

IDENTIFICATION AND BENCHMARKING OF THE LEGAL, ORGANISATIONAL AND FINANCIAL SET UP FOR EXISTING COMBINED TERMINALS IN THE BALTIC SEA REGION - PART 2

Survey of open access to rail service facilities and the regulatory
enforcement hereof

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CONTENT

Identification and benchmarking of the legal, organisational and financial set up for existing combined terminals in the Baltic Sea Region - PART 2 Survey of open access to rail service facilities and the regulatory enforcement hereof	0
Content.....	1
1 INTRODUCTION.....	3
1.1 Background	3
2 CONCLUSIONS and RECOMMENDATIONS	5
2.1 Conclusions.....	5
2.2 Recommendations	6
3 THE SURVEY	7
3.1 Initial considerations.....	7
3.2 Regulatory themes in focus for this study	7
3.3 Role of rail regulatory bodies	11
4 ANALYSING	12
4.1 Data sources	12
4.2 Methodology.....	13
4.3 Analyses.....	16
5 FINDINGS	17
5.1 Distribution of number of complaints cases 2009-2019	17
5.2 Distribution of number of investigation cases 2009-2019	18
5.3 Who filed complaints	19
5.4 Who were defendants in the complaints	21
5.5 Who was the party subject to investigations	24
5.6 Rail systems addressed in complaints	26

5.7	Rail systems addressed in investigations	28
5.8	Regulatory themes of Directive 2012/34/EC addressed in complaints.....	30
5.9	Regulatory themes of Directive 2012/34 addressed in investigations	33
5.10	Regulatory themes of Implementing Regulation 2017/2177 addressed in complaints.....	36
5.11	Regulatory themes of Implementing Regulation 2017/2177 addressed in investigations	39
5.12	Complaint topics within Annex II of Directive 2012/34.....	43
5.13	Investigation topics within Annex II of Directive 2012/34	45
6	SUMMARY	47
7	LIST OF FIGURES AND ANNEXES.....	52
8	LIST OF LITERATURE AND SOURCES.....	54
9	ANNEXES	55
9.1	Annex 1: Role of rail regulatory bodies	55
9.2	Annex 2: Overview registration keys.....	58
9.3	Annex 3: Compilation of raw data on complaints and investigation cases	61
9.4	Annex 4: Full registration and resumes related to complain cases and investigation cases examined for this survey.....	74

1 INTRODUCTION

1.1 Background

The Combined Transport Directive (Directive 92/106/EEC) supplemented by COM (2017) 648 (proposal for a Directive of the amendment of the Combined Transport Directive) form the regulatory perspective and base of the COMBINE project. This regulatory base aims at directly incentivising shifts from road freight to lower emission transport modes such as rail, in-land waterways and maritime transport, and thus to promote the use of train, ships or barges for the transport of the major legs, in combination with a short road leg (last mile) to be carried by road transport.

The Combined Transport Directive and its proposed amendment complements other legal instruments contributing to shift towards more sustainable modes of transport. Among these are e.g. Directive 2012/34 (rail), Regulation 913/2010 (rail freight corridors) and Regulation 1315/2013 (TEN-T). These legal measures are already in force.

In addition, legal instruments with specific requirements for open, non-discriminatory access to combined terminals, their service facilities and rail-related services are also in force. Among these are Regulation 2017/352 (harbours), Directive 2012/34 and implementing acts hereto, as e.g. the Commission Implementing Regulation 2017/2177 (rail service facilities). Also these measures are already in force.

Thus, the major leg (the rail leg) is already today regulated by a number of essential legal instruments regarding the open and non-discriminatory access to freight terminals.

See also section 8, numbers 1 - 8 for references to the legal framework for the present study.

COM (2017) 648 indicates amongst others, that main infrastructure bottleneck hampering the shift from road to other modes of transport is at the trans-shipment terminal level. Further it is indicated, that an increase of capacity and coverage of trans-shipment terminals could be one way to go ahead.

From a user point of view open and non-discriminatory access to the terminals and the charges of the services is of great importance. On the other hand, and seen from the terminal operators' point of view, the conditions for operating the terminal are vital. Thus, the potential for generating turnover and surplus and to keep expenses under control, the management of staff, etc., typically depends on the legal structure (ownership), the organisation and the financing of investments and the day-to-day operation of the terminals.

Thus, "Identification and benchmarking of the legal, organizational and financial set up for existing combined terminals in the Baltic Sea Region" is identified as a specific task to be carried out within A.3.1 of the COMBINE project.

The aim of this part of the task is to add perspectives to the general understanding of barriers to open access to rail service facilities such as to e.g. the combined freight terminals, and to the enforcement of rail regulation related hereto.

PART 1 of the report for this specific task within A3.1 include analyses and benchmark of different organisational models of terminal operation based on data compilation on both organisational and operational parameters.

PART 2 of the report includes a survey of the enforcement of the regulatory requirements for open access to terminals, service facilities and to the supply of services herein, based on survey of complaint cases and ex officio investigations dealt with by rail regulatory bodies.

This report form PART 2.

From a users' point of view the open and non-discriminatory access to freight terminals and their service facilities is especially important including the transparency and non-discriminatory price setting of the charges of the services.

Parties, that believe they have been unfair treated, discriminated against or in any other way aggrieved in their access to rail service facilities, and consequently may see a need to have their legal rights tested by the regulatory authority, all in reality experience barriers to open access.

Rail regulatory bodies under Directive 2012/34, Articles 55-57, being independent regulatory authorities, play an important role in the ensuring and enforcement of a fair and non-discriminatory access to rail network and services. Looking into complaints cases and investigation cases dealt with on the most important issues of open access to rail service facilities thus provide both facts, indications of extent and indications of systemic problematic areas within this field.

Summaries of complaint cases and cases of ex official investigations dealt with by EU member states rail regulatory bodies and reported to EU through the period 2009-2019, have for this purpose been made available for this survey through the courtesy of the Danish Rail Regulatory Body.

2 CONCLUSIONS AND RECOMMENDATIONS

2.1 Conclusions

The aim of the present survey is to add perspectives to the general understanding of barriers to open access to rail service facilities as e.g. combined terminals, and to the enforcement of a fair and non-discriminatory access hereto.

The purpose of the survey is not to examine the situation within the Baltic Sea Region in isolation, but as part of EU.

For this purpose reports on complaint cases and cases of ex official investigations dealt with by EU member states' rail regulatory authorities through the period 2009-2019 on the regulatory themes within the scope of this survey have been analysed.

The present study identifies a number of impediments that makes it difficult for new actors to enter the rail market.

The survey indicate the presence of a number of systematic problematic areas in the field of open access to rail service facilities and rail related services. Among other things, it seems that the access to the very basic service facilities and the charges set for use of service facilities are among the major barriers for railway undertakings and other users' actual utilisation of their access rights to the matters of open access to rail service facilities.

Thus, the access to the very basic facilities form the subjects of the cases in by far the majority of all complaint cases examined in both the Baltic Sea Region and within EU as a whole. This relates e.g. to the access to train control and the access to service facilities in its broad sense, to stations, ticketing facilities, freight terminals, marshalling yards, shunting facilities and storage.

It should be observed that getting access to service facilities in the rail passenger market seem to be as troublesome as getting access to the rail freight market. Thus, passenger railway undertakings and freight railway undertakings do to the same degree experience obstacles in getting their alleged legal rights of access hereto.

The survey show, that as a whole there are the same tendencies and problematic areas in the Baltic countries as there are within the EU as a whole.

See also section 6 for a summary of the specific tendencies.

For a few, however, the tendencies observed in the Baltic Sea Region differs somewhat from tendencies observed within the EU as a whole.

Thus, within the Baltic Sea Region

- there were more complaints about charges for access than within the EU as a whole,
- did users of service facilities see a need for get tested if the operators of the service facilities complied with the rules to a higher degree than users within the EU member states as a whole saw a need for it,
- there was less supervising activities from the rail regulatory bodies on the themes of the Implementing Regulation 2017/2177 than there was within EU member states as a whole.

2.2 Recommendations

Presence of open and non-discriminatory access to rail service facilities and assurance of compliance with the charging principles of the EU rail regulation is vital for ensuring both the competitiveness in relation to other modes of transport and the transparency and non-discrimination.

As the rail regulatory bodies under Directive 2012/34, Articles 55-57, being independent regulatory authorities, play an important role in the ensuring and enforcement of a fair and non-discriminatory playing ground, the present survey and its findings provide both facts, indications of extent and indications of systematic problematic areas within the themes open access, organisational and decision-making independency and charges.

In a general enforcement perspective it is to be expected, that general enforcement of the regulation carried out by rail regulatory bodies by means of targeted ex officio procedures (investigations) on key regulatory themes will have much greater impact on the reduction of market access barriers than the rail authorities' decisions on specific complaint cases.

The present survey may thus provide important input to and support for further enforcement activities by rail regulatory bodies.

In particular, it is recommended that the rail regulatory bodies systematically conduct ex officio investigations on the themes of the Implementing Regulation 2017/2177 addressed in the present survey. This to ensure equal treatment, transparency and competitiveness in the access to rail service facilities in its broad sense.

The survey may also be useful for the European Commission in its further dialogue with the national rail regulatory authorities on matters of enforcement hereunder on priorities for supervising measures.

3 THE SURVEY

3.1 Initial considerations

The aim of the present survey is to add perspectives to the general understanding of barriers to open access to rail service facilities as e.g. combined freight terminals, and to the enforcement of a fair and non-discriminatory access hereto. The survey is based on complaint cases and cases of ex official investigations dealt with by EU member states rail regulatory bodies on the regulatory themes within the scope of this survey.

For the purpose of the present survey an initial narrowing down of regulatory themes has been made.

Primary focus for the analysis have been placed on cases, where the facts of the case concerned issues that are both regulated and within the enforcement powers of rail regulatory bodies. Among these are matters of open access, organisational and decision-making independency, and matters of efficiency, charges, publication of service facility descriptions and charges, requests for access and responses hereto.

The subject fields for the analysis of complaints and ex-officio investigations is moreover further narrowed, so that focus is less on issues that cannot be changed within the current rules (such as ownership, financing and operating technique). Thus not included in the survey are:

- cases with material content restricted to the minimum access package (Dir 2012/34, Annex II, point 1), except where elements hereof have direct bearing on subjects of Annex II, points 2-4 of the case, and
- cases on general capacity allocation, track access/usage charges, criteria for priority, congestion, Network Statements in general, economic equilibrium, performance regimes, costs of capital, costs of debt, costs of equity a.o.

3.2 Regulatory themes in focus for this study

3.2.1 Regulatory themes

As mentioned above, the focus for this study is specifically on a number of themes of EU regulation considered to be of primary importance for the access to rail service facilities and to rail related services in general, hereunder to combined terminals. The themes analysed are as follows:

a) Requirements laid down in Article 13 and 31 of Directive 2012/34/EU on:

- **Open access** (Article 13(2) incl. Annex II points 2-4, and Article 13(9) on exemptions from Implementing Regulation 2017/2177),
- **Organisational and decision-making independency** (Article 13(3)),
- **Efficiency** (Article. 13(4) incl. access to viable alternatives (Article. 13(6), equal treatment, accounting separation etc.).

- **Charges** (Article 31(7)) according to which the charges/tariffs for access to and use of the services e.g. combined terminals, must not exceed the cost of providing it plus a reasonable profit.

b) Requirements laid down in the Implementing Regulation 2017/2177 on:

- **Publication** of service facility descriptions with information on the facilities (Article 4 and 5),
- **Publication of charges** of the use of the facilities (Article 4(2m)),
- **Requests for access** (Article 8+ 4(2f)),
- **Response to requests** as well as on other conditions for use of service facilities and services herein (Article 9 and Article 4(2f)) and
- The possibility to be granted **exemptions** from requirements of Regulation 2017/2177 (Directive 2012/34, Article 13(9)).

3.2.2 Directive 2012/34/EU

Access and supply

Directive 2012/34/EU provides the basis for the regulation of service facilities and rail-related services. The Directive thus defines rules for service facilities and rail related services, aiming at increasing the transparency of access conditions and charges applied to ensure non-discriminatory access (Art. 13 and 31).

Provisions apply to a broad range of facilities, including passenger stations, freight terminals, marshalling yards and train formation facilities, storage sidings, maintenance facilities, cleaning and washing facilities, maritime and inland port facilities and refueling facilities.

Services provided in these facilities and additional respectively ancillary services, such as traction current supply, pre-heating of trains, arrangements for transport of dangerous goods, access to telecommunication networks and ticketing services in passenger stations, is also covered by the Directive.

The Directive imposes a number of obligations on entities that qualify as service facility operators.

Per article 3(12) of Directive 2012/34/EU a service facility operator is any public or private entity responsible for managing one or more service facilities or supplying one or more services to railway undertakings referred to in points 2 to 4 of Annex II of that Directive.

The obligations for a service facility operator primarily refer to access to service facilities and the services provided in those facilities, charges for the use of service facilities and the services provided in those facilities, and publication of information relating to service facilities and the services provided in those facilities..

The level of regulation varies, depending on the category under which the relevant service facility or rail-related service falls as laid down in Annex II of Directive 2012/34/EU. Category 2-services of Annex

II (“basic services”) are the most highly regulated. Services that fall under category 3 (“additional services”) or category 4 (“ancillary services”) face a comparatively less strict regime.

In principle, service facilities are supply services related to the nature of the facility itself. For example, freight terminals installations where services of loading, unloading and transshipment of goods from and to freight trains or wagons are supplied. These services are defined as basic. Additional and ancillary services are services supplementary to the basic ones. For instance, in the case of freight terminals, additional services may comprise tailor-made contracts for control of transport of dangerous goods, and ancillary services may comprise technical inspection of rolling stock.

A service facility operator that provides basic services is thus required to give non-discriminatory access to these. Access requests for basic services must be answered within a reasonable time limit, and may only be refused if there is a viable alternative available to the undertaking that is seeking access. Where a service facility operator encounters conflicts between different requests, it shall attempt to meet all requests in so far as possible.

Additional services and ancillary services likewise must be supplied in a non-discriminatory manner. However, additional services need to be supplied on request, whereas ancillary services only need to be supplied if the service facility operator decides to provide such services.

Charging

In recent years, charges for the minimum access package (Category 1-services of Annex II) have been the main focus of charging regulations (Article 31 (3)). For the railway market, access to and charges for service facilities are, nevertheless, equally important. The charging principle related to Article 31(7) of Directive 2012/34/EU pertains to this. According hereto charges imposed for providing a basic service may not exceed the cost of providing it, plus a reasonable profit. According to Article 31(8), the same charging principle is used for additional and ancillary services, when offered by only one supplier.

Charging principles for service facilities and rail-related services differ from the ones applied to rail infrastructure. While direct costs and possibly mark-ups (and eventually other charging components) is levied by the infrastructure manager for the minimum access package and for access to infrastructure connecting service facilities, charges imposed for track access within service facilities and the supply of basic services in such facilities shall not exceed the cost of providing them plus a reasonable profit. Where additional and ancillary services is offered by only one supplier, the charge imposed for such a service should not exceed the cost of providing it, plus a reasonable profit.

The charging principles ensure transparency and non-discrimination, and aims at ensuring the competitiveness in relation to other modes of transport. Any individual negotiation on charges or discounts not based on the above principles would undermine the principle of non-discrimination.

Applicants must have easy access to information on any service facility and its rail related services. For that reason, it is obligatory that the network statement, which is available free of charge, contains a section on information on access to and charging for gaining access to service facilities as well as for

the provision of rail-related services. Alternatively, the information can be published on the website of the service facility or on a common web portal.

According to Article 64 of the Directive 2012/34/EU, member states were supposed to finalise the transposition of this legal basis for charges in service facilities into their national laws, regulations and administrative provisions by 16 June 2015.

3.2.3 Implementing Regulation 2017/2177

The Implementing Regulation 2017/2177 on access to services facilities and rail-related services sets out uniform rules, procedures and certain obligations for service facility operators, thus ensuring that all users of rail service facilities are both granted equal, non-discriminatory access, and receive efficient processing of their application.

The Regulation has a strong bearing on matters of efficiency in Directive 2012/34. It also strengthens the requirement to provide information on services by mandating the publication of a service facility description. This Regulation has been in force as of 1st June 2019.

The Regulation 2017/2177 also applies to operators of service facilities and applicants of maritime and inland port facilities linked to rail activities (Preamble 3).

Exemptions

Under Article 2 (1) of the Implementing Regulation a service facility operator can file an application with their national rail regulatory body in order to be exempted from provisions of the Implementing Regulation in relation to, for example, timescales, priority criteria, viable alternatives etc. Exemptions from Article 4 (2) (a) to (d) and (m) and Article 5 can, however, not be granted.

Article 2 (2) of the Implementing Regulation specifies, that rail regulatory bodies may decide to exempt service facility operators, that operate service facilities or provide services, if the conditions in any of three criteria of the same Article are fulfilled.

Three categories of service facilities or services may qualify for an exemption:

- a) service facilities or services which do not have any strategic importance for the functioning of the rail transport services market, in particular as regards the level of use of the facility, the type and volume of traffic potentially impacted and the type of services offered in the facility,
- b) service facilities or services which are operated or provided in a competitive market environment with a variety of competitors providing comparable services,
- c) service facilities or services where application of the Implementing Regulation could negatively impact the functioning of the service facility market.

These three categories are alternative, meaning that only one of them needs to be fulfilled in order for a facility or service to qualify for an exemption.

Exemptions do not affect the obligations of the service facility operators to provide non-discriminatory access to their facilities and services.

See also section 8, number 13 reference to status October 2019 on experiences regarding exemptions granted under Article 2(2) of the Implementing Regulation 2017/2177.

3.3 Role of rail regulatory bodies

From a users' point of view, such as from an intermodal freight operator's point of view open and non-discriminatory access to freight terminals and their service facilities is of great importance. This goes also for transparency and non-discriminatory price setting of the charges of the services.

Parties that believe that they have been unfairly treated, discriminated against or in any other way aggrieved in their access to rail service facilities, and consequently may see a need to have their legal rights tested by the regulatory authority, all in reality experience barriers to the open access.

EU legislation (Directive 2001/14/EC) requires Member States to establish an independent rail regulatory body to oversee the application of rules to ensure efficient management and fair and non-discriminatory use of rail infrastructure, and to act as an appeal body. The competences of regulatory bodies have been further developed and detailed in Directive 2012/34/EC (Art. 55-57).

According to Article 56 of Directive 2012/34, rail regulatory bodies in EU member states have two main functions. They are the appeal body and have to consider any complaints from any party that believes it has been unfairly treated, discriminated against or in any other way aggrieved. They have also powers to monitor the competitive situation in the rail service market and to decide on their own initiative on measures to correct discrimination against applicants, market distortion and undesirable developments in these markets.

Domestic legislation on independent rail regulation in EU member states must comply with the above provisions. Today, most rail regulatory bodies in the EU are empowered with broad discretionary powers and remedies to be applied as part of their enforcement.

For further details see ANNEX 1 and section 8, numbers 10 and 12.

For further information on degree of rail market opening and utilisation of access rights, and on status on transposition of and compliance with EU legislation within EU member states see e.g. section 8, numbers 9 and 11.

Rail regulatory bodies, being independent regulatory authorities, play an important role in ensuring and enforcing fair and non-discriminatory access to rail network and services. Looking into complaints cases and investigation cases dealt with on the most important issues of open access to rail service facilities thus provide both facts, indications of extent and indications of systemic problematic areas within this field.

4 ANALYSING

4.1 Data sources

Summaries of complaint cases and cases of ex official investigations dealt with by EU member states rail regulatory bodies, and reported from these authorities to EU through the period 2009-2019 (Q1), have been made available for this survey by the courtesy of the Danish Rail Regulatory Body.

For the period 2009-2016, the reporting (questionnaires) presented by all member states' rail regulatory bodies at bi-or triannual network meetings with European Commission have been made available.

For the period 2017-2019 (Q1) transcripts from the DAREBO-database have been made available. DAREBO is a closed platform for the European Commission and the rail regulators for uploads of information on cases dealt with by rail regulatory bodies. For the purpose of the present survey the DAREBO was screened for complaint cases and ex-officio investigation cases involving access to service facilities including combined terminals in a broad sense.

An estimated number of 1300 cases from within EU member states have been examined, and 657 of these were identified as being within the broad scope of the survey.

Of these 657 cases, 197 cases were categorised as complaint cases and 460 cases as investigation cases. Of these 657 cases incumbent railway undertakings took part in 57 cases whereof 32 were complaint cases and 25 were investigation cases.

Of the 197 complaint cases from within EU member states, 93 cases hereof are from member states within the Baltic Sea Region.

Of the 460 investigation cases, 277 cases are from member states within the Baltic Sea Region. Of the 460 investigation cases 78 cases hereof concern matters of exemptions from requirements of the Implementing Regulation 2017/2177.

4.2 Methodology

4.2.1 In general

The number of cases recorded represent the absolute minimum number of cases actually present. Member States have for some cases in their reports recorded, that there are “several or a number of cases on the same issues”. For registration purposes these cases have been recorded as one case only. However, the real number of cases is higher.

The documentation examined for this survey suggests, that each member state uses different approaches to the management of complaints and the regulation more broadly, meaning that there is likely to be considerable variation in the categorisation and recording of complaints as part of the member state reporting to the European Commission.

Moreover it should be observed, that complaint cases and investigative cases dealt with by rail regulatory bodies may - just like court cases – be in process for several years. Cases recorded are not necessarily in response to e.g. a complaint raised in the same year, as there can be a considerable time lag between a party making a complaint and the resolution of the complaint. This means, that an element of “double-count” is present in the database.

To ensure that data are uniform from one country to another – given the limitations in the available data - the following approach has been applied:

- Cases are included in the period count for the entire duration where they appeared on the rail regulatory authority’s schedule of cases. As an example, if a complaint case was lodged in 2015, and decided upon in 2017, this complaint would be included in the statistics for 2015, 2016 and 2017 – and therefore counted three times.
- The breakdown in case types shows the number of cases in a specific category that appeared on the regulatory authority’s schedule of cases during the relevant period.
- “Total” figures are a simple summation of the breakdown in case types for the relevant country and period. This may **not** be the same as the number of individual cases dealt with by a rail regulatory body during the period, since one case may deal with more than one case type.
- Data and figures are based on compilations of raw data organised in a database. This could provide an indication of magnitude and not a quantitative total.

Data and figures presented in this survey thus provide an indication of magnitude only.

4.2.2. Recording: Basic parameters, registration keys, abbreviations

For the purpose of record the **material content** of each case was identified, and a **very short resume** was made.

In addition hereto a number of **basic parameters** for each case have been recorded:

- Name of Member State (all EU member states analysed).

- ENRB questionnaire meeting/month/year.
- DAREBO, month/year.
- Complaint case, numbers.
- Investigation case, numbers.
- Parties involved and identification of complainant and defendant in complaints and investigations respectively.
- Rail systems represented in the case.
- Regulatory themes of Directive 2012/34 represented in the case.
- Subjects in Directive 2012/34, Annex II points 1-4, represented in the case.
- Regulatory themes of Implementing Regulation 2017/2177 represented in the case.

Applications for exemptions has been categorized as investigation cases for the purpose of this survey.

For the purpose of **registration** the following **registration keys and abbreviations** have been used:

Parties involved in the case: OS: Operator of service facility; IM: Infrastructure Manager; RU: Railway Undertaking; OU: Other users; TA/RB: Transport Authority/ Rail Regulatory Body. Combinations hereof are also recorded.

To the above it should be noted, that what concerns the records, the distinction between IM and OS is somewhat blurred, as infrastructure managers in many countries also are the service facility operator.

Rail systems represented in the case: RFT: Rail Freight Terminals; RFO: Rail Freight, Others; RPT: Railway Passenger Transports in its broad sense. Combinations hereof have also been recorded.

Regulatory themes of Dir. 2012/34 represented in the case: A: Access; O: Organisational and decisional-making independency; E: Efficiency and viable alternative; C: Charging/price setting. Combinations hereof have also been recorded.

Regulatory themes of Reg. 2017/2177 represented in the case: SF: Service Facility description and publication; RA: Request for Access to service facility and use of rail related services; RR: Response to Request; PL: Publication of charges/tariffs; EX: Exemption from access, re Dir 2012/34, Art 13(9). Combinations hereof were also recorded.

Subjects of Annex II of Directive 2012/34 represented in the cases:

Annex II: Services to be supplied to the railway undertakings:

1. The minimum access package shall comprise:

(a) handling of requests for railway infrastructure capacity; (b) the right to utilize capacity which is granted; (c) use of the railway infrastructure, including track points and junctions; (d) train control including signaling, regulation, dispatching and the communication and provision of

information on train movement; **(e)** use of electrical supply equipment for traction current, where available; **(f)** all other information required to implement or operate the service for which capacity has been granted.

2. Access, including track access, shall be given to the following services facilities, when they exist, and to the services supplied in these facilities:

(a) passenger stations, their buildings and other facilities, including travel information display and suitable location for ticketing services; **(b)** freight terminals; **(c)** marshalling yards and train formation facilities, including shunting facilities; **(d)** storage sidings; **(e)** maintenance facilities, with the exception of heavy maintenance facilities dedicated to high-speed trains or to other types of rolling stock requiring specific facilities; **(f)** other technical facilities, including cleaning and washing facilities; **(g)** maritime and inland port facilities which are linked to rail activities; **(h)** relief facilities; **(i)** refueling facilities and supply of fuel in these facilities, charges for which shall be shown on the invoices separately.

3. Additional services may comprise:

(a) traction current, charges for which shall be shown on the invoices separately from charges for using the electrical supply equipment, without prejudice to the application of Directive 2009/72/EC; **(b)** pre-heating of passenger trains; **(c)** tailor-made contracts for: — control of transport of dangerous goods, — assistance in running abnormal trains.

4. Ancillary services may comprise:

(a) access to telecommunication networks; **(b)** provision of supplementary information; **(c)** technical inspection of rolling stock; **(d)** ticketing services in passenger stations; **(e)** heavy maintenance services supplied in maintenance facilities dedicated to high-speed trains or to other types of rolling stock requiring specific facilities.

See also ANNEX 2 for overview of registration keys, and ANNEX 4 for the full registrations and resumes related to complaint cases and investigation cases examined for this survey.

