibility.
3. The Network Secretariat assists the preparation and follow-up of Plenary meetings.

⁷ The relevant subgroup chair proposes the list of the regular participants, after consulting the members of the subgroup, based on (a) the participation of IMs in the meetings of the subgroup and (b) the range of data submitted by them. The list shall be approved by the Network Co-chairs.

Convening meetings

4. Plenary meetings are convened by the Network Co-chairs at regular intervals and no less than twice a year, or more frequently as agreed by the Network. A simple majority of the members can also request the Network Co-chairs to convene a meeting.

Participation

5. Infrastructure Managers shall be represented by the Chief Executive Officer or a member of their executive or management board or, alternatively, by a person appointed for that purpose by the Chief Executive Officer or an Executive Board Member. The Commission is represented by DG MOVE at management level or by a person specifically appointed for that purpose by DG MOVE management.

Agenda

6. With the assistance of the Network Secretariat, the Network Co-chairs shall jointly draw up the agenda. The Industry Co-chair shall consult the Infrastructure Managers. In the interest of transparency, where items cannot be mutually agreed by the Network Co-chairs, these shall be reported to the Plenary meeting for information. Wherever possible, agenda items for each Plenary meeting shall be agreed at the previous meeting. The agenda shall be formally adopted by the members at the start of each Plenary meeting.

Meeting documents and minutes

7. On behalf of the Network Co-chairs and based on their full agreement, the Network Secretariat shall distribute to the members and any other invitees, as indicated by the Network Co-chairs:
 - i) the invitation to the meeting and the draft agenda no later than 28 calendar days before the date of the meeting;
 - ii) the final agenda and the documents on which the Plenary meeting has to take decisions no later than 14 calendar days before the date of the meeting;
 - iii) the documents for the information and any presentation to be given no later than 7 calendar days before the date of the meeting.
8. In urgent cases, additional information can be distributed up to 2 days before the date of the meeting.
9. Matters introduced with the agreement of both Network Co-chairs as 'Any Other Business' do not need to comply with the requirements outlined in point 7, as long as they are not put for a decision.
10. At each meeting, the Network Secretariat shall draw up an attendance list specifying the affiliation of the participants.

11. A summary record of discussion on each point of the agenda shall be drafted by the Network Secretariat under the responsibility of the Network Co-chairs. The summary record shall reflect the overall discussion and decisions taken and shall not mention the individual position of the members during deliberations, unless members specifically request to keep their statements in.
12. Following each Plenary meeting, after approval by the Network Co-chairs, the Network Secretariat shall distribute draft summary record of the meeting to the members. Draft summary record shall be subject to revision and amendment by the members having attended the Plenary meeting, and shall be approved at the beginning of following Plenary meeting.

Written procedure

13. If necessary, the Network's decisions on a specific question may be delivered via a written procedure. To this end, the Network Secretariat sends to the members the document(s) on which the Network is being consulted. The Observers will be kept in the copy of all exchanges.
14. However, if a simple majority of members asks for the question to be examined at a Plenary meeting, the written procedure shall be terminated without result and the question shall be addressed during the next Plenary meeting.

Point 7 **Subgroups**

Establishment

1. In agreement with the Network Co-chairs, some or all Network members may at any time set up subgroups when examining specific questions related to the tasks as specified in Point 1. The initiating Network member(s) shall inform the other members so as to give them an opportunity to participate.
2. When deciding whether to set up a Subgroup and defining the specific remit of each Subgroup, the Network members shall, as provided for in Point 1(5), take into account the work already carried out in other fora.

Remit

3. A remit shall be set up for each Subgroup to guide its work, including the description of the scope of its activities and expected deliverables by predefined deadlines, where relevant. If not yet agreed at the time of creation by the Plenary meeting, at the first meeting of a Subgroup its members shall agree on the remit, which shall be agreed on by the Network Co-chairs and presented to the next Plenary meeting. Remits shall be updated as needed.

4. When building on published work and knowledge developed in other fora, or on unpublished work of other fora that the Network has been made aware of by its members, Subgroups shall take this material into consideration where appropriate and to the extent possible.

Reporting

5. The Subgroups shall report back to the Plenary meeting orally or in the form of written reports. The reports and/or recommendations of subgroups, if endorsed by the Plenary meeting, shall be subject to an approval reflected in the summary record of the respective Plenary meeting.

Dissolving

6. Subgroups shall be dissolved as soon as their remit is fulfilled or their allotted time to undertake work has expired. The Chair/Co-chairs of the respective Subgroup shall report back to the Plenary meeting on the outcome of the work or reasons for the task not being completed. If relevant, Chair/Co-chairs of a Subgroup can request from the Plenary meeting an extension of the remit.