4.3 Analyses

Compilation of raw data was organised in a database, and based on extradition of categories of information, a number of analyses have been conducted within selected themes considered to be suitable for an overall assessment and perspective of the material. The following analyses were conducted:

- Number of complaint cases/investigation cases per year and per EU member state (Fig. 1-4).
- Complainants versus defendants in complaints respectively party subject to investigation, within Baltic Sea Region and EU, number of cases and percentages (Fig. 5-16).
- Rail systems addressed in complaints respectively investigations, within Baltic Sea Region and EU, number of cases and percentages (Fig.17-22).
- Regulatory themes of Dir 2012/34 addressed in complaints respectively investigations, within Baltic Sea Region and EU, number of cases and percentages (Fig. 23-30).
- Regulatory themes of Reg. 2017/2177 addressed in complaints respectively investigations, within Baltic Sea Region and EU, number of cases and percentages (Fig. 31-38).
- Subjects of Dir 2012/34 Annex II, points 1-4 present in complaints respectively investigations, within Baltic Sea Region and EU, percentages based on total number of cases (Fig.39-42).

See ANNEX 3 for compilations of raw data on complaints and investigations respectively, and the figures 1-42 below.

5 FINDINGS

5.1 Distribution of number of complaints cases 2009-2019

As mentioned in subsection 4.1 above a total of 657 cases are dealt with within EU member states rail regulatory bodies through the period 2009-2019 (Q1) which have been identified as being within the broad scope of the present survey. Of these 197 cases are categorised as complaint cases ,within EU, of which 93 cases are from member states within the Baltic Sea Region.

Figures 1 and 2 below show the distribution of the number of complaint cases recorded on the themes within the scope of this survey per EU member state through 2009-2019 and per year respectively. For the sake of completeness, the figures also include cases from EEA-countries (8 complaints).

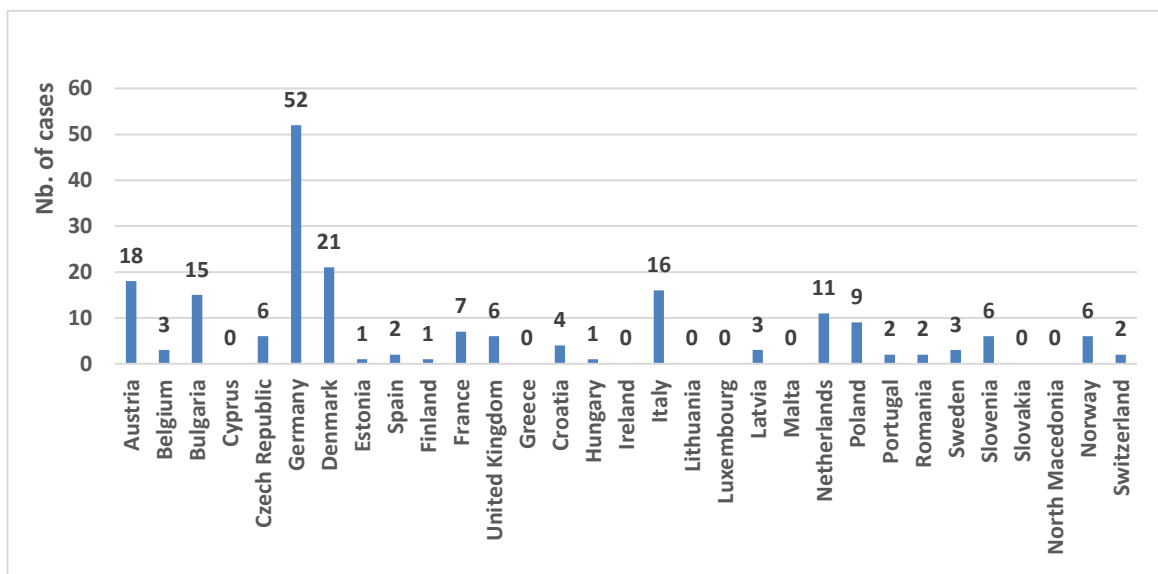


Fig. 1 Number of complaints in EU member states and EEA-countries 2009-2019(Q1)

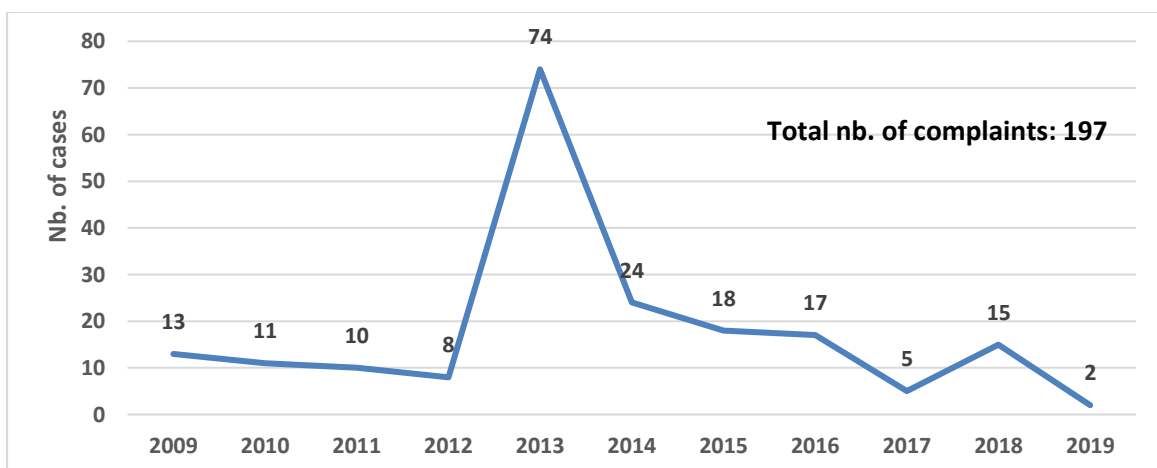


Fig.2 Distribution of complaint cases in EU member states per year 2009-2019

Of the 74 complaint cases recorded in 2013 on the themes within the scope of the survey, 46 are from Germany and do all concern questions related to the charges for access to passenger stations set by operators of rail service facilities.

5.2 Distribution of number of investigation cases 2009-2019

As mentioned in subsection 4.1 above, 460 cases of the in total 657 cases, dealt with by EU member states rail regulatory bodies through the period 2009-2019, are categorised as investigation cases seen within the broad scope of the present survey. Of these are 277 cases from member states within the Baltic Sea Region. Of the 460 cases 78 cases concern exemptions from requirements of the Implementing Regulation 2017/2177.

Figures 3 and 4 below show the distribution of the number of investigation cases recorded on the themes within the scope of this survey per EU member state through 2009-2019 and per year respectively. For the sake of completeness, the figures also include cases from EEA-countries (6 cases).

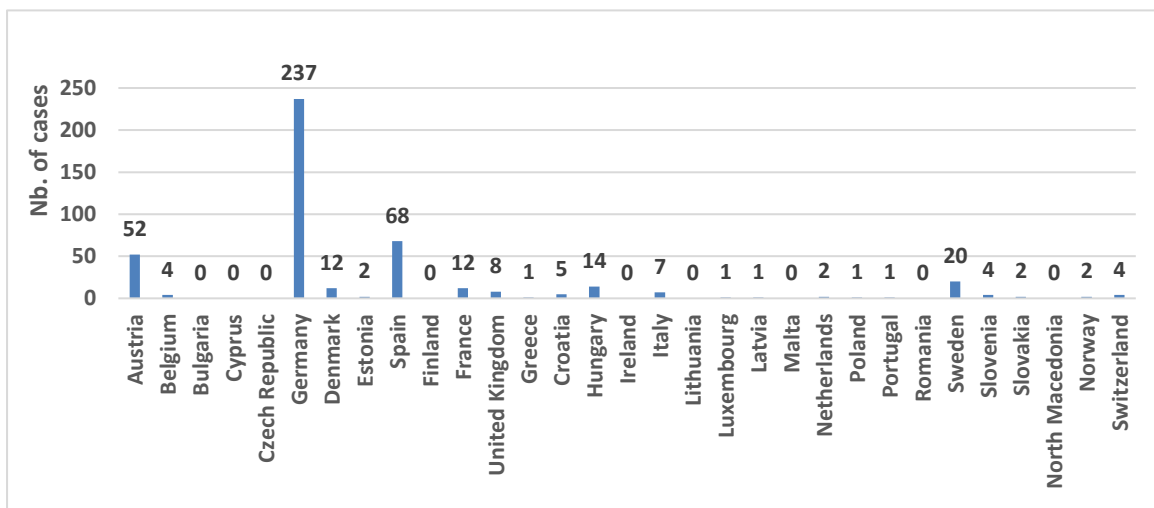


Fig. 3 Number of investigation cases in EU member states and EEA-countries 2009-2019(Q1)

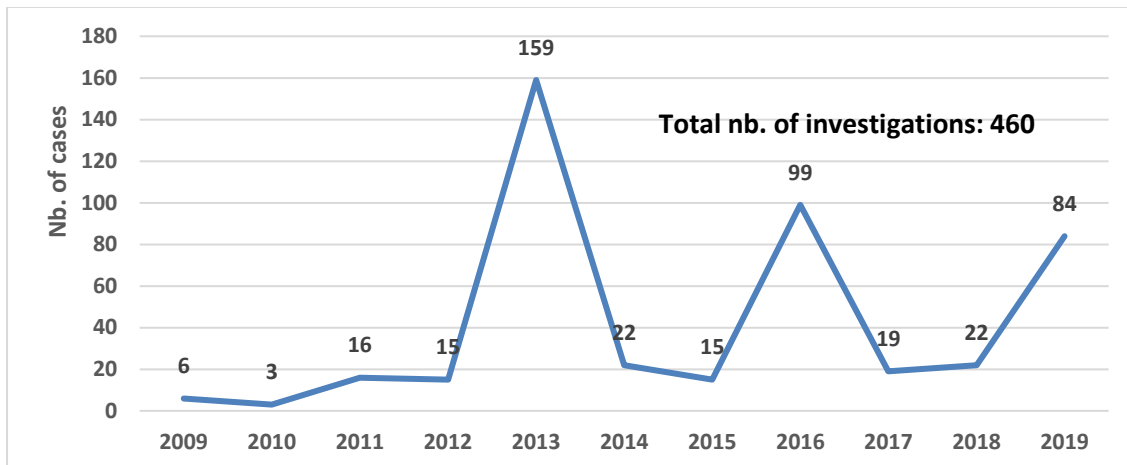


Fig.4. Distribution of investigation cases in EU member states per year 2009-2019

Out of the 84 investigation cases in 2019, by far the majority are related to requests for exemptions from articles of 2017/2177. Of these Spain accounts for 45 cases and Germany for 27 cases.

Of the Spanish exemption cases, 18 cases are recorded as related to access to freight terminals or service facilities related hereto, 3 cases are related to the access to in total 1410 passenger stations or service facilities related hereto, and 17 cases to maintenance facilities (including 28 workshops).

5.3 Who filed the complaints

Figures 5 - 8 below show the breakdown of categories of complainants by numbers of cases and percentages respectively for complaint cases filed within Baltic Sea Region (Fig. 5, 6), and within EU member states (Fig. 7, 8).

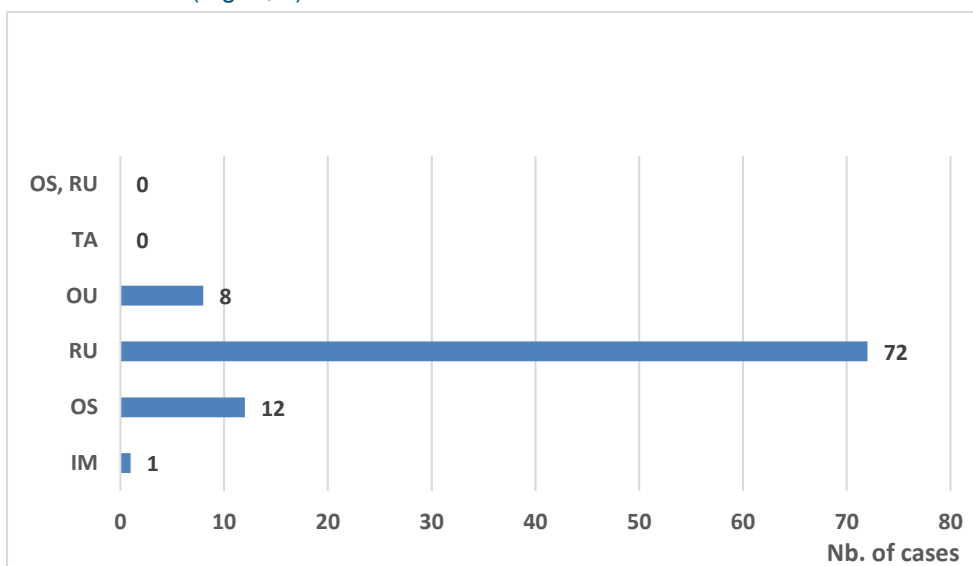


Fig. 5. Categories of complainants by number of cases within Baltic Sea Region

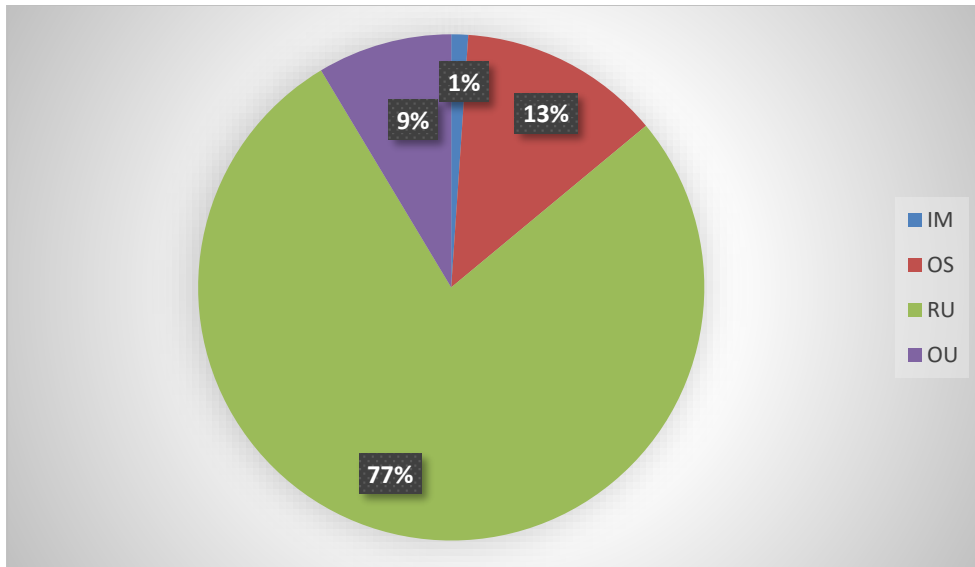


Fig. 6. Percentages of categories of complainants in cases within Baltic Sea Region

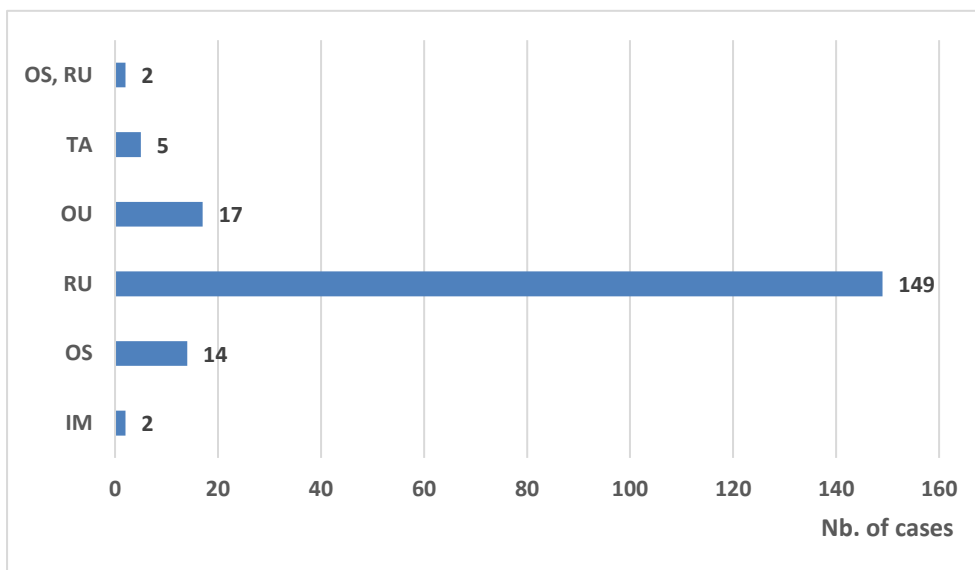


Fig. 7. Categories of complainants by number of cases within EU member states

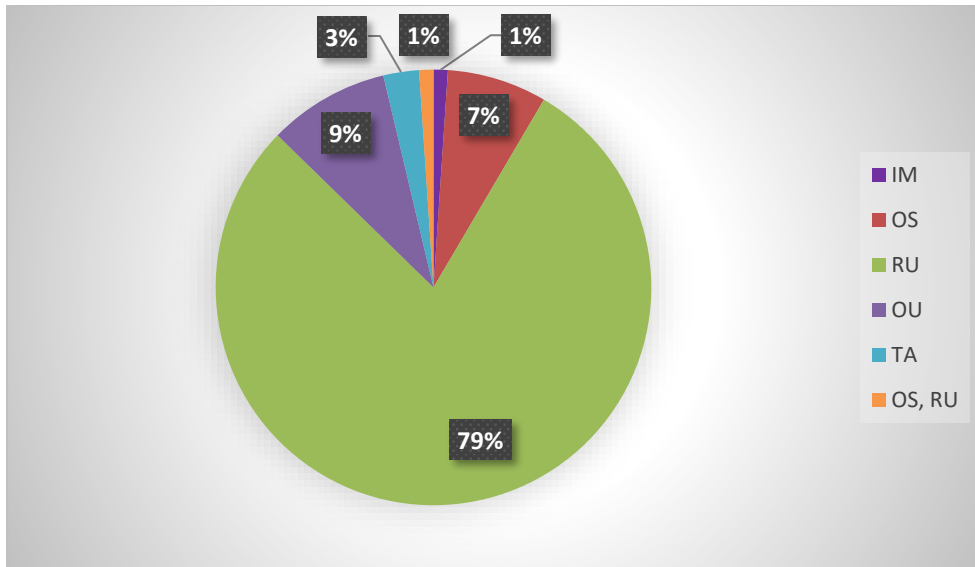


Fig. 8. Percentages of categories of complainants in cases within EU member states

Figures 5 - 8 indicate that railway undertakings are by far the ones who see a need for filing complaints at a rail regulatory body (or by a court) in order to get their alleged legal rights of access to and use of rail service facilities and services herein tried.

This pattern is distinct within both the Baltic Sea Region and within EU in general. Railway undertakings thus are the complainant party in 77% of the complaint cases within the Baltic Sea Region, and in 79% of the complaint cases within EU member states.

5.4 Who were the defendants in the complaints

Figures 9 - 12 below show the breakdown of categories of defendant parts by numbers of cases and percentages respectively for complaint cases filed within the Baltic Sea Region (Fig. 9, 10), and within EU member states (Fig. 11, 12).

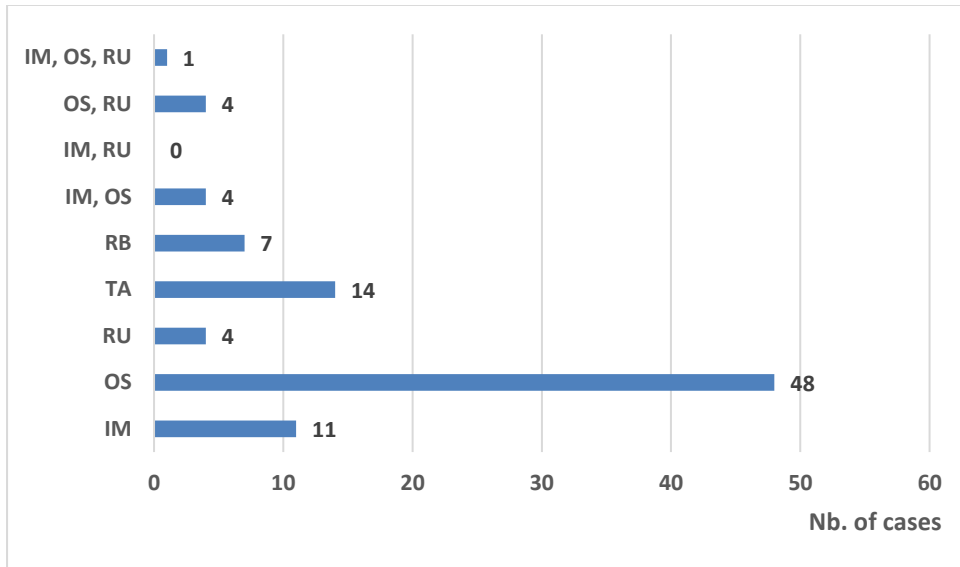


Fig. 9. Categories of defendants by number of cases within Baltic Sea Region

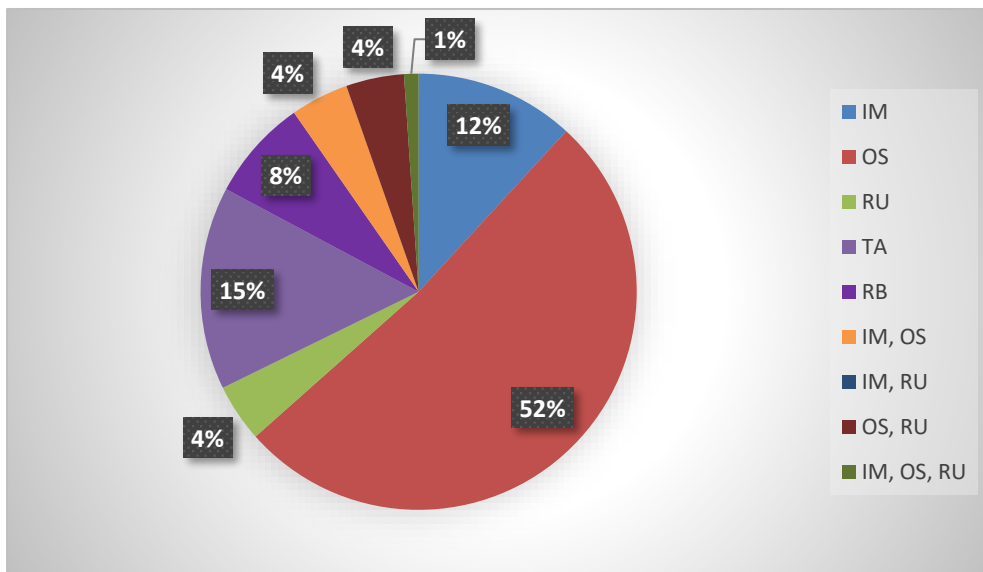


Fig. 10. Percentages of categories of defendants in cases within Baltic Sea Region

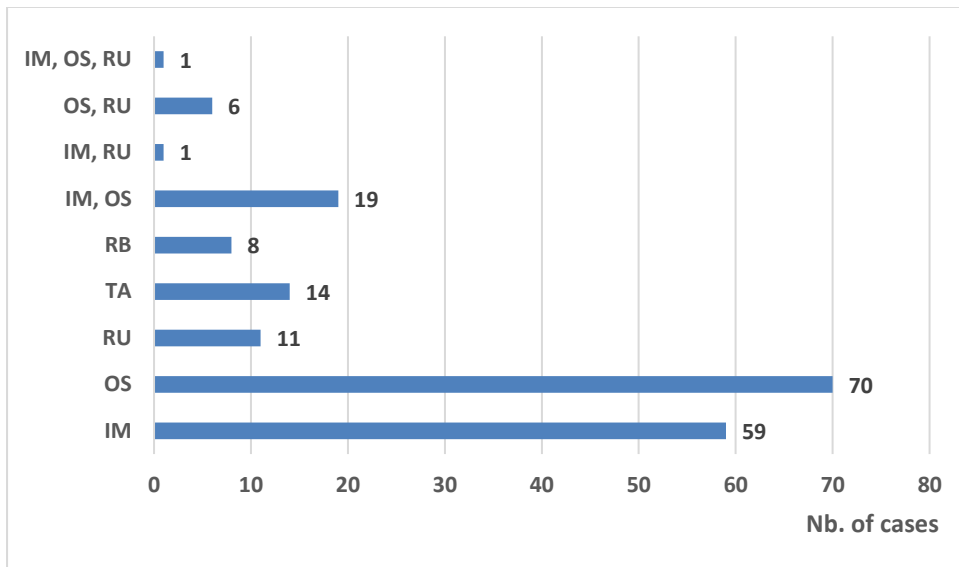


Fig. 11. Categories of defendants by number of cases within EU member states

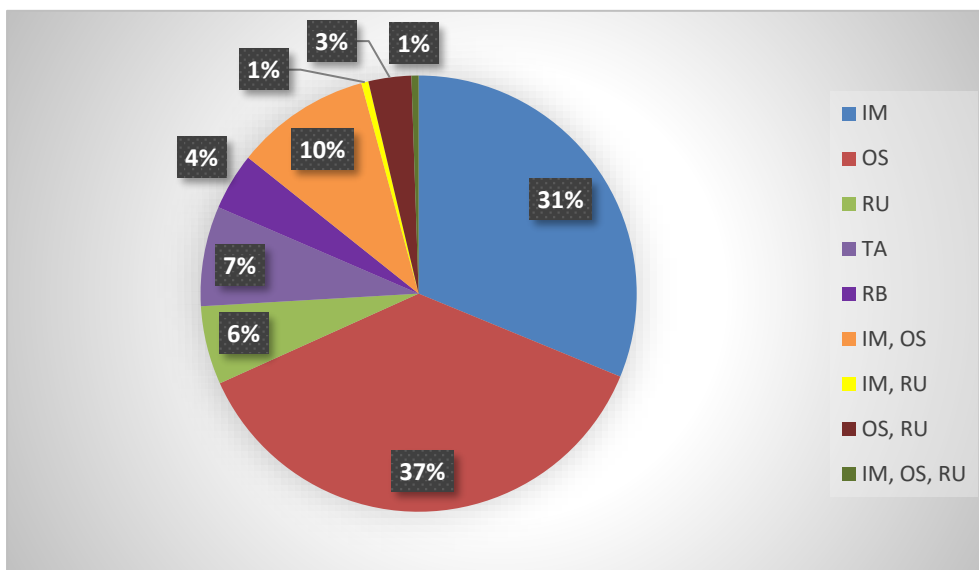


Fig. 12. Percentages of categories of defendants in cases within EU member states

Figures 9 - 12 indicate that railway undertakings as applicants/users experience obstacles in getting their alleged legal rights of access to and use of rail service facilities and services herein primarily, but not only, in their corporation with the service facility operator, the infrastructure manager or both.

This pattern is present within both the Baltic Sea Region and within EU in general. Within the Baltic Sea Region the service facility operators are thus the defendant party in 52% of the complaint cases, and infrastructure managers in 12% of the cases, in total 64%. Within the EU member states are service

facility operators the defendant parties in 37% of the complaint cases, and infrastructure managers in 31% of the cases, in total 68%.

To this it should be noted, that what concerns the records, the distinction between IM and OS is somewhat blurred, as infrastructure managers in many countries also are the service facility operator.

5.5 Who was the party subject to investigations

Figures 13 - 16 below show the breakdown of categories of parties subject to rail regulatory body ex officio investigation measures by numbers of cases and percentages respectively within Baltic Sea Region (Fig. 13, 14), and within EU member states (Fig. 15, 16).

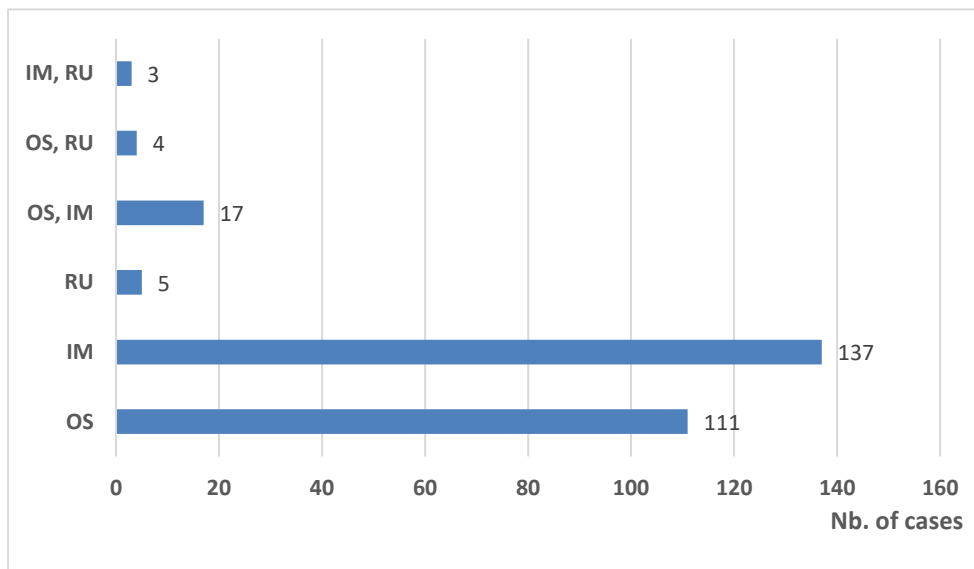


Fig. 13. Categories of parties subject to investigations by number of cases within Baltic Sea Region.

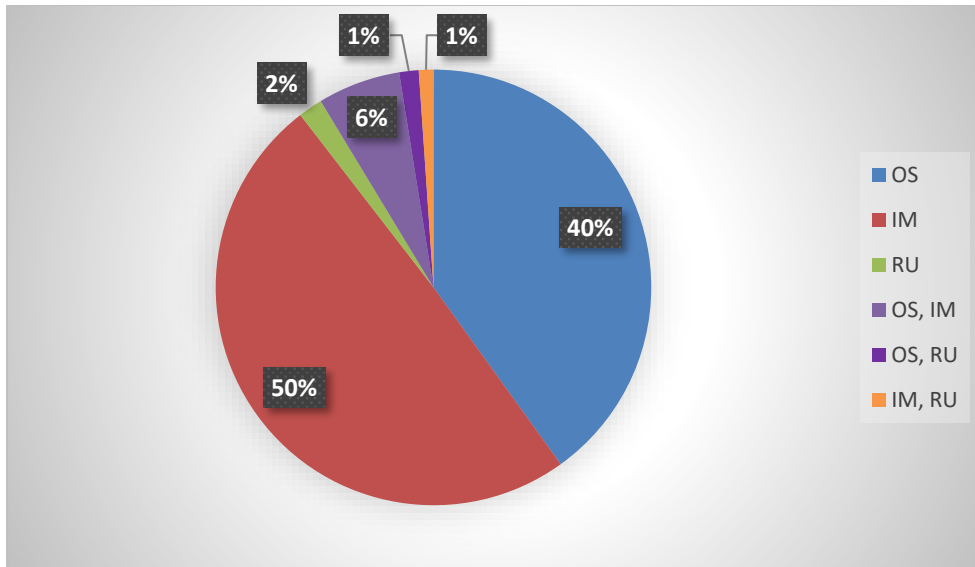


Fig. 14. Percentages of parties subject to investigations in cases within Baltic Sea Region.

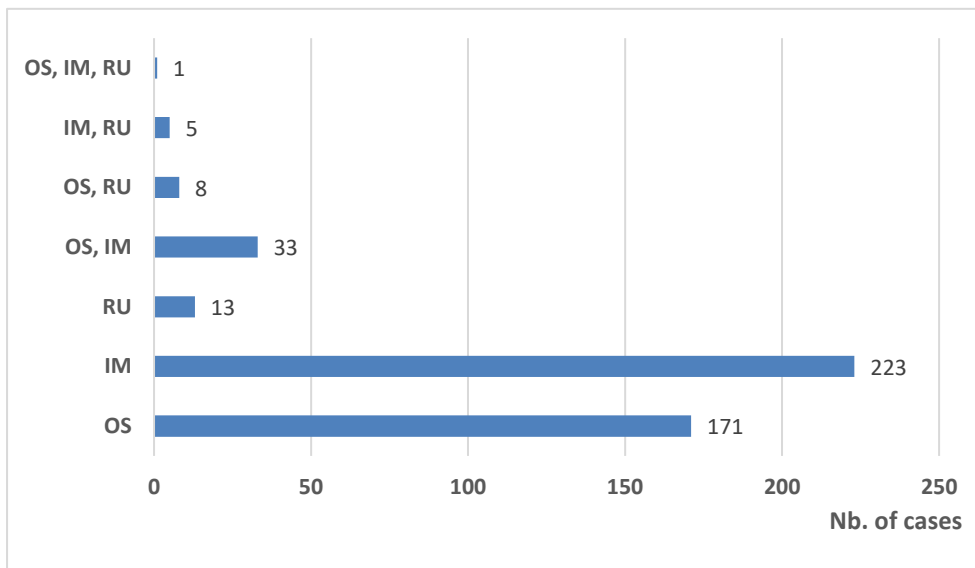


Fig. 15. Categories of parties subject to investigations by number of cases within EU member states.

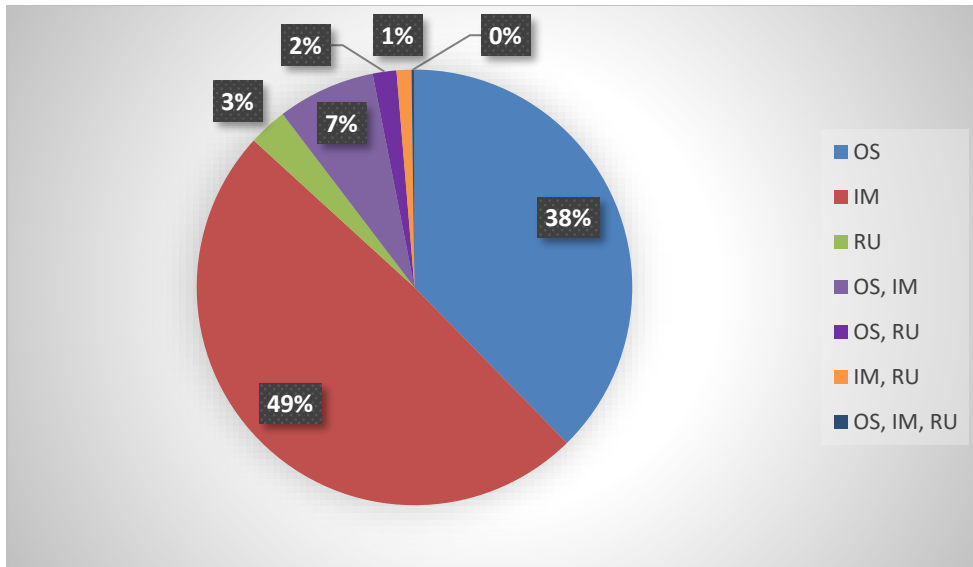


Fig. 16. Percentages of parties subject to investigations in cases within EU member states.

Figures 13 - 16 indicate that by far the majority of the supervisory measures taken by rail regulatory bodies was within the Baltic Sea Region as well as within EU member states taken on infrastructure managers and service facility operators. Within the Baltic Sea Region the service facility operators were thus the investigated party in 40% of the investigation cases, and infrastructure managers in 50% of the cases, summing up to 90% in total. Within EU member states the service facility operators were the investigated party in 38% of the investigation cases, and infrastructure managers in 49% of the cases, equal to 87% in total.

5.6 Rail systems addressed in complaints

Figures 17 - 19 below show the breakdown of categories of rail systems addressed in complaints by numbers of cases (figure 17) and percentages (figure 19) within all EU member states. In addition hereto the breakdown of categories within the Baltic Sea Region is also shown (figure 18). For the sake of completeness does figure 17 include cases from EEA-countries, too (8 cases).

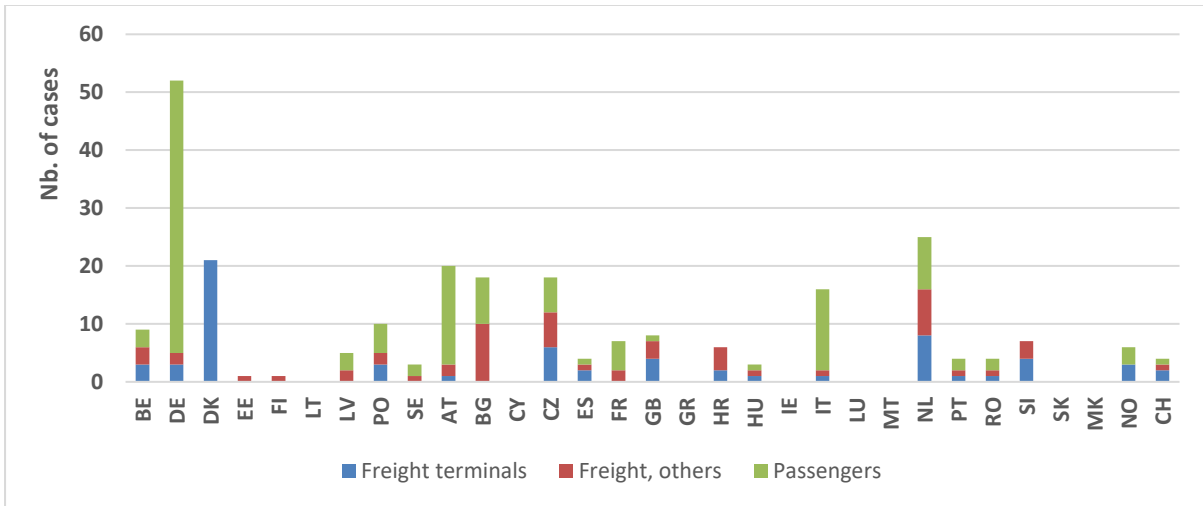


Fig. 17. Categories of rail systems addressed in complaints by number of cases within EU member states and EEA-countries.

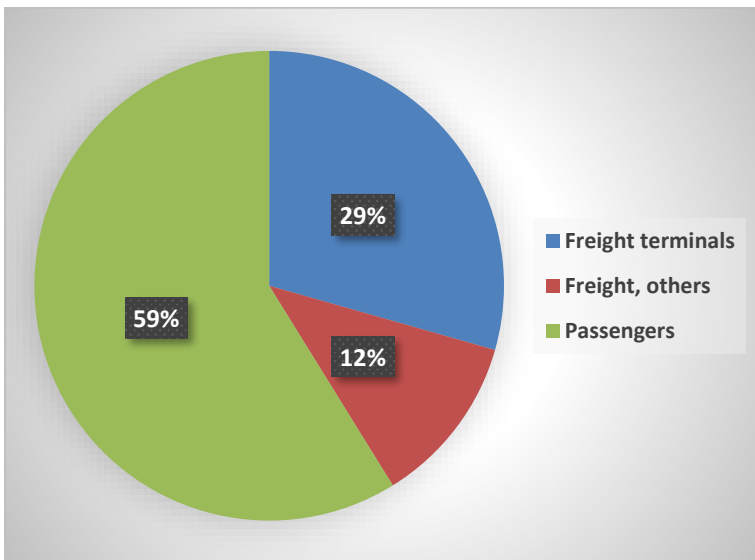


Fig. 18. Percentages of rail systems addressed in complaints within Baltic Sea Region.

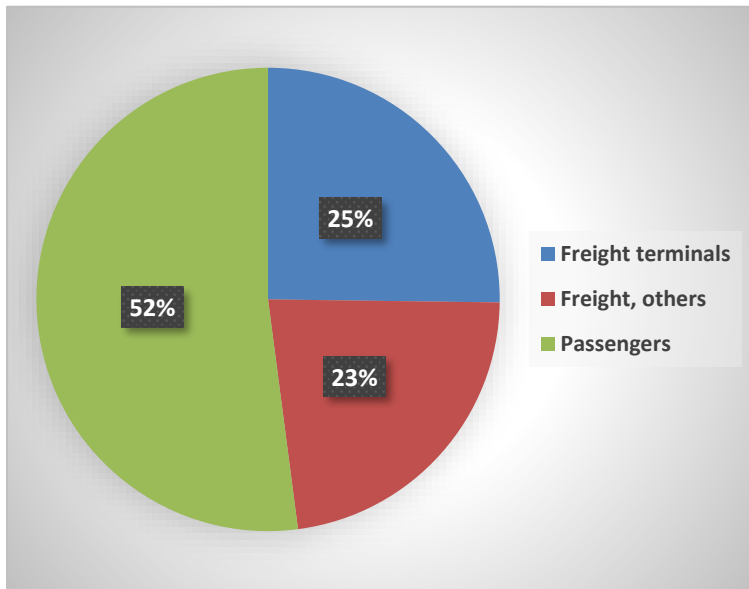


Fig. 19. Percentages of rail systems addressed in complaints within EU member states.

Figures 17 - 19 indicate that both passenger railway undertakings and freight railway undertakings do to the same degree experience obstacles in getting their alleged legal rights of access to and use of rail service facilities and services herein. Getting access to the rail passenger market appears in both EU member states in general and within the Baltic Sea Region to be as troublesome as getting access to the rail freight market.

Within the EU member states the percentage distribution shows, that 52% of the complaint cases address topics related to access to passenger stations, 25% address topics related to access to freight terminals, and 23% address the access to other freight related issues, such as e.g. the access to marshalling areas.

Within the Baltic Sea Region the percentage distribution provides the same picture. Within these countries, 59% of the complaint cases thus address the access to passenger stations and to service facilities related hereto, 29% of the cases address the access to freight terminals and service facilities related to such, and 12% address access to other freight related issues.

5.7 Rail systems addressed in investigations

Figures 20 - 22 below show the breakdown of categories of rail systems addressed in supervisory measures taken by the rail regulatory bodies by numbers of cases (figure 20) and percentages (figure 22) within all EU member states. In addition hereto the breakdown of categories within the Baltic Sea Region is presented (figure 21). For the sake of completeness does figure 20 also include investigation cases within EEA-countries (3 cases).

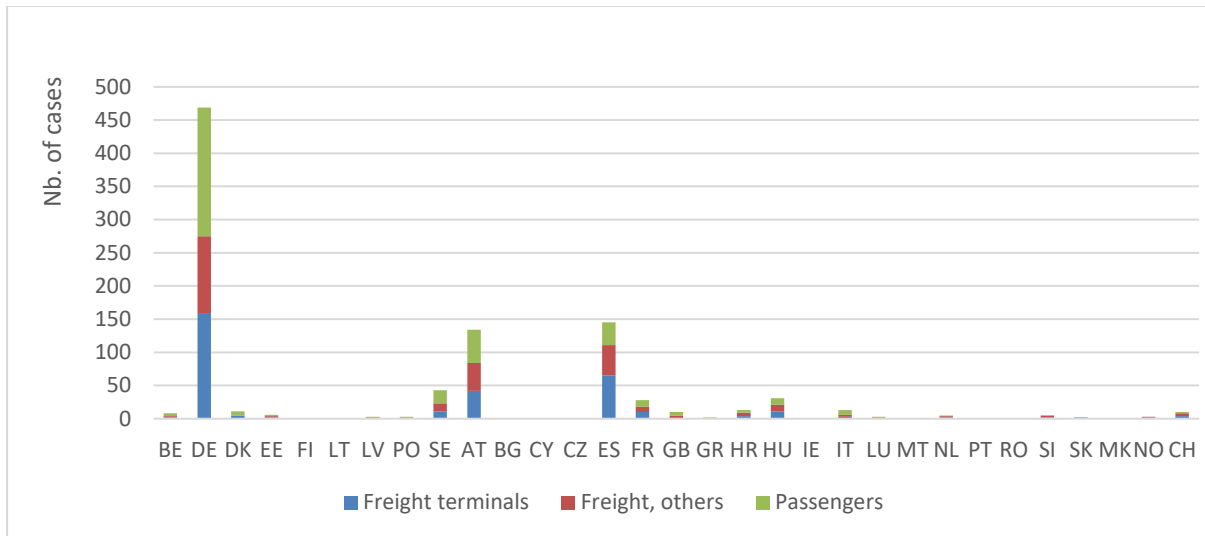


Fig. 20. Categories of rail systems addressed in rail regulatory bodies' investigations by number of cases within EU member states and EEA-countries.

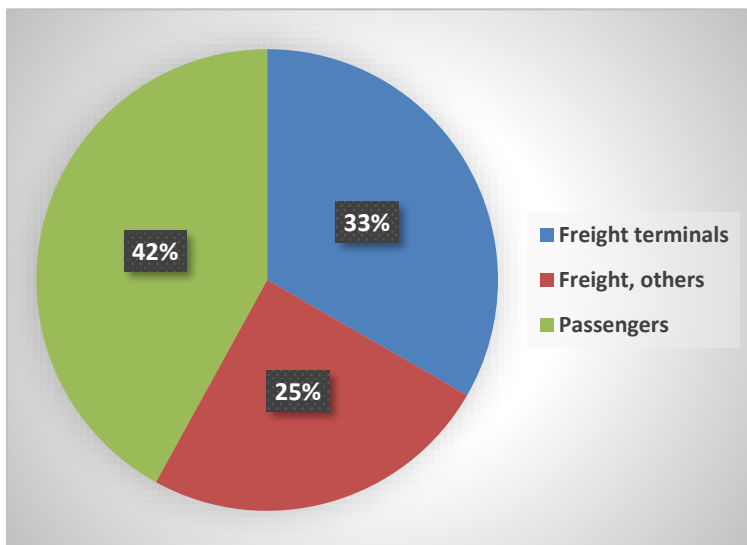


Fig. 21. Percentages of rail systems addressed in investigations within Baltic Sea Region.

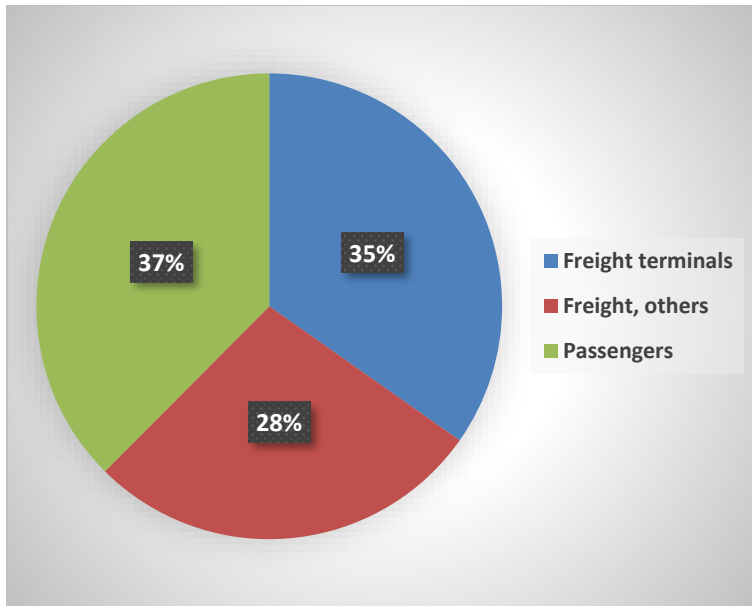


Fig. 22. Percentages of rail systems addressed in investigations within EU member states.

Figures 20 - 22 indicate that from the rail regulatory bodies' perspective there seem to be somewhat more attention on the regulatory supervision on matters of access to the rail freight market than to the rail passenger market. This pattern provides for both EU member states and for the Baltic Sea Region.

Within the EU member states the percentage distribution show, that 37% of the investigation cases by rail regulatory bodies address topics related to the access to passenger stations, 35% of the cases address topics related to the access to freight terminals, and 28% address access to other freight related issues, such as e.g. the access to marshalling areas.

Within the Baltic Sea Region do the percentage distribution provides the same picture. Within these countries 42% of the complaint cases do thus address the access to passenger stations and to service facilities related hereto, 33% of the cases address the access to freight terminals and service facilities related to such, and 25% address access to other freight related issues.

5.8 Regulatory themes of Directive 2012/34/EC addressed in complaints

Figures 23 - 26 below show the breakdown of the four regulatory themes of Directive 2012/34/EC in scope for the present survey addressed in complaints by numbers of cases (fig. 23) and percentages (fig. 24) within the Baltic Sea Region and within EU member states respectively (fig. 25, 26).

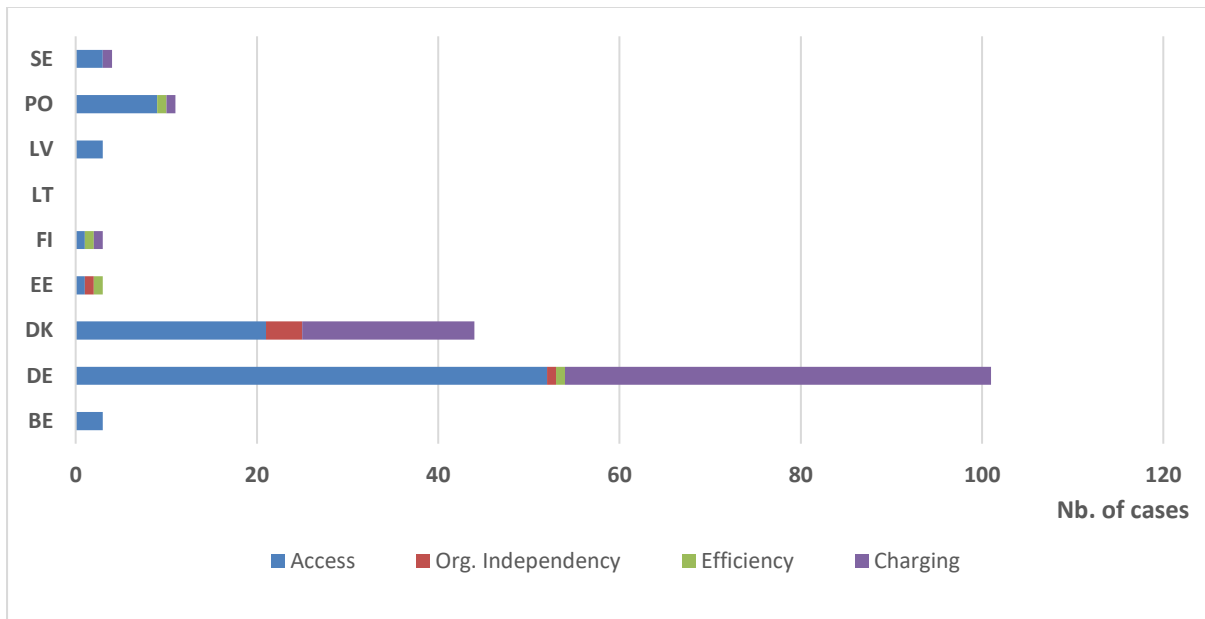


Fig. 23. Categories of regulatory themes of Dir. 2012/34 addressed in complaint cases by number of cases within the Baltic Sea Region.

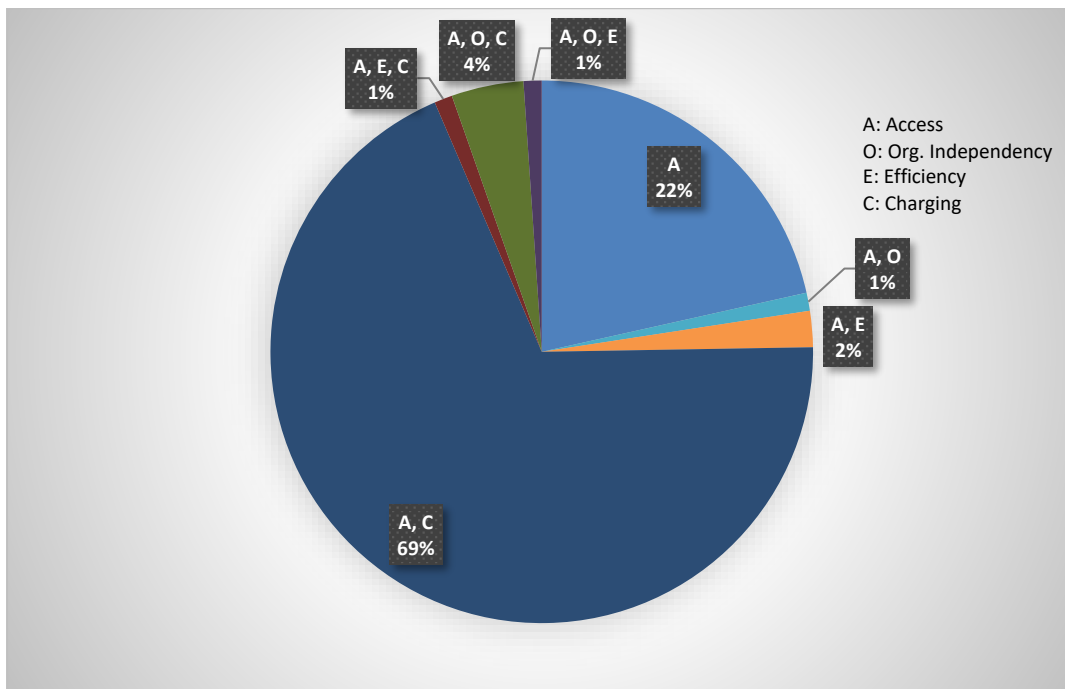


Fig. 24. Percentages of regulatory themes of Dir. 2012/34 addressed in complaints within Baltic Sea Region.