Chairing and secretariat

7. Subgroups shall be coordinated by the Chair/Co-chairs. Subgroups are always chaired by a representative of Infrastructure Managers, in addition the Commission may co-chair. If not agreed at the time of creation by the Plenary meeting, then at the first meeting of the Subgroup, the Infrastructure Managers present shall decide on the chair for the Subgroup. At the same meeting, the Commission may announce its representative as a Subgroup Co-chair.
8. The Industry Chairs of Subgroups shall be appointed by the Infrastructure Managers participating in the respective Subgroups. Each new Subgroup Chair has an initial mandate for 2 years or linked to the expected deliverable of the subgroup, whichever comes first.
9. At any point of the time after this initial period, the appointment of a new Chair can be put on the agenda of the respective subgroup if at least three Subgroup Members ask so or at the request of the PRIME Plenary. Subgroups will inform the PRIME Plenary about the appointment of a new Subgroup Chair. If the same chair is re-appointed, he/she will be entitled for a renewed mandate for 2 years.
10. In any case, the appointment of a new Chair will be put on the agenda of the respective Subgroup if the Chair has been leading the group already for 6 years.
11. If no Subgroup meeting has taken place during the last 12 months, the PRIME Subgroup Chairs coordination meeting (organised annually by PRIME Co-chairs) will discuss the continuation of this Subgroup and, if relevant, adjust the mandate and appoint a new Subgroup Chair.

12. Cooperation coordinators (with RU Dialogue and ENRRB) will also have an initial 2 year mandate. After the end of the initial period, their (re)appointment is discussed at annual Subgroup Chairs coordination meetings. If a new Coordinator is proposed, he/she will be appointed by the PRIME Plenary.
13. Irrespective of the points above, each Subgroup Chair or Coordinator can step down at any moment of time.
14. The offices of the Subgroup Chair/Co-chairs in place shall provide or arrange support for the secretariats of Subgroups. Infrastructure Managers and Observers may provide administrative or in-kind support for the purpose of assisting Subgroups in their tasks, including secretarial assistance, hosting of meetings, logistical and ICT tasks.

Convening meetings

15. Meetings of a Subgroup are convened by its Chair/Co-chairs as often as necessary for completing the tasks as defined in its remit.

Participation

16. All members and Observers shall be invited, but in general are not bound to participate in Subgroups. Nevertheless, participation of Main Infrastructure Managers in the subgroup developing the common principles and practices for the monitoring and benchmarking of performance (c.f. Point 1(3)) is essential in order for the Network to comply with its obligation⁸ to identify such principles and practices in a consistent manner.
17. Subgroups shall be composed of experts or technicians.
18. On an exceptional basis and subject to notification to the Subgroup Chair/Co-chairs, a senior management member of an IM can mandate an expert outside of its organisation to represent its interest at this specific meeting.

Meeting documents and summary record

19. The agenda of the meetings shall be drawn up by the Subgroup Chair/Co-chairs.
20. The procedures for distribution of the invitations, agendas, attendance lists and other meeting documents, as well as preparing summary records, reports and recommendations shall be agreed by the members of each Subgroup.
21. All documentation related to the work of each Subgroup shall be uploaded by their secretariats to the Members' Area of the PRIME website⁹, accessible to all Network members, but by default are not made public.

⁸ C.f. Article 7f(1) of Directive 2012/34/EU, as amended by Directive (EU) 2016/2370.

⁹ https://webgate.ec.europa.eu/multisite/primeinfrastructure/prime-news_en

22. The members of a Subgroup collectively may agree to apply conditions of confidentiality as provided for in Point 12(4) in order to enable the members of the Subgroup to share information.

Point 8

Joint meetings with other bodies

1. The Network can decide to hold joint meetings with other groups and organisations whether or not established under EU legislation to discuss matters falling within their respective areas of responsibility. Such groups and organisations can represent for instance regulatory bodies, railway undertakings or their end customers, other network industries or the infrastructure managers of other transport modes.
2. Occurrence and modus operandi of such meetings is subject to the approval by the Plenary meeting. Network may decide to appoint on an ad hoc basis an Infrastructure Manager or an Observer, who shall coordinate, in cooperation with the other Infrastructure Managers and Observers, the preparation of joint meeting(s).

Point 9

Opinions, recommendations and reports of the Network

In the context of the intention to cooperate as set out in Point 1, the Network shall adopt common principles and practices for the monitoring and benchmarking of performance in a consistent manner. It can also adopt other opinions, recommendations, reports and decisions on its internal functioning, as relevant.

Point 10

Invited experts

The Network Co-chairs and the chairs of other structures listed in Point 5(4) may invite experts, from organisations outside the Network with specific expertise with respect to a subject matter on the agenda, to take part in the meetings on an ad hoc basis.

Point 11

Correspondence

1. Correspondence relating to PRIME shall be addressed to the Network Co-chairs.
2. At the beginning of each Plenary meeting, the Network Co-chairs shall report to the Network members relevant correspondence related to the Network or its activities that they have received.

3. Correspondence for Network members shall be sent to the e-mail address they have provided for that purpose to the Network Secretariat.

Point 12
Transparency

1. The Network's deliberations shall be confidential. In agreement with the Network Co-chairs, the Network may, by simple majority decide that deliberations shall be public.
2. The Network shall have its dedicated website with public and 'Members Area'. It publishes in the public area the information on its activities and agendas, summary records (excluding references to individual quotes) and presentations of the Plenary meetings. The public part will also contain news, membership information, and overview of the activities of the subgroups and joint meetings with other bodies.
3. Meeting materials of subgroups will in general be shared in the 'Members Area' being accessible only to the members and observers.
4. Exceptions to publication and sharing can be foreseen where it is deemed that disclosure of documents would undermine the protection of commercial interests or inspections/investigations/audits. In such cases access to certain documents and information can be subject to a signature of non-disclosure agreements.