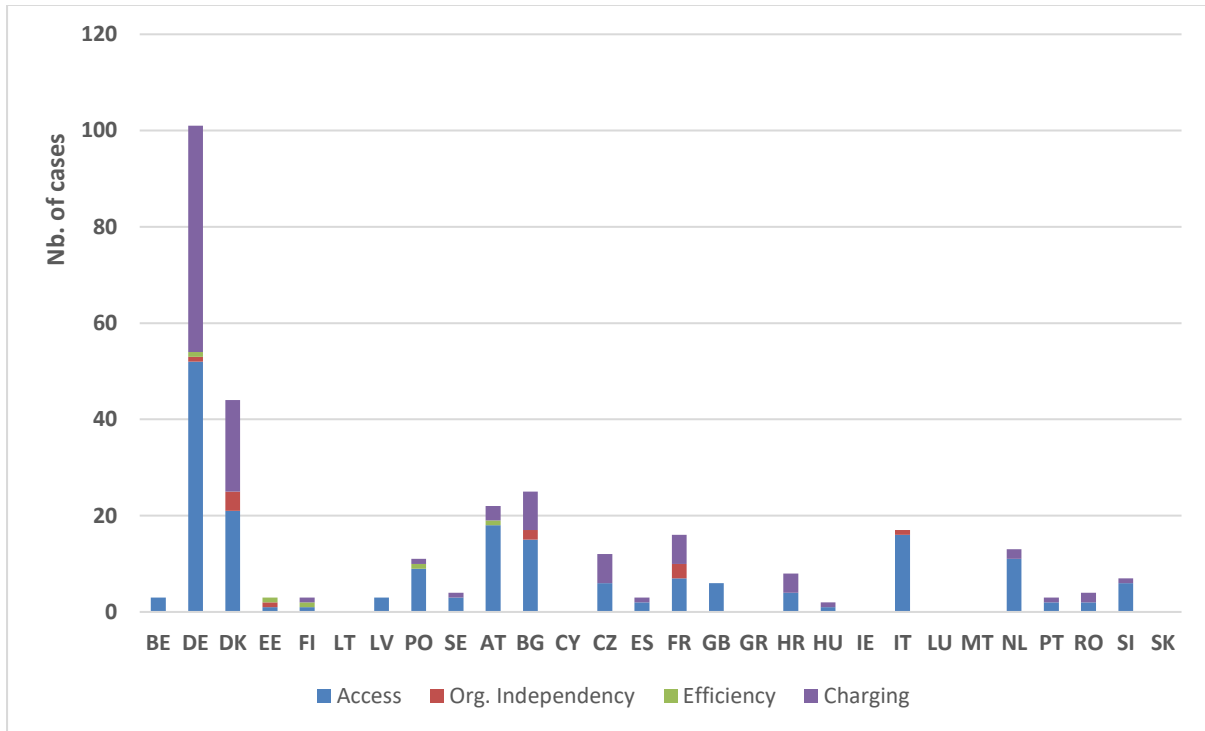


Fig. 25 Categories of regulatory themes of Dir. 2012/34 addressed in complaint cases by number of cases within EU member states.

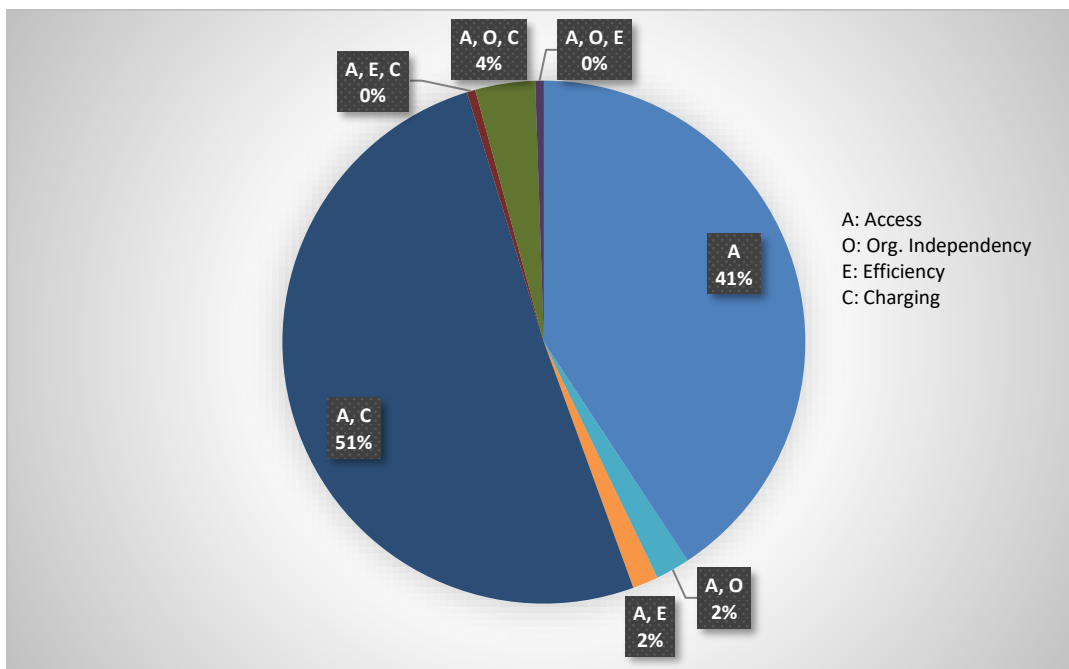


Fig. 26 Percentages of categories of regulatory themes of Dir. 2012/34 addressed in complaint cases within EU member states.

Figures 23 - 26 indicate that whereas around half of all complaint cases within EU, and within the scope of the present survey, through the years 2009-2019 concerned charges for access in combination with other themes, did around three quarter of all complaints in the Baltic Sea Region in the same period concern charges for access in combination with other themes.

Within the EU member states the percentage distribution show, that 55% of the complaint cases address charges in combination with access, 41% of the complaint cases address issues of access alone, and 4% address access in combination with other themes.

Within the Baltic Sea Region the percentage distribution show, that 74% of the complaint cases address charges in combination with access, 22% of the complaint cases address issues of access alone, and 4% address access in combination with other themes.

With regard to Figure 23 and Figure 25 above it should be noted, that in order to show the magnitude of each regulatory theme the compliant cases have been recorded according to the number of the four themes represented in each case. This imply that if a case covers multiple themes it will count as multiple cases. For example, a Swedish case covering both access and charging will count as two Swedish cases.

5.9 Regulatory themes of Directive 2012/34 addressed in investigations

Figures 27 - 30 below show the breakdown of categories of the regulatory themes of Dir. 2012/34 in scope of the present survey addressed in supervising measures taken by the rail regulatory bodies by numbers of cases (Fig. 29) and percentages (figure 30) within all EU member states. In addition hereto the breakdown of categories within the Baltic Sea Region is presented, too (Fig. 27, 28)

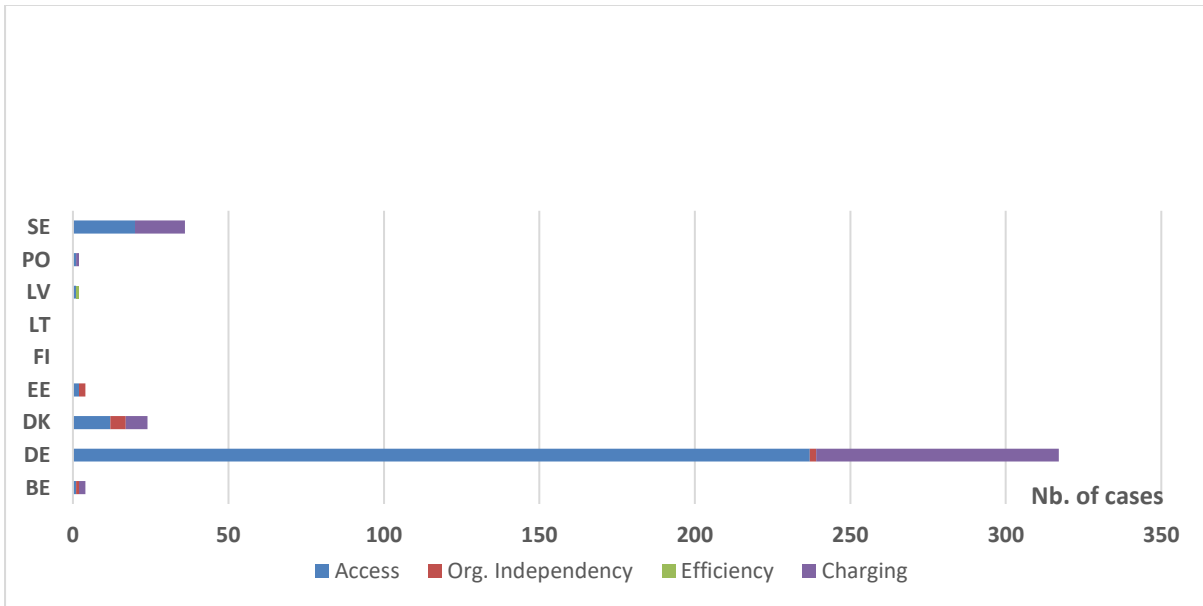


Fig. 27 Categories of regulatory themes of Dir. 2012/34 addressed in investigation cases by rail regulatory bodies by numbers of cases within the Baltic Sea Region.

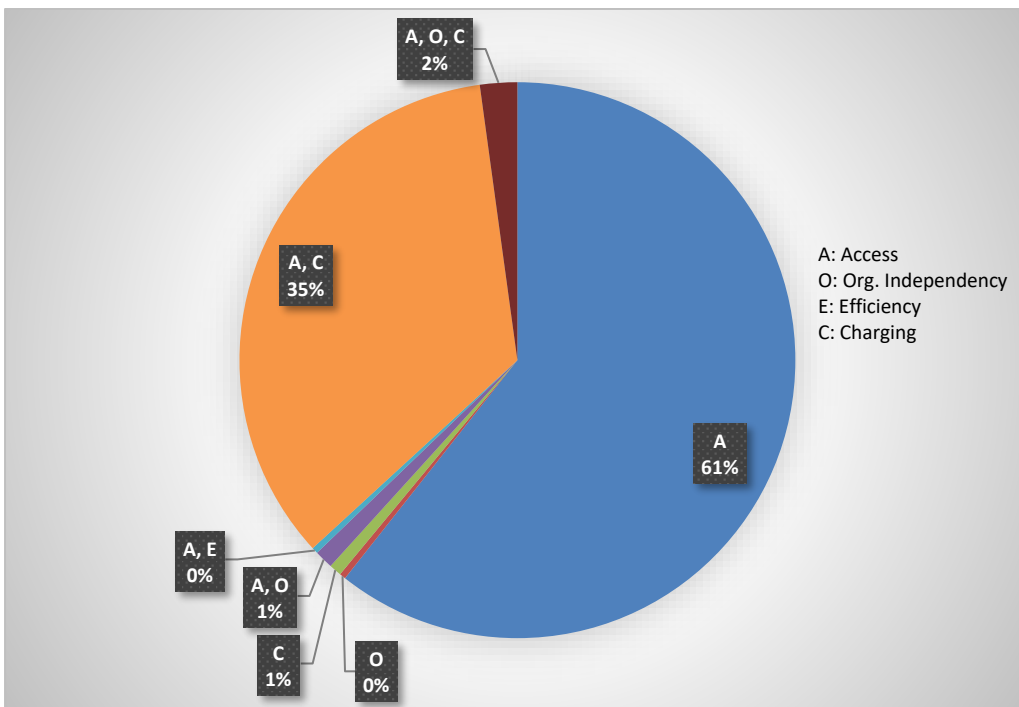


Fig. 28. Percentages of regulatory themes of Dir. 2012/34 addressed in investigation cases by rail regulatory bodies within the Baltic Sea Region.

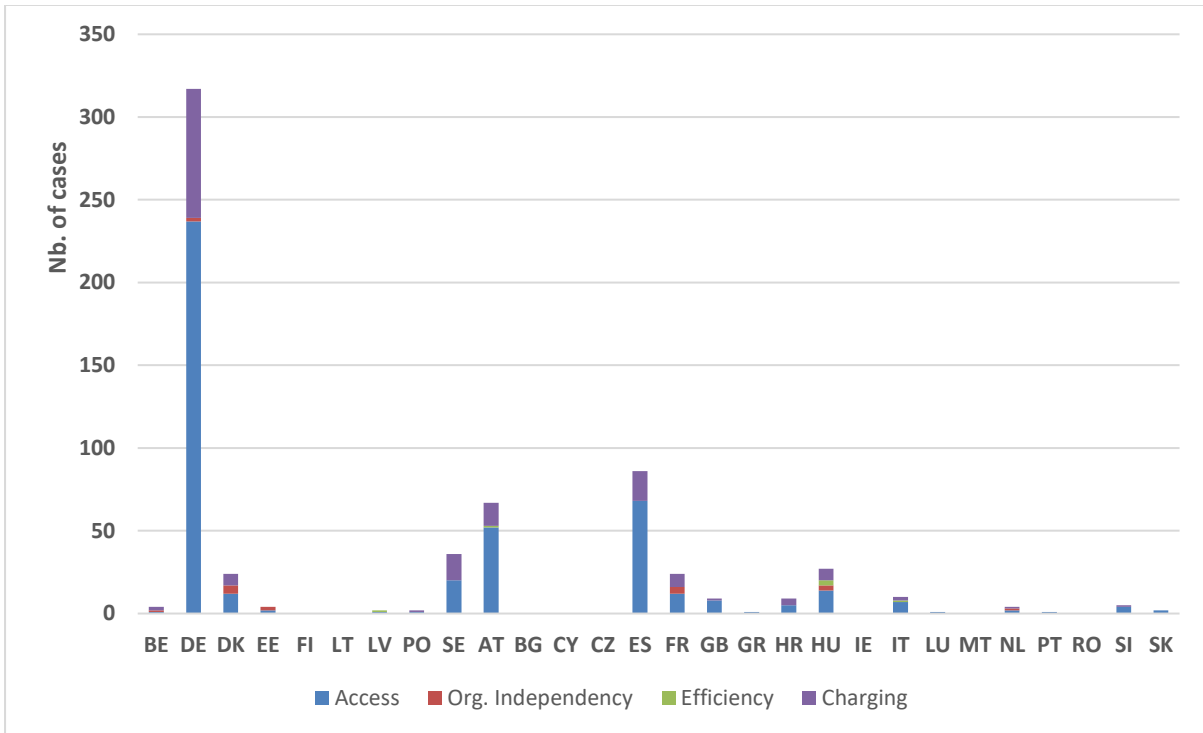


Fig. 29 Categories of regulatory themes of Dir. 2012/34 addressed in investigation cases by rail regulatory bodies by numbers of cases within the EU member states.

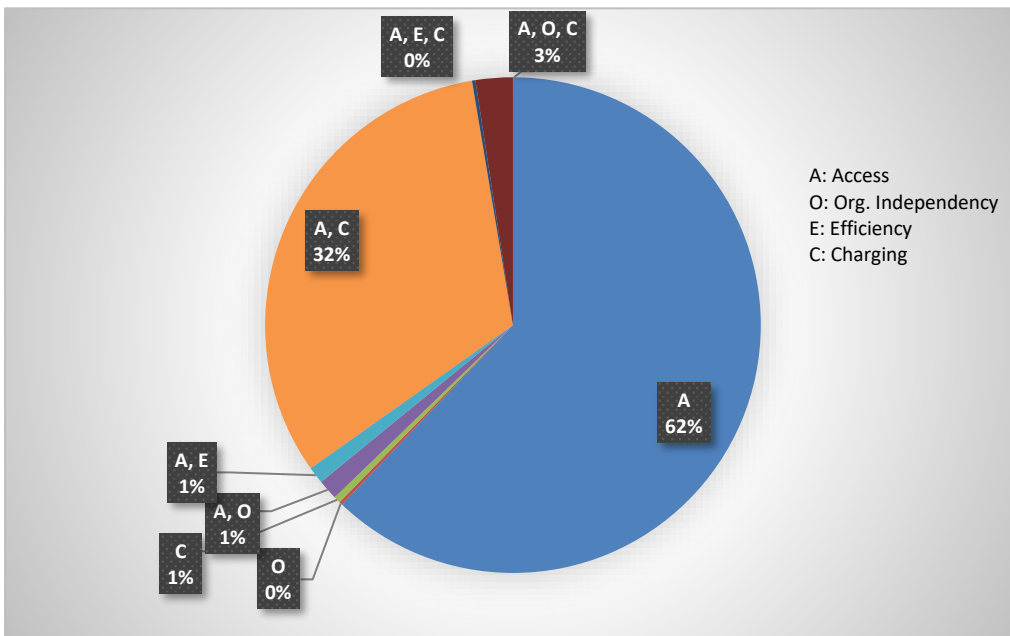


Fig.30. Percentages of regulatory themes of Dir. 2012/34 addressed in investigation cases by rail regulatory bodies within the EU member states.

Figures 27 - 30 indicate that at both EU member state level and within the Baltic Sea Region access charges were a theme in around one third of the rail regulators' supervising measures through 2009-2019, whereas around two thirds of their supervising measures dealt with access questions alone.

Within the EU member states the percentage distribution show, that 36% of the investigation cases address the charges in combination with access, 62% address issues of access alone, and 2% address access in combination with other themes.

Within the Baltic Sea Region the percentage distribution show, that 38% of the investigation cases address charges in combination with access, 61% address issues of access alone and 1% address access in combination with other themes.

Also for Figure 27 and Figure 29, it should be noted that in order to show the magnitude of each regulatory theme the cases have been recorded according to the number of the four themes represented in each case. This imply that if a case covers multiple themes it will count as multiple cases.

5.10 Regulatory themes of Implementing Regulation 2017/2177 addressed in complaints

Figures 31 - 34 below show the breakdown of the five regulatory themes of Implementing Regulation 2017/2177 addressed in complaints by numbers of cases and percentages of all themes of Reg. 2017/2177 addressed within the Baltic Sea Region (Fig. 31, 32) and within EU member states (Fig. 33, 34) respectively.

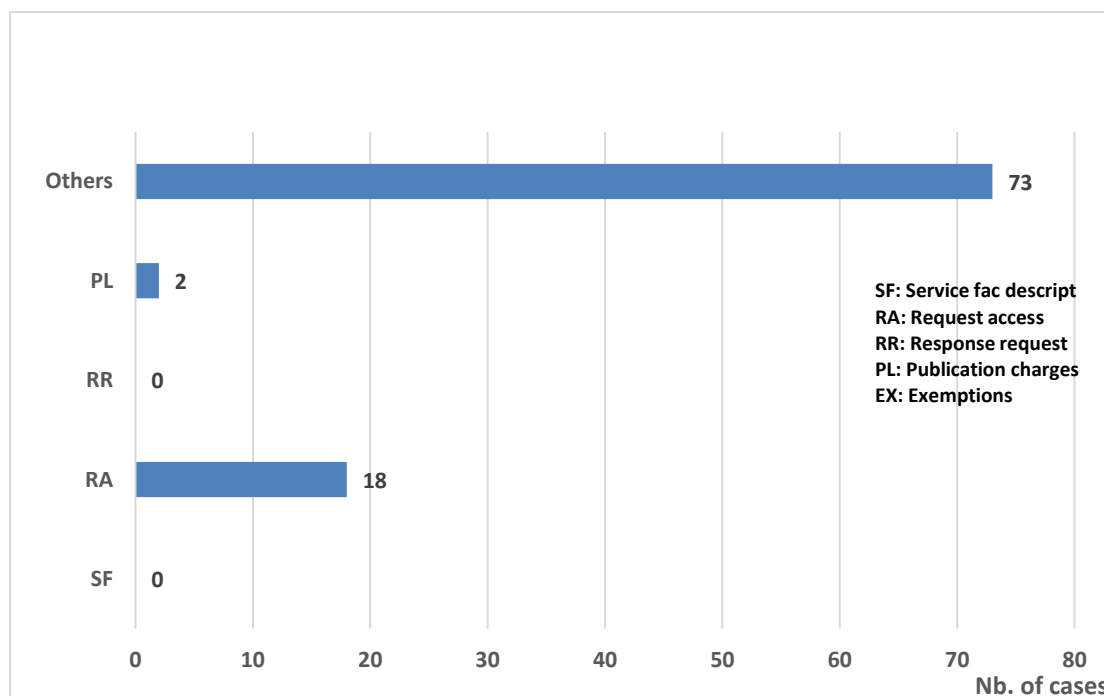


Fig. 31 Categories of regulatory themes of Reg. 2017/2177 addressed in complaint cases by numbers of cases within the Baltic Sea Region.

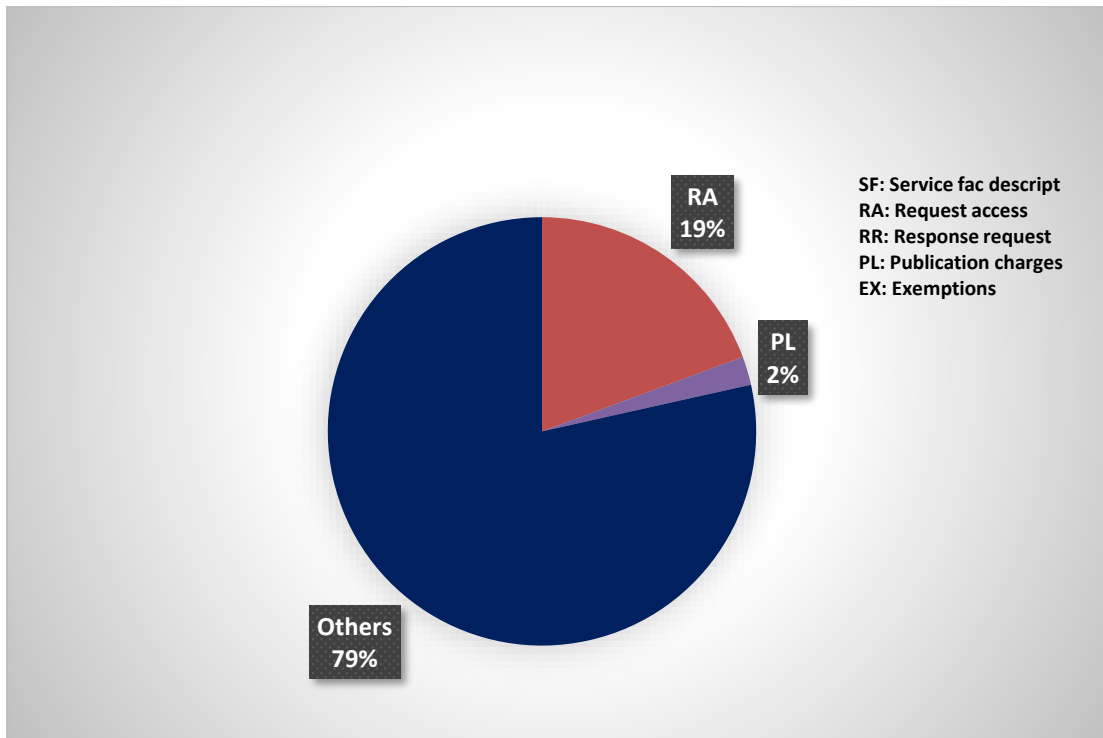


Fig. 32. Percentages of regulatory themes of Reg. 2017/2177 addressed in complaints within the Baltic Sea Region.

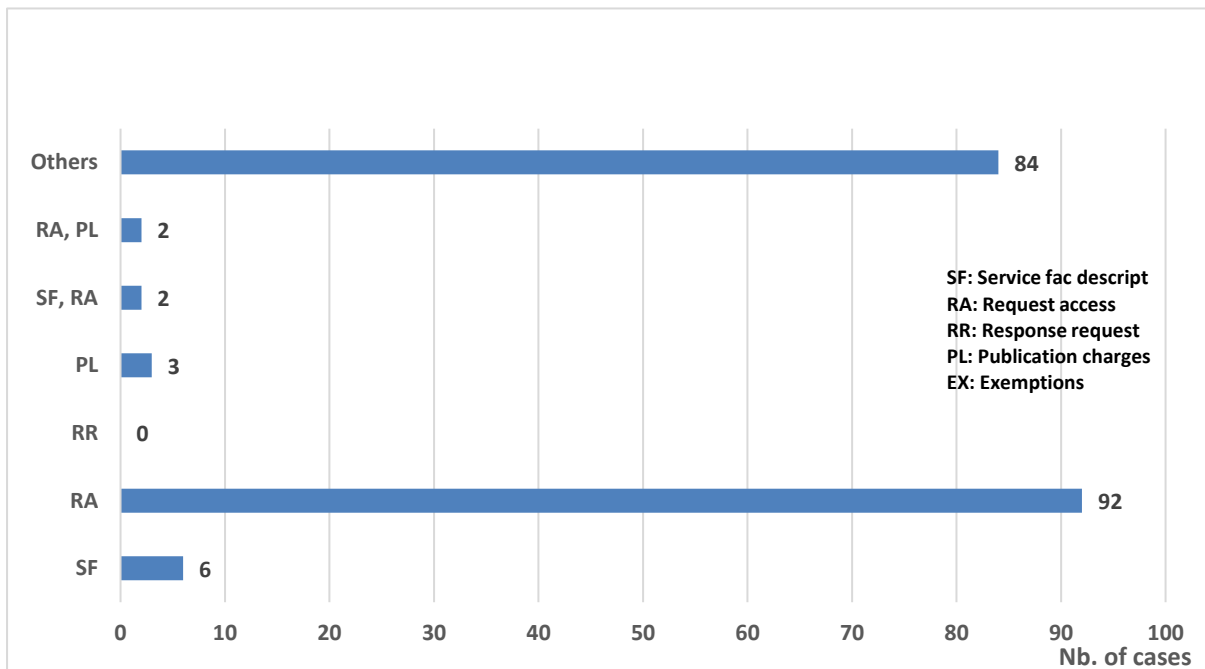


Fig. 33 Categories of regulatory themes of Reg. 2017/2177 addressed in complaint cases by numbers of cases within the EU member states.

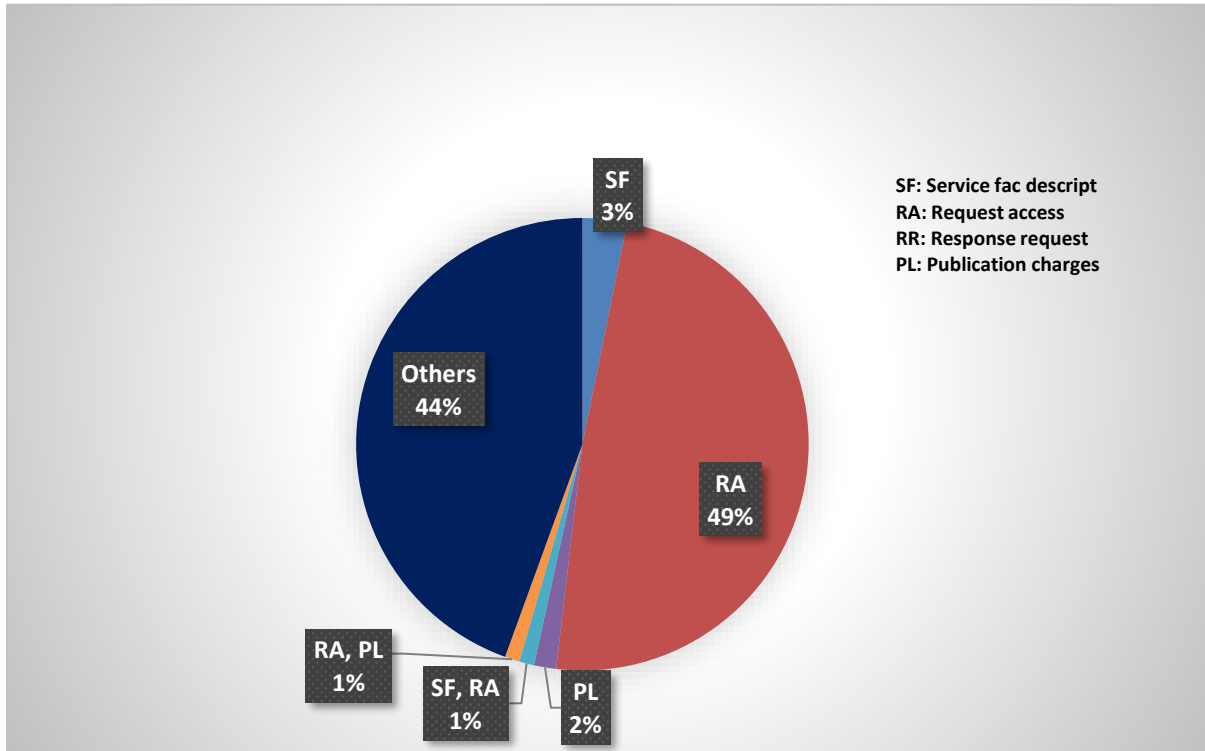


Fig. 34. Percentages of regulatory themes of Reg. 2017/2177 addressed in complaints within the EU member states in general.

Figures 31 - 34 indicate that users of rail service facilities within the EU member states to a higher degree than users in the Baltic Sea Region see a need to get the compliance of the service facility operators with the specific requirements of Reg. 2017/2177 tried.

At the Baltic Sea Region level only one fifth (21%) of complaint cases related to themes from Reg. 2017/2177 did actually address the regulatory themes in scope for this survey. Of the 21% did request for access account for 19%.

At EU member state level more than half (56%) of the complaint cases involving themes from Reg. 017/2177, did address regulatory themes in the scope for the present survey. Cases related to requests for access alone constitute 49%, cases related to request for access combined with other themes constitute 51%, and publication of service facility description and charges constitute 3% and 2% respectively.

5.11 Regulatory themes of Implementing Regulation 2017/2177 addressed in investigations

Figures 35 - 38 below show the breakdown of the five regulatory themes of Implementing Regulation 2017/2177 addressed in investigation cases by rail regulatory bodies by numbers of cases (Fig. 35) and percentages (fig. 36) of all regulatory themes of Reg. 2017/2177 addressed within the Baltic Sea Region and within EU member states (Fig. 37, 38).

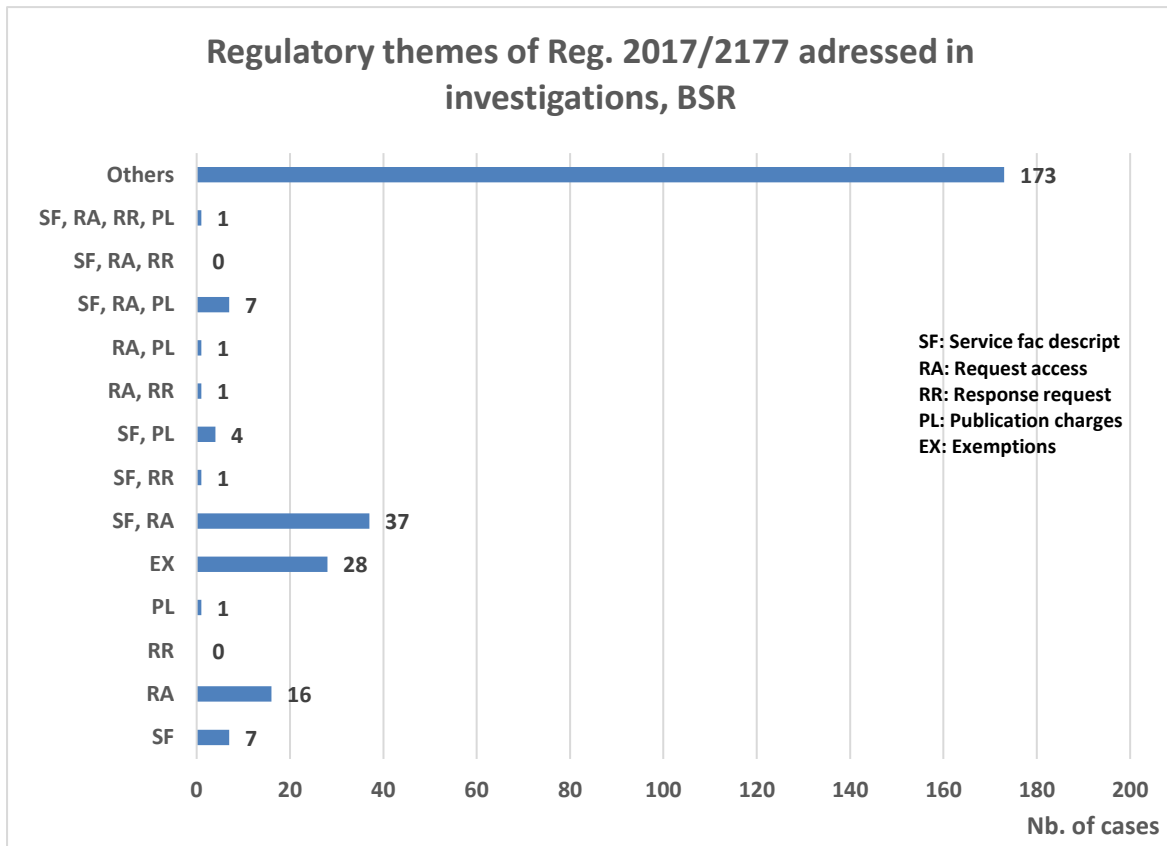


Fig. 35 Categories of regulatory themes of Reg. 2017/2177 addressed in investigation cases by numbers of cases within the Baltic Sea Region.

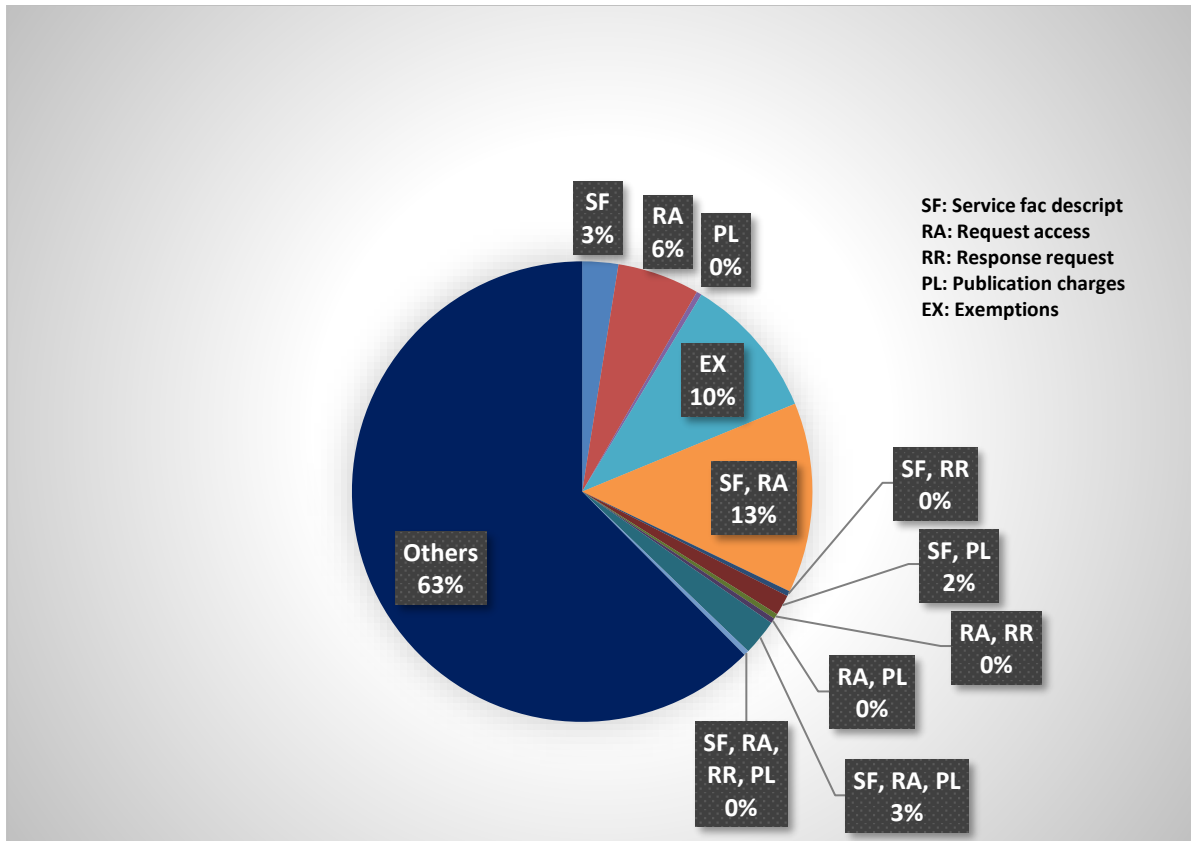


Fig. 36. Percentages of regulatory themes of Reg. 2017/2177 addressed in investigations within the EU member states.

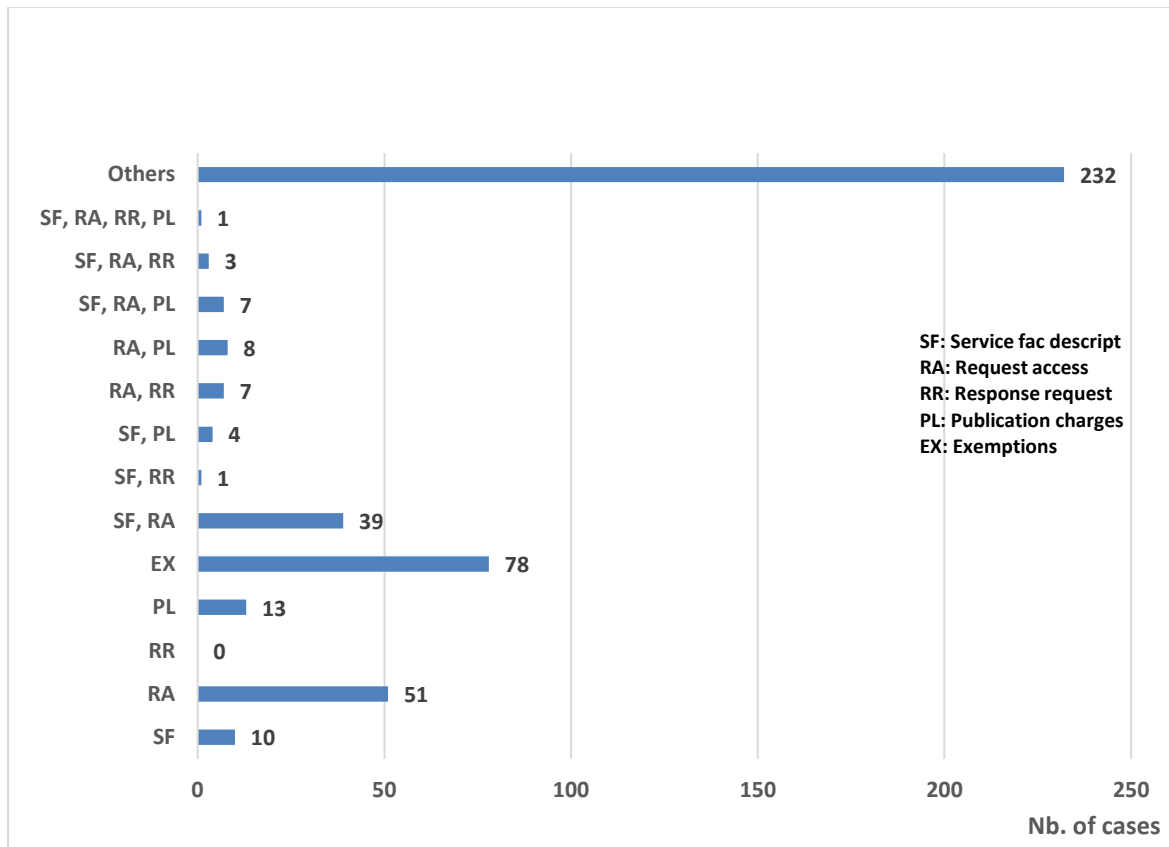


Fig. 37 Categories of regulatory themes of Reg. 2017/2177 addressed in investigation cases by numbers of cases within the EU member states.

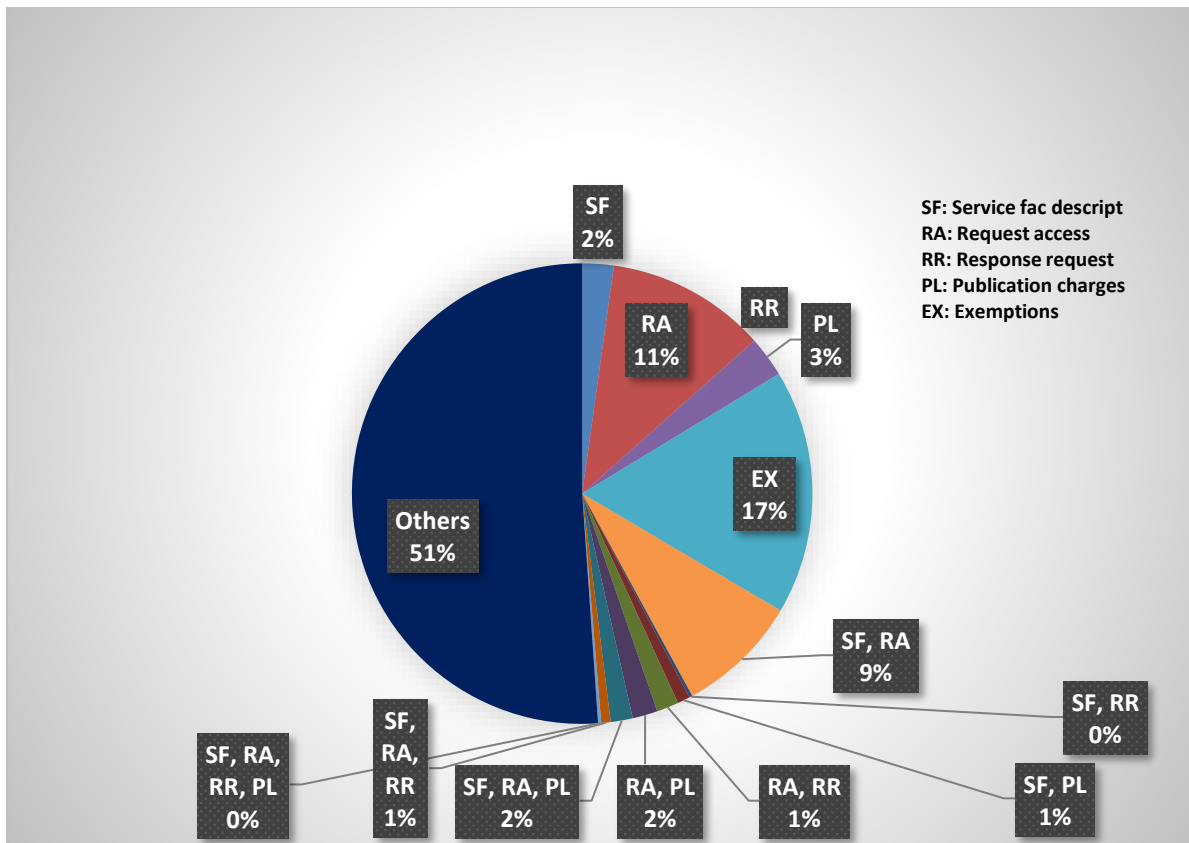


Fig. 38. Percentages of regulatory themes of Reg. 2017/2177 addressed in investigations within the EU member states in general.

Figures 35 - 38 indicate that of the regulatory themes on Reg. 2017/2177 addressed in all cases examined in EU did around half of the investigation cases address the specific categories of themes on Reg. 2017/2177 in scope for this survey, and in the Baltic Sea Region around one third of the cases examined.

Moreover, with regard to the exemption from themes on Reg. 2017/2177 the activity levels seem to be slightly higher in the EU member states than in the member states of the Baltic Sea area.

At Baltic Sea Region level did one third (37%) of the investigation cases, that involved themes on Reg. 2017/2177, actually address the specific categories in the scope of the present survey. Request for access and themes in combination herewith accounts for the 22% of these. Cases on exemptions from themes on Reg. 2017/2177 accounts for 10%.

At EU member state level around half (51%) of the investigation cases, that involved themes on Reg. 2017/2177, did address the specific categories in the scope of this survey. Cases related to requests for access and themes in combination herewith accounts for the 26% of these. Cases on exemptions from themes on Reg. 2017/2177 accounts for 17%.

5.12 Complaint topics within Annex II of Directive 2012/34

Figures 39 - 40 below show the breakdown of the specific complaint topics within Annex II, part 1-4 of Directive 2012/24 addressed in complaints by percentages of all complaint cases being within the scope of the present is survey within the Baltic Sea Region (Fig. 39) and within EU member states (fFig. 40) respectively.

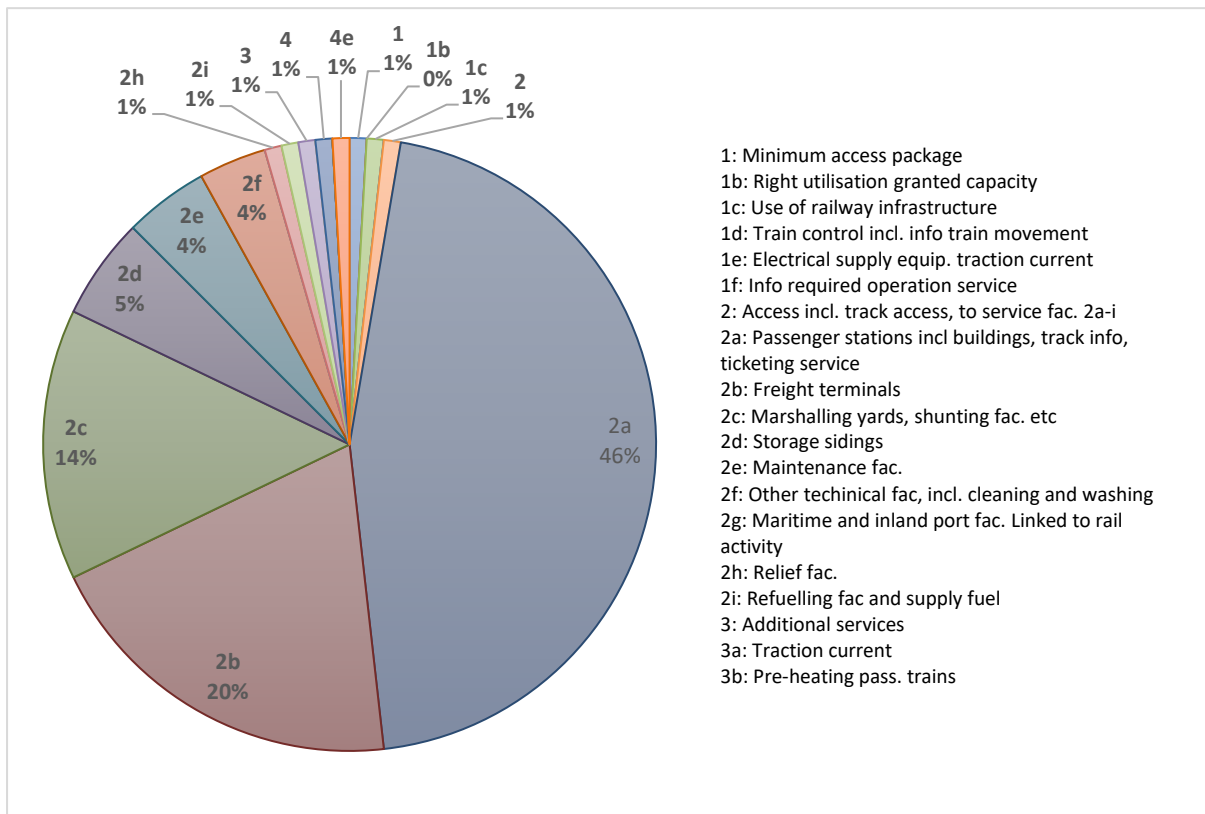


Fig. 39. Percentages of specific complaint topics within Annex II, part 1-4 of Dir. 2012/34 addressed in all complaints within the Baltic Sea Region.

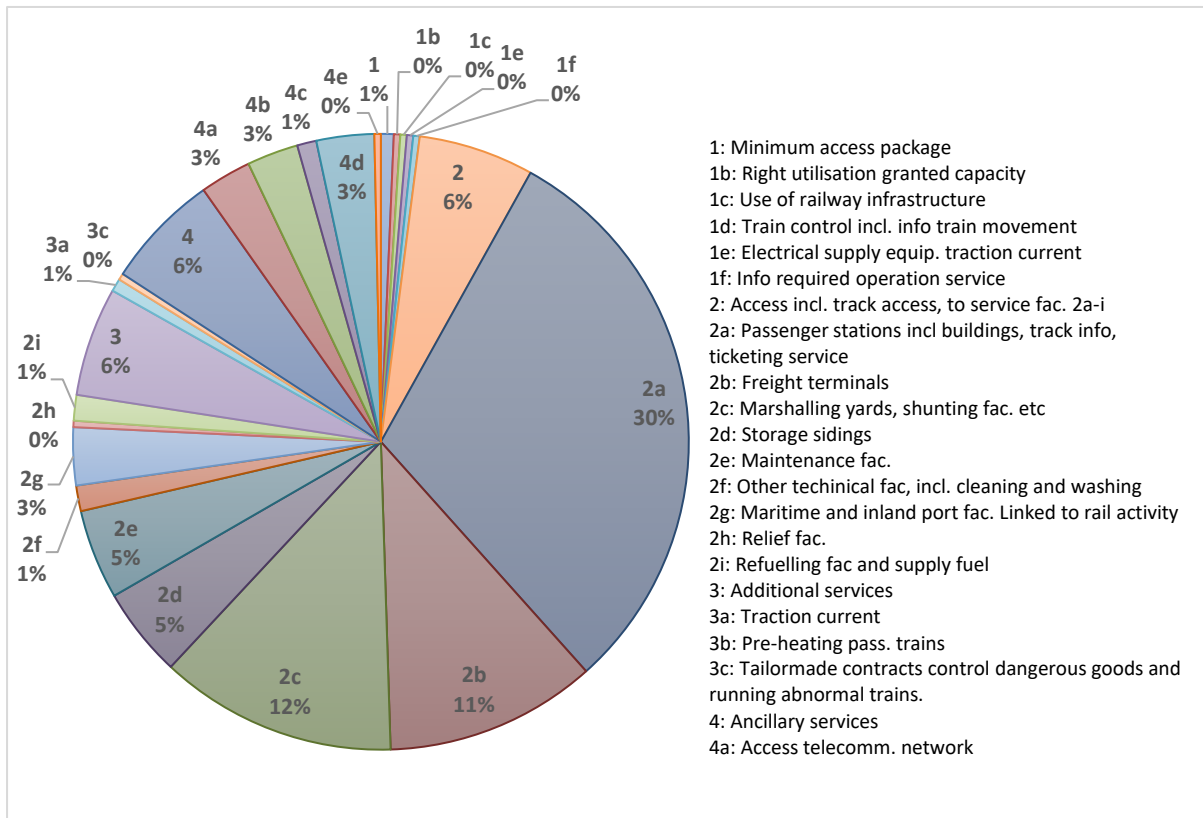


Fig. 40. Percentages of specific complaint topics within Annex II, part 1-4 of Dir. 2012/34 addressed in all complaints within the EU member states in general.

Figures 39 - 40 indicate that of the specific subjects in Annex II categorised as rail service facilities, additional services and ancillary services hereto, do access to “the very basics” form the subject of the case in by far the majority of all complaint cases in both the Baltic Sea Region and EU.

This relates to e.g. the access to train control (1d), access to service facilities in its broad sense (Part 2), stations, ticketing facilities, freight terminals, marshalling yards, shunting facilities and storage (2a-d).

In complaint cases of the Baltic Sea Region did the access to the rail service facility categories Part 2 and 2a-d thus form the subject of the case in three quarter of the complaint cases (76 %).

In complaint cases of the EU Member States did the access to the rail service facility categories of Part 2 and 2a-d form the subjects of the cases to a somewhat lower degree than cases in the Baltic Sea Region. These categories did in EU account for 64% of the complaint cases. Subjects of the case did in the remaining part of the complaint cases in EU (36%) represent a large variety of specific categories of Part 2e-i, of additional services (Part 3) and ancillary services (Part 4).

5.13 Investigation topics within Annex II of Directive 2012/34

Figures 41 - 42 below show the breakdown of the specific complaint topics within Annex II, part 1-4 of Directive 2012/24 addressed in investigations by percentages of all investigation cases being within the scope of the present survey dealt with by rail regulatory bodies of the Baltic Sea Region (Fig. 41) and EU member states (Fig. 42).

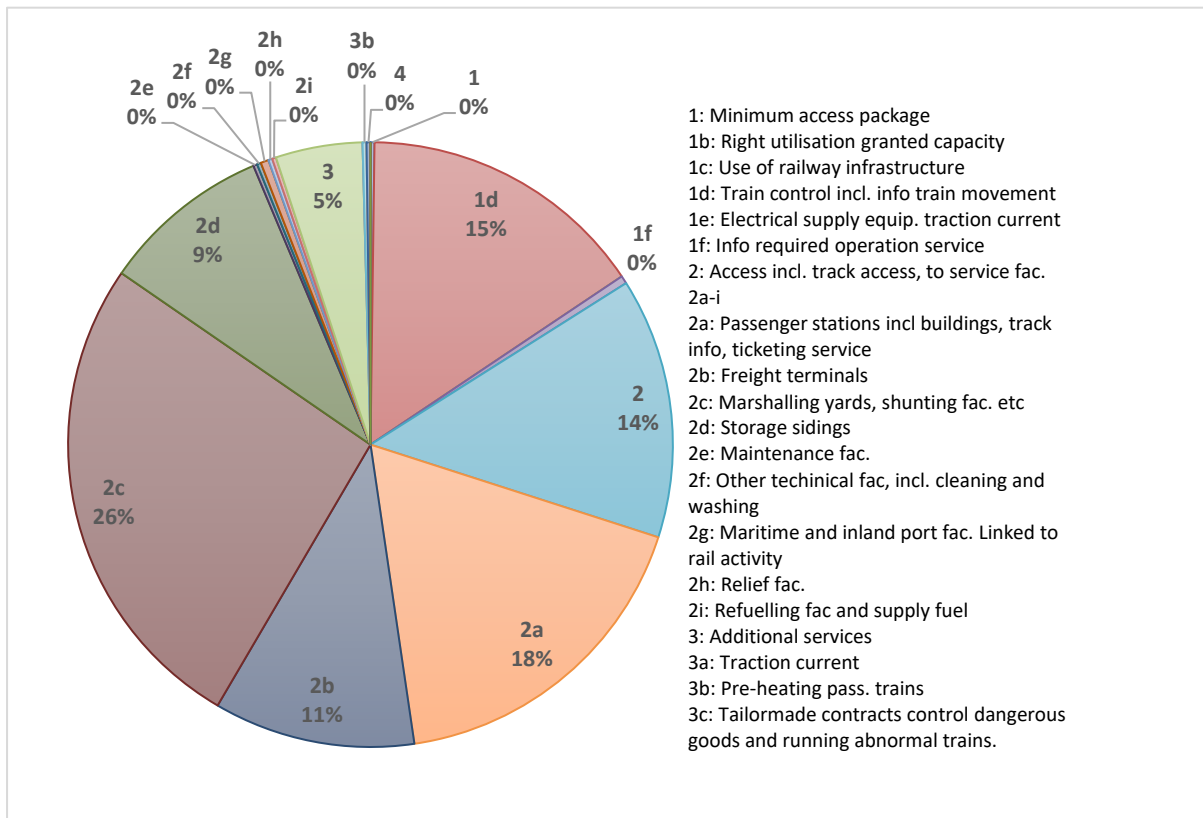


Fig. 41. Percentages of specific topics of Annex II, part 1-4 of Dir. 2012/34 addressed in all investigation cases within the Baltic Sea Region.

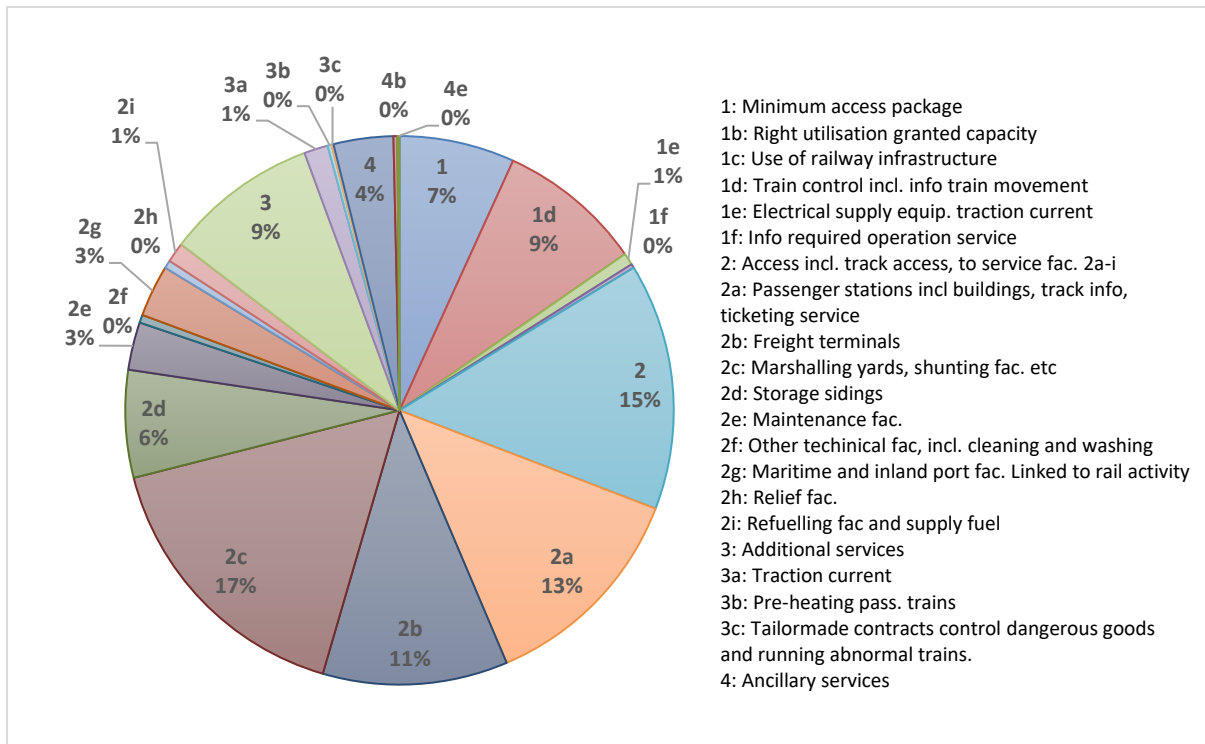


Fig. 42. Percentages of specific topics of Annex II, part 1-4 of Dir. 2012/34 addressed in all investigation cases within the EU Member States in general.

Figures 41 - 42 indicate that of the specific subjects in Annex II categorised as rail service facilities, additional services and ancillary services hereto, access to “the very basics” did form the subjects of the cases in by far the majority of all investigation cases in both the Baltic Sea Region and in EU.

This concerns e.g. the access to subjects related to the minimum access package in its broad sense (1), train control (1d), access to service facilities in its broad sense (2), and to stations, ticketing facilities, freight terminals, marshalling yards, shunting facilities and storage (2a-d).

In investigation cases of the Baltic Sea Region did the access to specific categories of Part 1d, Part 2 and 2a-d thus form the subject of the case in a very large majority of the cases (93%).

In investigation cases of the EU Member States did access to specific categories of Part 1, 1d, 2 and 2a-d form subjects of the cases in more than three quarter of the cases (78%). In the remaining investigation cases (22%) did the subjects of the cases represent a large variety of specific categories of subjects of Part 2e-i, of additional services (Part 3) and ancillary services (Part 4).

Thus, pretty much the same picture were observed for both the complaint cases and the investigation cases carried out by rail regulatory bodies in the Baltic Sea Region and in EU.

6 SUMMARY

6.1 Aim of this survey

Aim of this survey is to add perspectives to the general understanding of barriers to open access to rail service facilities as e.g. combined terminals, and to the enforcement of a fair and non-discriminatory access hereto.

The purpose of the survey is not to examine the situation within the Baltic Sea Region in isolation, but as part of EU.

Rail regulatory bodies under Directive 2012/34 Art. 55-57 play an important role in the ensuring and enforcement of a fair and non-discriminatory access to rail network and its services.

Parties, that believe they have been unfair treated, discriminated against or in any other way aggrieved in their access to rail service facilities, and consequently may see a need to have their legal rights tested by the regulatory authority, all in reality experience barriers to the open access.

By looking into complaint cases and investigation cases dealt with by rail regulatory authorities on the most important issues of open access to rail service facilities thus provide both facts, indications of extent and indications of systemic problematics within this field.

For this purpose reports on complaint cases and cases of ex official investigations dealt with by EU member states' rail regulatory authorities through the period 2009-2019 on the regulatory themes within the scope of this survey have been analysed.

In total 657 cases dealt with by EU member states rail regulatory bodies through the period 2009-2019 (Q1) was identified as being within the broad scope of the present survey. Of these are 197 cases categorised as complaint cases, and 93 cases hereof are from member states within the Baltic Sea Region.

The 460 cases of the in total 657 cases was categorised as investigation cases within the broad scope of this survey. Of these are 277 cases from member states within the Baltic Sea Region. Of the 460 cases do 78 cases concern exemptions from requirements of the Implementing Regulation 2017/2177.

Data and figures presented in this survey provide an indication of magnitude only.

6.2 General tendencies

The present survey identifies a number of impediments that makes it more difficult for new actors to enter the rail market.

The survey indicate that a number of systematic problematic areas seem to be present in the field of open access to rail service facilities and rail related services. Among other things, it seems that the access to the very basic service facilities and the charges set for use of service facilities are among the major barriers for railway undertakings and other users' actual utilisation of their access rights to the matters of open access to rail service facilities.

Thus, the access to the very basic facilities form the subjects of the cases in by far the majority of all complaint cases examined in both the Baltic Sea Region and within EU as a whole. This relates e.g. to the access to train control and the access to service facilities in its broad sense, to stations, ticketing facilities, freight terminals, marshalling yards, shunting facilities and storage.

It should be observed that getting access to service facilities in the rail passenger market seem to be as troublesome as getting access to the rail freight market. Thus, passenger railway undertakings and freight railway undertakings do to the same degree experience obstacles in getting their alleged legal rights of access hereto.

The survey show, that as a whole there are the same tendencies and problematic areas in the Baltic countries as there are within the EU as a whole. For a few, however, the tendencies observed in the Baltic Sea Region differs somewhat from tendencies observed within the EU as a whole.

Thus, within the Baltic Sea Region

- there were more complaints about charges for access than within the EU as a whole,
- did users of service facilities see a need for get tested if the operators of the service facilities complied with the rules, to a higher degree than users in the EU member states as a whole saw a need for it,
- there was less supervising activities from the rail regulatory bodies on the themes of the Implementing Regulation 2017/2177 than there was within EU member states as a whole.

More specifically the survey indicates that:

1. Railway undertakings are by far the ones who see a need for filing complaints at a rail regulatory body (or by a court) in order to get their alleged legal rights of access to and use of rail service facilities and services herein tried. This pattern is distinct within both the Baltic Sea Region and in EU as a whole (Figures 5-8).



2. Railway undertakings as applicants/users experience obstacles in getting their alleged legal rights of access to and use of rail service facilities and services herein primarily, but not only, in their corporation with the service facility operator, the infrastructure manager or both. This tendency seem to be present within both the Baltic Sea Region and within EU as a whole (Figures 9-12).
3. By far the majority of the supervising measures taken by rail regulatory bodies was within the Baltic Sea Region as well as within EU member states on infrastructure managers and service facility operators (Figures 13-16).
4. Both passenger railway undertakings and freight railway undertakings do to the same degree experience obstacles in getting their alleged legal rights of access to and use of rail service facilities and services herein. Getting access to the rail passenger market seem in both EU member states as a whole and within the Baltic Sea Region to be as troublesome as getting access to the rail freight market (Figures 17-19).
5. From the rail regulatory bodies' perspective there seem to be somewhat more attention on the regulatory supervision on matters of access to the rail freight market than to the rail passenger market. This goes for both the rail authorities within EU member states and the Baltic Sea Region (Figures 20-22).
6. Whereas around half of all complaint cases, within the scope of this survey, through the years 2009-2019 within the EU member states in general concerned charges for access in combination with other themes, did around three quarter of all complaints within the Baltic Sea Region concerned charges for access in combination with other themes in the same period (Figures 23-26).
7. At both EU member state level and within the Baltic Sea Region the access charges was a theme in around one third of the rail regulators' supervising measures through 2009-2019 whereas around two thirds of their supervising measures dealt with access questions alone (Figures 27-30).
8. Users of rail service facilities within the EU member states as a whole do to a higher degree than users in the Baltic Sea Region see a need for getting service facility operators compliances with the specific requirements of Reg. 2017/2177 tried by the enforcement authority (Figures 31-34).
9. Of the regulatory themes on Reg. 2017/2177 addressed in all cases examined at EU level do around half of the rail regulatory bodies' investigation cases address the specific categories of themes on Reg. 2017/2177 within the broad scope of this survey, and less than that within the

Baltic Sea Region. Moreover with regard to matters on exemptions from themes on Reg. 2017/2177 do the activity levels seem to be slightly higher within the EU member states in general than within the member states of the Baltic Sea area (Figures 35-38).

10. Based on the reports available for this survey it can be concluded, that at present only a few rail regulatory bodies have received and decided on applications for exemptions at present. The number of applications submitted is also very manageable, although sometimes one application may cover an important number of service facilities. The low number of applications may be due to the fact that many service facility operators are not yet aware of the existence of the Implementing Regulation 2017/2177, or that they do not consider it necessary to be exempt from its requirements.
11. Of the specific subjects in Annex II categorized as rail service facilities, additional services and ancillary services hereto, the access to “the very basics” do form the subjects of the cases in by far the majority of all complaint cases in both the Baltic Sea Region and in EU as a whole. Among other things this is access to train control (Directive 2012/34, Annex II,1d), access to service facilities in its broad sense (Annex II, part 2), stations, ticketing facilities, freight terminals, marshalling yards, shunting facilities and storage (2a-d) (Figures 39-40).
12. Of the specific subjects in Annex II categorised as rail service facilities, additional services and ancillary services hereto, the access to “the very basics” do form the subjects of the cases in by far the majority of all investigation cases within both the Baltic Sea Region and in EU as a whole. Within the Baltic Sea Region this is the case in the vast majority of the investigation cases. This relates e.g. to the access to subjects related to the minimum access package in its broad sense (Directive 2012/34, Annex II, part 1), train control (1d), access to service facilities in its broad sense (Annex II, part 2), and to stations, ticketing facilities, freight terminals, marshalling yards, shunting facilities and storage (2a-d) (Figures 41-42).

6.3 Enforcement

The present survey identifies a number of impediments that makes it more difficult for new actors to enter the rail market.

Thus, the survey indicates that a number of systematic problematical areas seem to be present in the field of open access to rail service facilities and rail related services. It seems e.g. that the access to the very basics and the charges set for use of service facilities are among the major barriers for railway undertakings and other users’ actual utilisation of their access rights to the matters of open access to rail service facilities.

Thus, access to the very basics form the subjects of the cases in by far the majority of all complaint cases examined in both the Baltic Sea Region and EU in general. Among other things this concerns

access to subjects related to train control, access to service facilities in its broad sense, to stations, ticketing facilities, freight terminals, marshalling yards, shunting facilities and storage.

Moreover, around half of all examined complaint cases within the EU did concern charges for access in combination with other themes. Within the Baltic Sea Region this was the case in around three quarter of the complaint cases.

In perspective of that was the charges set by the service facility operator for access to service facilities a theme in around one third of the rail regulators' supervising measures in EU as well as within the Baltic Sea Region, whereas around two thirds of their supervising measures dealt with access questions alone.

Of the regulatory themes on Reg. 2017/2177 addressed by EU did around half of the supervising measures address publication of service facility descriptions, publication of charges, conditions for requests for access and response to requests and exemptions, and within the Baltic Sea Region only one third of the investigations addressed these issues.

Presence of open and non-discriminatory access to rail service facilities and assurance of compliance with the charging principles of the EU rail regulation is vital for ensuring both the competitiveness in relation to other modes of transport and the transparency and non-discrimination.

Primary focus for the analysis have been placed on cases, where the facts of the case concerned issues that are both regulated and within the enforcement powers of rail regulatory bodies. Among these are matters of open access, organisational and decision-making independency, and matters of efficiency, charges, publication of service facility descriptions and charges, requests for access and responses hereto.

As the rail regulatory bodies under Directive 2012/34, Articles 55-57, being independent regulatory authorities, play an important role in ensuring and enforcing of a fair and non-discriminatory playing field, this survey and its findings provide both facts, indications of extent and indications of systematic difficulties within this field as support for their further enforcement activities.

In a general enforcement perspective it is to be expected, that general enforcement of the regulation carried out by rail regulatory bodies by means of targeted ex officio procedures (investigations) on key regulatory themes will have much greater impact on the reduction of market access barriers than the rail authorities' decisions on specific complaint cases. The present survey may thus provide important input to and support for further enforcement activities by rail regulatory bodies.

In particular, it is recommended that the rail regulatory bodies systematically conduct ex officio investigations on the themes of the Implementing Regulation 2017/2177 addressed in the present survey. This to ensure equal treatment, transparency and competitiveness in the access to rail service facilities in its broad sense.

The survey may also be useful for the European Commission in its further dialogue with the national rail regulatory authorities on matters of enforcement hereunder on priorities for supervising measures.

7 LIST OF FIGURES AND ANNEXES

- Fig. 1 Number of complaints in EU member states and EEA-countries 2009-2019(Q1)
- Fig.2 Distribution of complaint cases in EU member states per year 2009-2019
- Fig. 3 Number of investigation cases in EU member states and EEA-countries 2009-2019(Q1)
- Fig.4. Distribution of investigation cases in EU member states per year 2009-2019
- Fig. 5. Categories of complainants by number of cases within Baltic Sea Region
- Fig. 6. Percentages of categories of complainants in cases within Baltic Sea Region
- Fig. 7. Categories of complainants by number of cases within EU member states
- Fig. 8. Percentages of categories of complainants in cases within EU member states
- Fig. 9. Categories of defendants by number of cases within Baltic Sea Region
- Fig. 10. Percentages of categories of defendants in cases within Baltic Sea Region
- Fig. 11. Categories of defendants by number of cases within EU member states
- Fig. 12. Percentages of categories of defendants in cases within EU member states
- Fig. 13. Categories of parties subject to investigations by number of cases within Baltic Sea Region.
- Fig. 14. Percentages of parties subject to investigations in cases within Baltic Sea Region
- Fig. 15. Categories of parties subject to investigations by number of cases within EU member states.
- Fig. 16. Percentages of parties subject to investigations in cases within EU member states.
- Fig. 17. Categories of rail systems addressed in complaints by number of cases within EU member states and EEA-countries.
- Fig. 18. Percentages of rail systems addressed in complaints within Baltic Sea Region.
- Fig. 19. Percentages of rail systems addressed in complaints within EU member states.
- Fig. 20. Categories of rail systems addressed in rail regulatory bodies' investigations by number of cases within EU member states and EEA-countries.
- Fig. 21. Percentages of rail systems addressed in investigations within Baltic Sea Region
- Fig. 22. Percentages of rail systems addressed in investigations within EU member states.
- Fig. 23. Categories of regulatory themes of Dir. 2012/34 addressed in complaint cases s by number of cases within the Baltic Sea Region.
- Fig. 24. Percentages of regulatory themes of Dir. 2012/34 addressed in complaints within Baltic Sea Region.
- Fig. 25 Categories of regulatory themes of Dir. 2012/34 addressed in complaint cases by number of cases within EU member states.
- Fig. 26 Percentages of categories of regulatory themes of Dir. 2012/34 addressed in complaint cases within EU member states.
- Fig. 27 Categories of regulatory themes of Dir. 2012/34 addressed in investigation cases by rail regulatory bodies by numbers of cases within the Baltic Sea Region.

Fig. 28. Percentages of regulatory themes of Dir. 2012/34 addressed in investigation cases by rail regulatory bodies within the Baltic Sea Region.

Fig. 29 Categories of regulatory themes of Dir. 2012/34 addressed in investigation cases by rail regulatory bodies by numbers of cases within the EU member states.

Fig.30. Percentages of regulatory themes of Dir. 2012/34 addressed in investigation cases by rail regulatory bodies within the EU member states.

Fig. 31 Categories of regulatory themes of Reg. 2017/2177 addressed in complaint cases by numbers of cases within the Baltic Sea Region.

Fig. 32. Percentages of regulatory themes of Reg. 2017/2177 addressed in complaints within the Baltic Sea Region.

Fig. 33 Categories of regulatory themes of Reg. 2017/2177 addressed in complaint cases by numbers of cases within the EU member states.

Fig. 34. Percentages of regulatory themes of Reg. 2017/2177 addressed in complaints within the EU member states in general.

Fig. 35 Categories of regulatory themes of Reg. 2017/2177 addressed in investigation cases by numbers of cases within the Baltic Sea Region.

Fig. 36. Percentages of regulatory themes of Reg. 2017/2177 addressed in investigations within the EU member states.

Fig. 37 Categories of regulatory themes of Reg. 2017/2177 addressed in investigation cases by numbers of cases within the EU member states.

Fig. 38. Percentages of regulatory themes of Reg. 2017/2177 addressed in investigations within the EU member states in general.

Fig. 39. Percentages of specific complaint topics within Annex II, part 1-4 of Dir. 2012/34 addressed in all complaints within the Baltic Sea Region.

Fig. 40. Percentages of specific complaint topics within Annex II, part 1-4 of Dir. 2012/34 addressed in all complaints within the EU member states in general.

Fig. 41. Percentages of specific topics of Annex II, part 1-4 of Dir. 2012/34 addressed in all investigation cases within the Baltic Sea Region.

Fig. 42. Percentages of specific topics of Annex II, part 1-4 of Dir. 2012/34 addressed in all investigation cases within the EU Member States in general.

Annex 1: Role of rail regulatory bodies.

Annex 2: Overview registration keys.

Annex 3: Compilation of raw data on complaint and investigation cases.

Annex 4: Full registration and resumes related to complaint cases and investigation cases examined for this survey.

8 LIST OF LITERATURE AND SOURCES

- 1) Directive 92/106/EEC of 17.12.1992 on the establishment of common rules for certain types of combined transport of goods between Member States.
- 2) Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification.
- 3) Regulation (EU) No 913/2010 of the European Parliament and of the Council of 22 September 2010 concerning a European rail network for competitive freight.
- 4) Directive 2012/34/EU of the European Parliament and of the Council of 11 November 2012 establishing a single European railway area (recast).
- 5) Regulation (EU) No 1315/ of he European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU.
- 6) Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports.
- 7) Proposal for a Directive of the European Parliament and of the Council amending Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States, COM(2017) 648 final of 8.11.2017.
- 8) Commission Implementing Regulation (EU) 2017/2177 of 22 November 2017 on access to service facilities and rail related services.
- 9) Reform in the ECE. Final Report 2018, UNCE, ECE/TRANS/261.
- 10) Overview of findings regarding implementation of regulatory bodies' functions and powers of regulation under article 56.9, IRG-Rail-document (18) 5.
- 11) Sixth report on monitoring development of the rail market, Report from the Commission to the European Parliament and the Council COM(2019) 51 final, Commission staff working document accompanying the document, SWD(2019) 13 final 06.02.2019.
- 12) Update of Review of Regulatory Bodies competences and remedies. Findings of IRG-Rail members' survey, IRG-Rail-document 27 May 2019.
- 13) Report 2nd October 2019 on experiences regarding exemptions granted under Article 2(2) of Commission Implementing Regulation (EU) 2017/2177, IRG-Rail-document (19) 7.

9 ANNEXES

9.1 Annex 1: Role of rail regulatory bodies

Rail regulatory bodies, being independent regulatory authorities, play an important role in the ensuring and enforcement of a fair and non-discriminatory access to rail network and services.

EU legislation (Directive 2001/14/EC) required Member States to establish an independent rail regulatory body to oversee the application of rules to ensure efficient management and fair and non-discriminatory use of rail infrastructure, and to act as an appeal body. The competences of regulatory bodies were further developed and detailed in Directive 2012/34/EC (the Recast). Domestic legislation on independent rail regulation in EU member countries must comply with the above provisions.

According to Article 56 of Directive 2012/34, rail regulatory bodies in the member states of EU have two main functions. They are the appeal body and have to consider any complaints from any party that believes it has been unfairly treated, discriminated against or in any other way aggrieved. They have also powers to monitor the competitive situation in the rail services markets and to decide on their own initiative on measures to correct discrimination against applicants, market distortion and undesirable developments in these markets.

Today, most rail regulatory bodies in the EU are empowered with broad discretionary powers and remedies to use for their enforcement:

Complaints: Domestic legislation gives the rail regulatory body appeal/complaint functions and allows them to intervene following a formal request or at their own initiative.

In most cases domestic legislation makes it clear, that regulatory bodies are responsible to consider and decide on complaints submitted by parties that believe to have been unfairly treated or discriminated against, in particular in relation to decisions made by an infrastructure manager, a railway undertaking or a service facilities operator. In general, the scope of regulatory intervention is similar across member states even if expressed in a different manner in domestic legislation.

The complaint procedure is open to a wide range of interested parties from infrastructure managers to any third parties. In most member states domestic legislation restricts submission of complaints to applicants.

Parties are entitled to appeal to the regulatory body if they believe they have been unfairly treated, discriminated against, or are in any other way aggrieved, and in particular against decisions adopted by the infrastructure manager or (where appropriate) a railway undertaking or the operator of a service facility.

Domestic legislation gives the regulatory bodies broad discretionary powers and, most importantly, all the necessary powers to request relevant information from affected parties and initiate any consultation.

Monitoring: In addition to an appeal function, regulatory bodies have also a monitoring function and can monitor the competitive situation in the rail services markets. They are required to control a certain number of areas with a view to preventing discrimination against applicants. This includes checking whether the network statement contains discriminatory clauses or creates discretionary powers for infrastructure manager that may be used to discriminate against applicants (Directive 2012/34, Article 56(2)).

Domestic legislation provides all EU regulatory bodies with monitoring, ex-officio, surveillance powers that can be triggered at their own initiative. Most regulatory bodies interpret this provision quite broadly – giving them comprehensive ex-officio powers at their own discretion.

Monitoring competition in rail market services includes areas related to i.a. the network statement, the allocation process, the charging scheme, as well as arrangements for access and for charging to infrastructure and service facilities. More over in some countries domestic legislation specifies that the regulatory body have a duty to safeguard competition in railway services and ensure transparency and non-discrimination.

For most EU regulatory bodies domestic legislation empowers them to decide on appropriate measure to correct any discrimination, without prejudice of the powers of the competition authorities. Remedy is generally outlined in legislation and is very wide ranging – from financial penalties and fines to binding measures, recommendations, notices, guidelines, instructions, etc. This is left to the regulatory body's discretion.

Remedies: The type of remedies used by regulatory bodies to address particular issues concerning the exercise of their competencies in the area of rail regulation is varied, and ranges from formal decisions requiring parties to do or cease to do something, to sending informal letters, developing guidance documents, exercising mediation, etc.

Many regulatory bodies have the power to make decisions or take measures in relation to issues that may arise in the future, in order to change the future behaviour of an offending party and deter non-compliance with its obligations. Some can also make recommendations or use soft measures such as producing guidance documents to clarify areas of regulation.

Penalties are an important element of the regulatory bodies' toolkit. EU legislation (Directive 2012/34/EU) states that regulatory bodies must be able to enforce their decisions with the appropriate

penalties including fines. In most member states the rail regulatory bodies have the power to impose financial penalties, and the same penalty regime and the same penalty levels generally apply to both the infrastructure manager and operators.

Decisions of regulatory bodies can be challenged and are subject to judicial review.

For further information on the competences and functions of each regulatory body and on their remedies and enforcement powers see also the IRG-Rail document (18) 5: “Overview of findings regarding Implementation and interpretation of regulatory bodies’ functions and powers of regulatory bodies under article 56(9) (2018, undated), and the IRG-Rail document: Update of Review of Regulatory Bodies competences and remedies - findings of IRG-Rail members’ survey of 27 May 2019”.

Cooperation: Since 2009 and in especial after 2012 with the Recast, the Commission has facilitated a European Network of Rail Regulatory Bodies (ENRRB), with the Commission as a member, and with Switzerland, Norway and the former Yugoslav Republic of Macedonia as observers. Its purpose is to cooperate on market monitoring and investigation, especially on cross-border matters. Collaboration among regulators dates to 2010, where several rail regulatory bodies launched an Independent Regulators’ Group — Rail (IRG-Rail). A majority of EU rail regulatory bodies are members of this group, too.

9.2 Annex 2: Overview registration keys

Countries:		
Countries - EU	Countries - BSR	Countries - Other public entity:
AT Austria	BE Belgium	MK North Macedonia
BE Belgium	DE Germany	NO Norway
BG Bulgaria	DK Denmark	CH Switzerland
CY Cyprus	EE Estonia	
CZ Czech Republic	FI Finland	
DE Germany	LT Lithuania	
DK Denmark	LV Latvia	
EE Estonia	PO Poland	
ES Spain	SE Sweden	
FI Finland		
FR France		
GB United Kingdom		
GR Greece		
HR Croatia		
HU Hungary		
IE Ireland		
IT Italy		
LT Lithuania		
LU Luxembourg		
LV Latvia		
MT Malta		
NL Netherlands		
PO Poland		
PT Portugal		
RO Romania		
SE Sweden		
SI Slovenia		
SK Slovakia		

Concerning:	
Dir 2012/34, regulatory themes:	
A	Access - Art 13(2) + Annex II, point 2+4
O	Organisational + decision-making independency - Art 13(3)
E	Efficiency - Art 13(4) + viable article - 13(6)
C	Charging/price - Art 31(7)
Reg 2017/2177, regulatory themes:	
SF	Service facility description + publication - Art 4+5
RA	Requests for access to service facility and use of rail related services - Art 8 + Art 4(2f)
RR	Response to requests - Art 9 + Art 4(2f)
PL	Publication of charges - Art 4(2m)
EX	Exemption from access, Dir 2012/23: art 13(9)
Rail systems:	
RFT	Rail freight terminals
RFO	Rail freight, others
RPT	Railway passenger transports
Parties:	
OS	Operator of service facility
IM	Infrastructure manager
RU	Railway undertaking
OU	Other users
TA/RB	Transport Authority/Regulatory Body
Subjects of Directive 2012/34 Annex II, parts 1-4:	
1	Minimum access package
1b	Right utilisation granted capacity
1c	use of railway infrastructure
1d	Train control incl. info train movement
1e	Electrical supply equip. traction current
1f	Info required operation service
2	Access incl. track access, to service fac. 2a-i
2a	Passenger stations incl buildings, track info, ticketing service

- 2b Freight terminals
- 2c Marshalling yards, shunting fac. etc.
- 2d Storage sidings;
- 2e Maintenance fac.
- 2f Other technical fac, incl. cleaning and washing
- 2g Maritime and inland port fac. Linked to rail activity
- 2h Relief fac.
- 2i Refueling fac and supply fuel
- 3 Additional services
- 3a Traction current
- 3b Pre-heating pass. trains
- 3c Tailormade contracts control dangerous goods and running abnormal trains.
- 4 Ancillary services
- 4a Access telecomm. network
- 4b Provision suppl. info
- 4c Technical inspection of rolling stock
- 4d Ticketing services in pass. stations
- 4e Heavy maintenance services

9.3 Annex 3: Compilation of raw data on complaint and investigation cases

Complaints:									
Number of Complaints:	Country :	Year:	Dir 2012/34:	Reg 2017/2177:	Complaints about:	Complaints by:	Complaints against:	Incumbent:	Annex II:
1	BE	2013	A	RA	RFT, RFO, RPT	RU	IM		2c
2	BE	2014	A	RA	RFT, RFO, RPT	RU	IM		2c
1	DE	2011	A	RA	RFO	RU	RU	Incumbent	2c
1	DE	2011	A	RA	RFO	RU	IM		2c, 2d
1	DE	2011	A, E	RA	RFT	RU	IM	Incumbent	2c, 2d
1	DE	2011	A, C	RA	RPT	RU	IM		2a
1	DE	2012	A	RA	RFT	RU	RB		2c, 2d
46	DE	2013	A, C		RPT	RU	OS		2a
1	DE	2013	A, O		RFT	OU	OS	Incumbent	2b
1	FI	2018	A, E, C	PL	RFO	RU	OS, RU	Incumbent	2c
1	PO	2009	A		RFO	RU	RU	Incumbent	1c
1	PO	2015	A, C	PL	RFT	RU	RU	Incumbent	2c, 2d
1	PO	2015	A	RA	RFT	RU	OS		2b, 2c
1	PO	2015	A	RA	RPT	RU	IM, OS		2a
1	PO	2015	A	RA	RFT, RFO	RU	IM, OS		2b, 2d, 2e, 2i
1	PO	2018	A		RPT	RU	OS, RU		2e, 2f
1	PO	2018	A, E	RA	RPT	RU	OS, RU		2e, 2f
1	PO	2018	A		RPT	RU	IM		1
1	PO	2018	A		RPT	RU	OS, RU		2c, 2f, 2h, 4e

1	LV	2009	A		RFO, RPT	RU	IM		2a
1	LV	2014	A		RFO, RPT	RU	IM		2a
1	LV	2017	A	RA	RPT	RU	IM, OS		2e
1	DK	2010	A, C		RFT	OU	TA		2b
1	DK	2011	A, C		RFT	OU	TA		2b
1	DK	2012	A, C		RFT	OU	TA		2b
1	DK	2012	A, C		RFT	OS	TA		2b
1	DK	2013	A, C		RFT	OS	TA		2b
1	DK	2013	A, C		RFT	OS	TA		2b
1	DK	2013	A, C		RFT	OU	TA		2b
1	DK	2013	A, C		RFT	OS	IM		2b
1	DK	2013	A	RA	RFT	RU	TA		2c
1	DK	2013	A, C		RFT	OS	RB		2b
1	DK	2013	A, C		RFT	OS	RB		2c
1	DK	2014	A	RA	RFT	RU	TA		2c
2	DK	2014	A, C		RFT	OS	TA		2b
1	DK	2014	A, O, C		RFT	OS	RB		2b
1	DK	2014	A, C		RFT	OS	RB		2b
2	DK	2015	A, O, C		RFT	OU	TA		2b
1	DK	2015	A, C		RFT	OS	RB		2b
1	DK	2016	A, C		RFT	OS	RB		2b
1	DK	2016	A, O, C		RFT	OU	TA		2b
1	AT	2012	A	RA	RPT	OU	RU	Incumbent	2a, 4

1	AT	2013	A	RA	RPT	RU	OS	Incumbent	2c
1	AT	2014	A	RA	RPT	RU	OS	Incumbent	2c
1	AT	2014	A	RA	RPT	OS, RU	RU	Incumbent	2a, 2c
1	AT	2014	A	RA	RPT	RU	RU	Incumbent	2a, 4d
1	AT	2014	A, E		RFO	RU	IM		1b, 2c, 2
1	AT	2014	A	RA	RPT	RU	IM, OS	Incumbent	2a, 4d
1	AT	2016	A	RA	RPT	RU	IM, OS		2a, 4b
1	AT	2017	A, C	PL	RFT, RFO, RPT	RU	IM		2, 3, 4
1	AT	2017	A	SF, RA	RPT	RU	IM		2a, 4d
1	AT	2018	A, C		RPT	RU	OS		1
1	AT	2018	A, C		RPT	RU	IM, OS		2a
1	AT	2018	A	RA	RPT	RU	IM	Incumbent	2a, 4d
2	AT	2018	A	RA	RPT	RU	IM, OS	Incumbent	2a, 4d
1	AT	2018	A	RA	RPT	RU	IM, OS	Incumbent	2a, 4d
1	AT	2018	A	RA	RPT	RU	IM, OS		2a
1	AT	2018	A	RA	RPT	RU	IM, OS		2a
1	SE	2013	A, C		RPT	RU	IM		2a
1	SE	2014	A	RA	RPT	RU	IM, OS		2, 3, 4
1	SE	2014	A	RA	RFO	IM	RU		2b, 2c
1	EE	2014	A, O, E	RA	RFO	RU	IM, OS, RU	Incumbent	2c, 2d, 2e, 2f
1	BG	2009	A	RA	RFO, RPT	RU	RU		2a
1	BG	2009	A	RA	RFO	RU	RU	Incumbent	2b, 2c, 2d
1	BG	2009	A	RA	RFO	RU	RU		2c, 2g

1	BG	2009	A, C		RFO	RU	IM		2a, 2b, 2c, 2d
1	BG	2009	A	RA	RFO	RU	IM		1f, 4a
1	BG	2009	A	RA	RFO	RU	IM	Incumbent	3a
1	BG	2009	A, C	RA	RFO	OU	IM		2c
1	BG	2010	A, C	RA	RFO	RU	IM		2e
1	BG	2013	A, C	RA	RFO, RPT	OU	IM		2, 3, 4
1	BG	2015	A, O	RA	RFO, RPT	RU	OS		2g
1	BG	2015	A, O, C	RA	RPT	OS	IM	Incumbent	2a
1	BG	2015	A	RA	RPT	OU	OS		2a, 4d
1	BG	2015	A, C	RA	RPT	RU	IM		4c
1	BG	2016	A, C	RA	RPT	RU	IM		4c
1	BG	2016	A, C	RA	RPT	RU	IM		4c
6	CZ	2014	A, C	SF	RFT, RFO, RPT	RU	IM		2, 3, 4
1	ES	2013	A, C	RA	RFT, RFO, RPT	OU	OS, RU	Incumbent	2e
1	ES	2013	A	RA	RFT	OU	IM, OS		2b
1	FR	2011	A, O		RFO	RU	IM, RU	Incumbent	2c
1	FR	2012	A, C		RFO	OS	IM		2g, 3c
2	FR	2015	A, O, C	RA	RPT	TA	OS		2a
3	FR	2016	A, C		RPT	TA	IM		2a
1	IT	2009	A	RA	RFO	RU	IM		2c
1	IT	2009	A, O	RA	RFT	OU	OS		2b
1	IT	2010	A	SF, RA	RPT	RU	OS		2c
1	IT	2013	A	RA	RPT	RU	IM		2a

7	IT	2013	A	RA	RPT	RU	IM		2a, 2e, 4a, 4b
1	IT	2013	A	RA	RPT	RU	IM		2a
1	IT	2013	A	RA	RPT	RU	IM, OS		2a
1	IT	2015	A	RA	RPT	RU	IM, OS		2a
1	IT	2016	A	RA	RPT	RU	IM, OS		2a
1	IT	2016	A	RA	RPT	RU	OS		2a
1	GB	2010	A	RA	RFT	RU	IM		2b, 2g
1	GB	2011	A	RA	RFT	RU	OS		2b, 2g
1	GB	2015	A		RFT, RFO	RU	OS		2b, 2g
1	GB	2016	A	RA	RFO	RU	IM		2c, 2d
1	GB	2016	A		RFT, RFO	RU	OS		2b, 2g
1	GB	2017	A	RA	RPT	RU	IM		2, 2c
1	HR	2016	A, C	RA	RFT, RFO	RU	IM		2, 3, 4
1	HR	2016	A, C	RA	RFO	OU	OS	Incumbent	2c, 2d
1	HR	2016	A, C	RA	RFO	RU	IM	Incumbent	2c, 2d
1	HR	2019	A, C	RA, PL	RFT, RFO	RU	OS	Incumbent	2c, 2d
1	HU	2013	A, C	RA	RFT, RFO, RPT	RU	IM		1e, 2i, 3a
1	NL	2009	A, C	RA	RFT, RFO	RU	IM		2i
5	NL	2010	A	RA	RFT, RFO, RPT	RU	OS		2, 3, 4
1	NL	2013	A	RA	RFT, RFO, RPT	RU	IM, OS		2i
1	NL	2014	A	RA	RPT	RU	RU	Incumbent	2a
1	NL	2015	A, C	RA	RPT	OU	OS, RU	Incumbent	2a
1	NL	2015	A	RA	RPT	RU	OS		2a

1	NL	2018	A	RA	RFT, RFO	RU	IM		2c
1	PT	2009	A	RA	RFT, RFO, RPT	IM	RB		2, 3, 4
1	PT	2016	A, C	RA, PL	RPT	RU	IM		2c, 2d
1	RO	2018	A, C	RA	RFT, RFO, RPT	RU	IM		3, 4
1	RO	2019	A, C	RA	RPT	OS, RU	IM, OS		2a, 4d
1	SI	2010	A	RA	RFT	RU	IM	Incumbent	2g
1	SI	2010	A	RA	RFT	RU	OS		2b, 2c, 2g
1	SI	2011	A	RA	RFO	RU	IM		2c
1	SI	2011	A	RA	RFO	RU	IM		2d
1	SI	2012	A	RA	RFT, RFO	RU	IM		2b, 2c
1	SI	2012	A, C	RA	RFT	RU	IM, OS	Incumbent	2b, 2g
1	NO	2012	A	RA	RFT	RU	IM, OS		2b, 2c, 2d
1	NO	2013	A	RA	RFT	RU	IM, OS		2b, 2c, 2d
1	NO	2013	A	RA	RFT	RU	IM, OS		2b
1	NO	2015	A	RA	RPT	RU	IM	Incumbent	2a
1	NO	2016	A	RA	RPT	RU	IM	Incumbent	2a
1	NO	2017	A	RA	RPT	RU	IM	Incumbent	2a
1	CH	2011	A, C	RA	RFT	RU	OS		2b, 2c
1	CH	2014	A, C	RA	RFT, RFO, RPT	RU	IM		2, 3, 4

Investigations:								
Number of Investigations	Country	Year	Dir 2012/34	Reg 2017/2177	Investigations about:	Involving:	Incumbent:	Annex II:
2	BE	2015	C	SF	RFT, RFO, RPT	IM		2c
1	BE	2015	A	SF, RR	RPT	RU	Incumbent	2c
1	BE	2019	O		RPT	OS	Incumbent	2, 3, 4
1	DE	2009	A	SF	RFT, RFO, RPT	OS, IM		2b, 2c, 2d
1	DE	2009	A, C	SF	RFT, RFO, RPT	OS, IM	Incumbent	2b, 2c, 2d
1	DE	2011	A, C		RPT	IM		2a
1	DE	2012	A	RA	RFT	OS, IM	Incumbent	2b, 2c, 2d
1	DE	2012	A, C	RA	RPT	OS, IM	Incumbent	2a
1	DE	2012	A	RA	RFT	OS, IM	Incumbent	2b, 2c, 2d
1	DE	2012	A, C	RA	RPT	OS, IM	Incumbent	2a
1	DE	2012	A, O, C	RA	RFT	OS, RU	Incumbent	2b, 2c, 2d
36	DE	2013	A	SF, RA	RFT	IM		2b, 2c, 2d
73	DE	2013	A		RFT, RFO, RPT	IM		1d, 2c
2	DE	2014	A	SF	RFT	OS	Incumbent	2b
1	DE	2015	A	RA	RPT	OS, IM	Incumbent	1f, 2a
1	DE	2016	A	RA	RPT	OS, IM		1f, 2a
12	DE	2016	A		RFT, RFO, RPT	IM		2
1	DE	2016	A		RFT	OS	Incumbent	2b
1	DE	2016	A, O		RFT	OS		2b
72	DE	2016	A, C		RPT	OS		2a

1	DE	2016	A	SF	RFT, RFO, RPT	IM		2
1	DE	2016	A		RFT, RFO, RPT	IM		2
1	DE	2019	A, C		RPT	OS		2a
27	DE	2019	A	EX	RFT, RFO, RPT	OS		2
1	PO	2013	A, C		RFT, RFO, RPT	IM, RU		2
1	LV	2017	A, E	RA, RR	RFT, RFO, RPT	OS, RU		2, 3, 4
1	DK	2012	A, O, C		RPT	RU	Incumbent	2
1	DK	2014	A, O, C		RPT	RU	Incumbent	2
1	DK	2014	A	RA	RFT	OS		2c
1	DK	2015	A, O, C		RFT	OS		2b
1	DK	2016	A, O, C		RPT	RU	Incumbent	2
1	DK	2017	A	SF, RA, RR, PL	RPT	OS, RU	Incumbent	2a, 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2i, 3, 4
1	DK	2017	A	RA	RPT	OS, RU		2, 3, 4
1	DK	2017	A, C	SF, RA	RFT	OS		2, 3, 4
1	DK	2018	A	RA	RPT	RU		2, 3, 4
1	DK	2018	A, C	RA, PL	RFT	OS		2b
1	DK	2019	A, O, C	PL	RFT	OS		2b
1	DK	2019	A	EX	RFO, RFT	OS		2b
2	AT	2012	A, C	RA	RPT	OS, RU		2a, 2c
1	AT	2012	A, C	RA	RFO	OS, RU	Incumbent	2a, 2c
1	AT	2013	A	SF, RA	RFT, RFO, RPT	OS, IM		2a, 2c
1	AT	2013	A, C	RA	RPT	IM		2a, 2c, 2d
1	AT	2013	A, C	RA	RPT	IM		2a, 4b

33	AT	2013	A		RFT, RFO, RPT	IM		2, 3, 4
1	AT	2013	A, C		RPT	IM		2a
1	AT	2014	A, C		RPT	IM		2a
1	AT	2014	A, C	RA	RPT	OS, IM, RU		2c
1	AT	2014	A, E		RPT	IM		2a
1	AT	2016	A, C	RA	RPT	IM		2a, 4b
1	AT	2017	A, C	PL	RFT, RFO, RPT	OS, IM		2, 3, 4
1	AT	2017	A, C		RFT, RFO, RPT	OS, IM		3a
1	AT	2018	A, C		RFT	OS		2b
1	AT	2018	A, C		RFT, RFO, RPT	IM		2, 3, 4
1	AT	2018	A, C		RFT, RFO, RPT	IM		2, 3, 4
3	AT	2019	A	EX	RFT, RFO, RPT	OS		2
1	SE	2009	A, C		RFO, RPT	IM		2g
1	SE	2009	A, C		RFT, RFO, RPT	IM		1, 2a, 2b, 2c, 2d, 3b
4	SE	2011	A	RA	RPT	IM		2a, 2c
1	SE	2011	A, C		RFT, RFO, RPT	IM		2, 3, 4
4	SE	2011	A, C	SF, PL	RPT	IM		2, 3, 4
7	SE	2013	A, C	SF, RA, PL	RFT, RFO, RPT	OS, IM		2, 3, 4
1	SE	2014	A, C	RA	RFT, RFO, RPT	OS, IM		2, 3, 4
1	SE	2015	A, C	RA	RFT, RFO, RPT	OS, IM		2, 3, 4
1	EE	2014	A, O		RFT, RFO, RPT	IM, RU	Incumbent	2, 3, 4
1	EE	2015	A, O		RFT, RFO, RPT	IM, RU	Incumbent	2, 3, 4
1	ES	2012	A		RFT	OS, IM		2b

1	ES	201 2	A		RFT	OS, IM		2b
1	ES	201 3	A	RA	RFT	OS, IM		2b
1	ES	201 6	A, C	RA, PL	RFT, RFO, RPT	OS, IM		2, 3, 4
1	ES	201 6	A, C	PL	RFT	OS, IM		2b, 2g, 3, 4
1	ES	201 6	A, C	RA, PL	RFT, RFO, RPT	OS, IM		2, 3, 4
1	ES	201 7	A, C	RA, PL	RFT, RFO, RPT	IM		1e, 2b, 2c, 2d, 3a, 3c
7	ES	201 7	A, C	PL	RFT	OS		2b, 3, 4
1	ES	201 8	A	SF, RA, RR	RFT, RFO, RPT	IM		2, 3, 4
1	ES	201 8	A, C		RFT	OS, IM		2b
3	ES	201 8	A, C	PL	RFT	OS		2b, 3, 4
1	ES	201 8	A, C	RA, PL	RFT, RFO, RPT	IM		2, 3, 4
1	ES	201 8	A, C	RA, PL	RFT, RFO, RPT	OS		2, 3, 4
1	ES	201 8	A, C		RFT	OS		2, 3, 4
1	ES	201 8	A	RA, RR	RFT, RFO, RPT	OS		2, 3, 4
5	ES	201 9	A	EX	RFT, RFO	IM		1, 2b, 4
4	ES	201 9	A	EX	RFT, RFO	IM		1, 2b, 4
3	ES	201 9	A	EX	RFT	IM		1, 2b, 4
6	ES	201 9	A	EX	RFT, RFO	IM		1, 2b, 4
2	ES	201 9	A	EX	RPT	IM		1, 2a
1	ES	201 9	A	EX	RPT	OS, RU		1, 2a, 2f
7	ES	201 9	A	EX	RFT, RFO, RPT	OS		1, 2g
8	ES	201 9	A	EX	RFT, RFO, RPT	OS		1, 2e
9	ES	201 9	A	EX	RFT, RFO, RPT	OS		1, 2e

1	FR	2011	A, O, C		RFT, RFO, RPT	OS, IM	Incumbent	2, 3, 4
1	FR	2014	A, C		RFT, RFO, RPT	IM		2c
2	FR	2014	A, C		RPT	IM		2a
1	FR	2014	A, C	SF	RFT, RFO, RPT	IM, RU	Incumbent	2, 3, 4
1	FR	2014	A		RFT	OS		2b
1	FR	2014	A, O, C		RFT, RFO, RPT	OS, IM	Incumbent	2, 3, 4
1	FR	2014	A, O, C		RFT, RFO, RPT	OS		2, 3, 4
1	FR	2014	A, C		RFT	IM		2, 3, 4
1	FR	2014	A		RFT, RFO, RPT	OS, IM		2i
1	FR	2016	A, O	RA	RFT, RFO, RPT	IM		2i
1	FR	2019	A	EX	RFT, RFO, RPT	OS		2b
1	IT	2009	A	RA	RPT	IM		2a, 2c, 2e, 4e
1	IT	2010	A	RA	RPT	IM, RU		2a, 2c, 2e, 2f, 3b
1	IT	2015	A	RA	RFT, RFO, RPT	OS, IM		2a, 2c, 2h
1	IT	2015	A, C	RA	RFT, RFO, RPT	OS, IM		2, 3, 4
1	IT	2016	A		RPT	IM		2a, 2c, 2h
1	IT	2017	A, E, C	RA	RFT, RFO, RPT	IM		2, 3, 4
1	IT	2018	A	RA	RPT	IM		2a
1	GB	2010	A, C	RA	RFO	RU		2c
1	GB	2011	A		RFT, RFO, RPT	OS		2b, 2c, 2d
1	GB	2014	A	RA	RPT	OS		2a
1	GB	2014	A	RA	RFO	OS		2c, 2d, 2f, 2h, 2i
1	GB	2014	A		RFO	OS		2g

1	GB	2014	A	RA	RPT	OS		2a
2	GB	2019	A		RPT	RU		2a
1	GR	2016	A		RFO, RPT	RU		2a, 2b, 2c, 2d
1	HR	2011	A, C	RA	RFT, RFO, RPT	IM		3a
1	HR	2013	A, C	RA	RFT, RFO, RPT	IM		2, 3, 4
1	HR	2017	A, C	SF, RA	RFO	IM		2g
1	HR	2018	A, C	RA, PL	RFT, RFO, RPT	OS		2i
1	HR	2018	A	RA, RR	RFT, RFO, RPT	IM		2, 3, 4
1	HU	2011	A, C	RA	RFT, RFO, RPT	IM		1e, 3a
1	HU	2012	A, C	RA	RFT, RFO, RPT	IM		1e, 2i, 3a
1	HU	2012	A, C	RA	RFT, RFO, RPT	IM	Incumbent	1e, 2i, 3a
1	HU	2013	A, O, C	RA	RPT	RU		2e, 3a
1	HU	2013	A, C	RA	RFT, RFO, RPT	IM		1e, 2i, 3a
1	HU	2015	A, C	RA	RFT, RFO, RPT	IM		1e, 2i, 3a
1	HU	2015	A, O	RA	RFO	OS		2g
1	HU	2015	A, O, C	RA	RPT	RU		2e, 3a
1	HU	2017	A, E	RA, RR	RFT	OS		2d
1	HU	2017	A	SF, RA, RR	RFT	OS		2d
1	HU	2018	A, E	RA, RR	RFT, RFO, RPT	OS		2e, 3a
1	HU	2018	A, E	RA, RR	RFT, RFO	OS		2d
1	HU	2018	A	SF, RA, RR	RFT, RFO, RPT	OS		2e, 3a
1	HU	2018	A	SF	RFT, RFO, RPT	OS		2, 3, 4
1	LU	2018	A	RA, RR	RFT, RFO, RPT	OS		2, 3, 4

1	NL	2010	A, C	RA	RFT, RFO	OS, IM		2i
1	NL	2015	A, O	RA	RFT, RFO, RPT	RU		2, 3, 4
1	PT	2009	A	RA	RFT	RU	Incumbent	2b
1	SI	2011	A	RA	RFO	IM		2c
1	SI	2011	A	RA	RFO	IM		2d
1	SI	2012	A	SF	RFT, RFO	IM		2c, 2d, 2g
1	SI	2017	A, C	RA, PL	RFT	IM		2d, 2g
1	SK	2019	A	RA	RFT	OS		1, 2b, 2d
1	SK	2019	A	EX	RFT	OS		2b
1	NO	2012	A	RA	RFT, RFO	OS		2, 3, 4
1	NO	2015	A	RA	RFT	OS, RU	Incumbent	2b, 3c
1	CH	2013	A, C	RA	RFT, RFO, RPT	IM		2, 3, 4
1	CH	2015	A, C	RA	RFT, RFO	IM		1e, 2, 3, 4
1	CH	2016	A	RA	RFT, RFO, RPT	RU		2a, 2b, 2c
1	CH	2016	A, C	RA	RFT, RFO	IM		1e, 2, 3, 4

9.4 Annex 4: Full registration and resumes related to complaint cases and investigation cases examined for this survey

Country	ENRB mtg month/yr or DAREBO	Complaint	Nb	Ex officio investigation	Nb	Concerning	Remarks
Austria AT	11/2012	x	1			OU against RU (?) A, RPT, RA	Concerns advertising space at stations. Advertising at stations is in the hands of company within Company Group of the incumbent and outsourced to private company. Case concerns whether advertising is part of access to stations or not, and clauses banning competitors to incumbent RU from advertising. Annex II, pkt 2a, 4 ?
				X	2	Investigation of OS (a RU) A, C, RA, RPT	Concerns a RU that as OS carries out additional service shunting and last mile services, whereby another RU felt discriminated by the prices fixed for these services. Annex II, pkt 2a, c
				x	1	Investigation of OS (incumbent RU) A, C, RA, RFO	Concerns incumbent RU offering shunting services at variable prices when other RUs offers same service. Annex II, pkt 2 a,c.
	3,7,11/2013			x	1	Investigation of IM (OS) A, SF, RA	Concerns IMs published lists of stations, where shunting will be provided from a certain date and onwards, and whether earlier offers of shunting services can be withdrawn. Annex II, pkt 2 a,c
				x	1	Investigation of IM	Concerns other RUs access to use of

						A, RA, C, RPT	operational facilities agreed upon IM and an OS in between on narrow gauge railways and industrial sidings on common operational facilities. Issue is whether dispatching of trains from and into station by IM can be charged separately. Annex II, pkt 2a, c, d
				x	1	Investigation of IM A, RA, RPT, C	Concerns charges set by IM for promotional activities at stations. RB concludes that promotional activities at stations is to be understood as included in access to rail related services and the direct cost principles. Annex II, pkt 2a and 4b?
				x	33	Investigation of IM A, RPT, RFT, RFO	Concerns terms and conditions in infrastructure usage contracts between IMs and RUs, and suspicions of discriminatory aspects. Eg related to station charges. Annex II, pkt 2-4
		x	1			RU against OS A, RA, RPT	Concerns a RUs request for access to train wash facilities owned by daughter company to incumbent passenger RU. The company rejected RUs request for access. In AUT train wash facilities are normally owed by IM. Annex II, pkt 2c
				x	1	Investigation of IM A, RPT, C	Concerns IMs segmentation of station charges according to long distance and regional trains resp. RB decision lead IM to raise court case. Annex II, pkt 2a
	3,7,11/2014	x	1			RU against OS	Concerns a RUs request for access to train wash facilities owned by

						A, RA, RPT	daughter company to incumbent passenger RU. The company rejected RUs request for access. In AUT train wash facilities are normally owed by IM. Annex II, pkt 2c
				x	1	Investigation of IM A, RPT, C	Concerns IMs segmentation of station charges according to long distance and regional trains resp. Annex II, pkt 2a
		x	1			RU against daughter company (OS) to incumbent RU A, RPT, RA	Concerns denial of RU's request for access to maintenance facility owned and operated by daughter company of incumbent RU Annex II, pkt 2a,c
		x	1			RU against daughter company to incumbent RU A, RPT, RA	Concerns RU's request for access to/integration into incumbent RU's sales system. RB concluded this was not matter of access but abuse of dominant position Annex II, pkt 2a, 4d
				x	1	Investigation two OS (one IM and one RU – both OS) A, RPT,C, RA	Concerns prices for use of two train wash facilities, one operated by a RU, one by an IM Annex II, pkt 2c
				x	1	Investigation of IM Direct bearing on cases related to A, RPT, E	Concerns alleged discrimination of RU's train by IM train management in case of disruption Annex II, pkt 1f with direct bearing on cases related to Annex II, pkt 2a
		x	1			RU against IM	Concern RU whose freight trains were diverted and delayed due to bridge renewal and lack of

						Direct bearing on cases related to A, RFO, E	provision of the viable alternative present Annex II pkt 1b,c with direct bearing on cases related to Annex II, pkt 2.
		x	1			RU against incumbent RU (also OS) A, RPT, RA	Concerns RUs request for access to ticket distribution facilities via incumbent RU's sales channel. Incumbent RU denies access Annex II, pkt 2a, 4d
	6/2016			x	1	Investigation of IM A, RA, RPT, C	Concerns the level of fees set by IM for promotional activities at stations. Annex II, pkt 2a and 4b?
		x	1			RU against IM (as OS) A, RA, RPT, C	Concerns the level of fees set by IM for promotional activities at stations. Annex II, pkt 2a and 4b?
	DAREBO 2017			x	1	Investigation of IM (as OS) A, RPT, RFO, RFT, C, PL,	Concerns IMs charges for use of electricity supply network and publication hereof Annex II, pkt 2-4
	DAREBO 2017			x	1	Investigation of IM (as OS) A, RPT, RFO, RFT, C,	Concerns cost evaluation of IMs charges for use of rail related electricity network used for providing traction current Annex II, pkt 3a
	DAREBO 2017	x	1			RU against IM (as OS) A, RPT, RFO, RFT, C, PL	Concerns IMs charges set for use of electricity supply network and publication hereof Annex II, pkt 2-4
	DAREBO 2017	x	1			RU against IM A, RPT, SF, RA	Concerns foreign cross border RUs request for IM's access conditions to AUT main station (publication hereof) – e.g access to space for a ticket salesroom.

							Annex II, pkt 2a, 4d
	DAREBO 2018	X (court case)	1			RU against OS (IM?) A, RPT, C	Concerns whether allocation of charges for use of passenger platforms is to be allocated to the charges for passenger stations (service facility). The Court concluded that charges for passenger platforms are to be considered as part of minimum access package. Ref EU Case C-210/18) Annex II, pkt 1
	DAREBO 2018	x	1			RU against IM (OS) A, RPT, C	Concerns OS' additional charging of a RU for billboards announcing timetable changes. Concern which party must bear the costs. RU is an applicant re Reg 1370/2007. Annex II, pkt 2a
	DAREBO 2018			x	1	Investigation of OS A, RFT, C	Concerns the costs on which the charges for access services at container terminals are based Annex II, pkt 2b
	DAREBO 2018			x	1	Investigation IM A, RPT, RFT, RFO, C	Concerns the level of charges set by IM for using the electricity supply network in TT2019 Annex II, pkt 1c with direct bearing on cases related to pkt 2-4
	DAREBO 2018			x	1	Investigation IM A, RPT, RFT, RFO, C	Concerns the level of charges set by IM for using the electricity supply network in TT2018 Annex II, pkt 1c with direct bearing on cases related to pkt 2-4

	DAREBO 2018	x	1			RU against IM (as OS) A, RPT, RA	Concerns RU's request for access to commercial space for use as ticket office at incumbent IM's train stations Annex II, pkt 2a, 4d
	DAREBO 2018	x	2			RU against IM (as OS), and vice versa IM against RU A, RPT, RA	Concerns RU's request for access to commercial space for use as ticket office at incumbent IM's train stations. IM has denied RU adequate space for a ticket office. Annex II, pkt 2a, 4d
	DAREBO 2018	x	1			RU against IM (as OS) A, RPT, RA	Concerns RU's request for access to commercial space for use as ticket office at incumbent IM's train stations, and IM denied a space for selling tickets at the station. Annex II, pkt 2a, 4d
	DAREBO 2018	x	1			RU against IM (as OS) A, RPT, RA	Concerns errors made in public train announcements and on destination indicators of platforms. Annex II, pkt 2a
	DAREBO 2018	x	1			RU against IM (as OS) A, RPT, RA	Concerns withdrawal of the baggage trolley service by the IM. Annex II, pkt 2a
	IRG-Rail doc (19)7 of 02.10.2019			x	3	Investigation of OS A, RPT, RFO, RFT, RA	Concerns applications for exemption from some articles in Reg 2017/2177 for a number of service facilities considered partly to be of non-strategic importance, partly to be provided in a competitive market. Dir 2012/34, art 13(9), Annex II, pkt 2

Belgium BE	7/2013	x	1			RU against IM A, RA, RFT, RPT, RFO	Concerns IMs priorities in a rail yard. Annex II, 2c
	3/2014	x	2			RU against IM A, RA, RFT, RPT, RFO	Concerns conditions on access to shunting yard. Annex II, 2c
	3,7,11/2015			x	2	Investigation of IM. C, SF, RPT, RFT, RFO	IMs tariffs for shunting services Annex II, 2c
	11/2015			x	1	Investigation of RU (as OS). A, SF, RR, RPT, RR	RU incumbent and also owner of stations. Concerns RUs publication of conditions for access passenger stations. Annex II, 2a
	DAREBO 2019-02-SC			x	1	Investigation of OS O, RPT	Incumbent RU also service facility provider Lack of details
BULGARIA BG	6/2009	x	1			RU against RU A, RPT, RFO, RA	Concerns ensuring equal access for all RUs to boundary stations at border crossings. Annex II, pkt 2a
		X (court case)	1			Incumbent RU against RU	Concerns equal access for two freight RUs to certain stations and sections.

					A, RFO, RA	Annex II, pkt 2 b-d
		X	1		RU against RU A, RFO, RA	Concerns access to shunting activities at a port that appears as industrial branches Annex II, pkt 2c, g
		x	1		RU against IM A, RFO, C	Concerns charges set by IM for usage of infrastructure and prices of the additional services. Annex II pkt 1 with direct bearing on cases related to pkt 2 a-d
		x	1		RU against IM A, RFO, RA	Concerns freight RUs request for access to telex services in relation to reservation of paths. Annex II pkt 1f with direct bearing on cases related to pkt 4 a
		x	1		Incumbent RU against IM A, RFO, RA	Concerns IMs distribution of power for traction needs of the incumbent RU's. Annex II, pkt 3a
		x	1		OU against IM A, RFO, RA, C	Concerns prices of shunting activities and conditions for performing such ones. Annex II, pkt 2c
	11/2010	x	1		RU against IM A, C, RA, RFO	Concerns size and price of services charges for maintenance and additional ancillary services. Annex II, pkt 2e
	3/2013	x	1		OU against IM A, C, RA, RPT, RFO	Concerns complaint from wagon owing company related to the accrued amounts for additional services provided by the IM.

						Annex II, pkt 2-4
	12/2015	x	1			<p>RU against OS</p> <p>A, RA, O, RPT and RFO</p> <p>Concerns transferring of ownership of transition-lifting bridge in a ferry station to IM to enable carrying out overhaul and exploitation of bridge.</p> <p>Annex II, pkt 2g</p>
		x	1			<p>OS against IM</p> <p>A, RA, RPT, C, O</p> <p>Concerns preparation of instruction on the relationship between IN and incumbent RU, shunting performance on intermediate stations and the station charge that IM requires OS to pay.</p> <p>Annex II, pkt 2a</p>
		x	1			<p>OU against OS</p> <p>A, RPT, RA</p> <p>Concerns the OS' removal of cash payment at railway stations. OU part of recycling industry.</p> <p>Annex II, pkt 2a, 4d</p>
		x	1			<p>RU against IM</p> <p>A, RA, C, RPT</p> <p>Concerns external prophylactic disinfection performed by IM for passenger trains and vehicles entering Bulgaria from the Republic of Turkey, and the charges set by IM for this service.</p> <p>Annex II, pkt 4c</p>
	6/2016	x	1			<p>RU against IM</p> <p>A, RA, C, RPT</p> <p>Concerns external prophylactic disinfection performed by IM for passenger trains and vehicles entering Bulgaria from the Republic of Turkey, and the charges set by IM for this service.</p> <p>Annex II, pkt 4c</p>
		x	1			<p>RU against IM</p> <p>A, RA, C, RFO</p> <p>Concerns phytosanitary disinfection performed by IM for a freight RUs grain carrier wagons, own or rented, for carrying oli-</p>

							<p>cases, the legislative requirement for this and IMs legal base for conducting this service/procedure.</p> <p>Annex II, pkt 4c</p>
CROATIA	7/2011			x	1	Investigation of IM A, RA, C, RPT, RFO, RFT	<p>Concerns conditions for IMs supplying of electricity for traction and charges for this.</p> <p>Annex I, pkt 1e with direct bearing on cases related to Annex II, pkt 3a</p>
HR							
	11/2013			x	1	Investigation of IM A, RA, C, RPT, RFO, RFT	<p>Concerns investigation of Network Statement and IMs lack of transparent and foreseen procedures for charges for access to service facilities</p> <p>Annex II, pkt 2-4</p>
	1,6/2016	x	1			RU against IM A, C, RFO, RFT, RA	<p>Concerns Facility Usage Agreement and conditions related to services in service facilities and additional services for time tbale 2014/2015.</p> <p>Annex II, pkt 2-4.</p>
		x	1			OU against OS A, RFO, C, RA	<p>Concerns charges set by OS (owned by incumbent freight RU) for usage of private siding (industrial siding).</p> <p>Annex II, pkt 2 c,d.</p>
		x	1			RU against IM A, RFO, RA, C	<p>Concerns criterias set by IM for incumbent freight RUs operation of freight wagons (loading/unloading, assembling and dissembling of freight wagons, shunting routes ao). Concerns also matters of charging.</p> <p>Annex II, pkt 2, c,d</p>

	DAREBO 2017			x	1	Investigation of OS A, RA, SF, C, RFO	Concerns investigation of service facility network statement for the Port of Plocé. Annex II, pkt 2g
	DAREBO 2018			x	1	Investigation of IM A, RA, PL, RPT, RFT, RFO, C	Concerns investigation of publication of info on supply of fuel in refueling facilities in Network Statement. Annex II, pkt 2 i
				x	1	Investigation of OS A, RA, RPT, RFT, RFO, RR	Concerns reasonable time limit for answering to requests for access and supply of services in service facilities. Annex II, pkt 2-4
	DAREBO 2019	x	1			RU against OS A, RA, C, PL, RFO, RFT	Concerns complaint from freight RU regarding access to maintenance shops and charges and billing times for shunting services related hereto. Two incumbent freight RUs levies the charges as OS. Annex II, pkt 2 c, d
Czech Republic CZ	3/2014	x	6			Six RUs against IM A, SF, RPT, RFO, RFT, C	Concerns Network statement, e.g. points on rates for use of services, conditions for "specialized infrastructure" a.o. Has been treated as one case by RB. Annex II, pkt 2-4
CYPRUS CY							No cases

Denmark DK	11/2010	x	1			OU against TA A, C, RFT	Concerns decision taken by TA on approval of OS's price setting of tariffs for lift of trailers at intermodal freight terminals. OS also dominant freight RU Annex II, pkt 2b
	11/2011	x	1			OU against TA A, C, RFT	Concerns decision taken by TA on approval of OS's price setting of tariffs for lift of trailers at intermodal freight terminals. OS also dominant freight RU Annex II, pkt 2b
	6,12/2012	x	1			OU against TA A, C, RFT	Concerns decision taken by TA on approval of OS's price setting for lift of trailers at intermodal freight terminals. Annex II, pkt 2b
		x	1			OS against TA A, C, RFT	Concerns whether there was sufficient evidence for TA to differentiate between different types of lift when deciding on OS's setting charges for lift of trailers and containers at intermodal freight terminals OS also dominant freight RU Annex II, pkt 2b
				x	1	Investigation of incumbent RU Direct bearing on cases related to	Concerns how the incumbent RU as a Company Group ensure adequate separation, separation of accounts etc, between business areas where rail transport is carried out as PSO-traffic

						A, C, O, RPT	and commercial/competitive lines of business respectively. Direct bearing on cases related to Annex II, pkt 2.
	3,7/2013	x	1			OS against TA A, C, RFT	Concerns whether there was sufficient evidence for TA to differentiate between different types of lift when deciding on OS's setting charges for lift of trailers and containers at intermodal freight terminals OS also dominant freight RU Annex II, pkt 2b
		x	1			OS against TA A, C, RFT	Concerns issues on the TAs rejection of differentiation of tariffs for different types of lifting cargo carriers at intermodal freight terminal OS also dominant freight RU Annex II, pkt 2b
		x	1			OU against TA A, C, RFT	Concerns issues on the TAs decision on approval of differentiated tariffs for different types of lifting cargo carriers at intermodal freight terminals OS also dominant freight RU Annex II, pkt 2b
		x	1			OS against IM Direct bearing on cases related to A, C, RFT	Concerns IMs alleged rejection of OS's request for reduction in level of rent for the intermodal freight terminals they operate by means of a rental agreement

						<p>IM is owner of service facility</p> <p>Direct bearing on cases related to Annex II, 2b</p>
		x	1		<p>RU against TA</p> <p>A, RA, RFT</p>	<p>Concerns decision from TA in a case where OS allegedly has prohibited RU by themselves to undertake shunting operations in shunting area of intermodal freight terminal.</p> <p>OS is also dominant freight RU</p> <p>Annex II, pkt 2c</p>
		X (court case)	1		<p>OS against RB</p> <p>Direct bearing on cases related to</p> <p>A, C, RFT</p>	<p>Concerns RBs rejection to take case on IMs alleged rejection of OS's request for reduction in level of rent for the intermodal freight terminals they operate by means of a rental agreement</p> <p>IM is owner of service facility</p> <p>Direct bearing on cases related to Annex II, 2b</p>
		X (court case)	1		<p>OS against RB</p> <p>A,C,RFT</p>	<p>Concerns RBs decision on complaint from OU on OS' charges set for lifting trailers and containers at intermodal freight terminals</p> <p>OS is also dominant freight RU</p> <p>Annex II, pkt 2c</p>
	3,7/2014	x	1		<p>RU against TA</p> <p>A, RA, RFT</p>	<p>Concerns decision from TA in a case where OS allegedly has prohibited RU by themselves to undertake shunting operations in shunting area</p>

							of intermodal freight terminal. OS is also dominant freight RU Annex II, pkt 2c
		x	2			OS against TA A, C, RFT	Concerns issues on the TAs decision on not approving differentiated tariffs for lifting trailers and containers at intermodal freight terminals OS also dominant freight RU Annex II, pkt 2b
				x	1	Investigation of incumbent RU Direct bearing on cases related to A, C, O, RPT	Concerns how the incumbent RU as a Company Group ensure adequate separation, separation of accounts etc, between business areas where rail transport are carried out as PSO-traffic and commercial/competitive lines of business respectively. Direct bearing on cases related to Annex II, pkt 2.
				x	1	Investigation of OS A, RA, RFT	Concerns request from RU on review of fact/retrial of case where OS allegedly has prohibited RU by themselves to undertake shunting operations in shunting area of intermodal freight terminal. OS is also dominant freight RU Annex II, pkt 2c
		X (court case)	1			OS against RB	Concerns decision taken by RB whereby RB abolished

						A, C, O, RFT	<p>TA's decision on approval of OS's tariffs for lifting trailers and containers at intermodal freight terminals.</p> <p>OS also dominant freight RU</p> <p>Annex II, pkt 2b</p>
		X (court case)	1			<p>OS against RB</p> <p>Direct bearing on cases related to A, C, RFT</p>	<p>Concerns RBs rejection to take case on IMs alleged rejection of OS's request for reduction in level of rent for the intermodal freight terminals they operate by means of a rental agreement.</p> <p>IM is owner of service facility</p> <p>Direct bearing on cases related to Annex II, 2b</p>
	3,7/2015	x	2			<p>OU against TA</p> <p>A, C, O, RFT</p>	<p>Concerns issues on the TAs decision on tariffs for lifting trailers and containers at intermodal freight terminals.</p> <p>Complainant claims that TA decision are discriminatory and without sufficient documentation of allocated cost structure and separation of accounts OS and the dominant RU in between.</p> <p>OS also dominant freight RU</p> <p>Annex II, pkt 2b</p>
				x	1	<p>Investigation of OS</p> <p>A, C, O, RFT</p>	<p>Concerns OS' request for access to external expert assessment obtained by RB in order to make a full assessment of above cases.</p>

							Annex II, pkt 2b
		X (court case)	1			OS against RB A, C, RFT	Concerns RBs alleged illegal exercise of authority during its processing of complaint cases, eg RBs formal consultation procedures of parties to the above cases. Annex II, pkt 2b
	1,6/2016	X (court case)	1			OS against RB A,C, RFT	Concerns RBs alleged illegal exercise of authority during its processing of complaint cases, eg RBs formal consultation procedures of parties to the above cases. Annex II, pkt 2b
		x	1			OU against TA A, C, O, RFT	Concerns issues on the TAs decision on tariffs for lifting trailers and containers at intermodal freight terminals. Complainant claims that TA decision are discriminatory and without sufficient documentation of allocated cost structure and separation of accounts OS and the dominant RU in between. OS also dominant freight RU Annex II, pkt 2b
				x	1	Investigation of incumbent RU Direct bearing on cases related to A, C, O, RPT	Concerns how the incumbent RU as a Company Group ensure adequate separation, separation of accounts etc, between business areas where rail transport are carried out as PSO-traffic and commercial/competitive lines of business respectively.

							Direct bearing on cases related to Annex II, pkt 2.
	DAREBO 2017			x	1	Investigation of incumbent RU (also a OS) A, RPT, SF, RA, RR, PL	Concerns the management of supply-and service facilities and access for other facilities operated by the incumbent RU Annex II, pkt 2a, c-f, h-i, 3, 4,
				x	1	Investigation of RU (also a OS) A, RA, RPT	Concerns clarification of whether wheel profiling facility and the tracks leading to the facility are service facilities in the sense of the Danish Railway Act Annex II, pkt 2-4
				x	1	Investigation of OS A,C, RFT, SF, RA	Concerns provision of business terms for the use of combined freight terminals, by OS, hereunder specification of RUs right to handle their own ordinary functions. Annex II, pkt 2-4,
	DAREBO 2018			x	i	Investigation of RU A, RA, RPT	Concerns clarification of whether wheel profiling facility and the tracks leading to the facility are service facilities in the sense of the Danish Railway Act Annex II, pkt 2-4
	DAREBO 2018			x	1	Investigation of OS A, RFT, C, RA, PL	Concerns the OS's provision of business terms and documentation regarding tariffs (tariff sheet) Annex II, pkt 2 b
	DAREBO2019			x	1	Investigation of OS	Concerns supervision of charges set by OS for use of Danish intermodal freight terminals, in especial the

						A, RFT, C, O, PL	<p>submission of relevant documentation from the OS.</p> <p>OS also dominant freight RU.</p> <p>Annex II, pkt 2b</p>
	IRG-Rail doc (19)7 of 02.10.2019			x	1	<p>Investigation of OS</p> <p>A, RFO, RFT, RA</p>	<p>Concerns application for exemption from some articles in Reg 2017/2177 for a number of service facilities considered partly to be provided in a competitive market, partly impairment of the function of the service facility market.</p> <p>Dir 2012/34, art 13(9),</p> <p>Annex II, pkt 2b</p>
Estonia EE	11/2014	x	1			<p>RU against incumbent RU and IM (as OS)</p> <p>A, O, E, RA, RFO</p>	<p>Concerns freight RU being unable to access maintenance shop, depository, depots, technical maintenance, current repair works, stations performing exchange of carriers, transfer of cargo etc(border crossing). This due to IM's refusal of grant of rights hereto, and alledged abuse of dominant position by incumbent RU and its subsidiaries.</p> <p>Annex II, pkt 2, c-f</p>
				x	1	<p>Investigation of incumbent RU + IM</p> <p>A, O, RFT, RPT, RFO</p>	<p>Concerns the independence of IM from incumbent RU.</p> <p>Art 4 with direct bearing on cases related to Annex II, pkt 2-4.</p>
	3,7/2015			x	1	<p>Investigation of incumbent RU + IM</p>	<p>Concerns the independence of IM from incumbent RU.</p>

						A, O, RFT, RPT, RFO	<p>Interpretation of Art 7 (2) in recast. Reference to EU Court case C-555/10</p> <p>Art 7 with direct bearing on cases on access to essential functions.</p> <p>Art 4 with direct bearing on cases related to Art 13(3) and Annex II, pkt 2-4.</p>
Finland FI	DAREBO 2018	x	1			<p>RU against OS (also incumbent RU)</p> <p>A, E, C, PL, RFO,</p>	<p>Case concerns incumbent RUs pricing of shunting and pulling freight wagons.</p> <p>Annex II, 2c</p>
FRANCE FR	11/2011	x	1			<p>RU against incumbent RU/IM</p> <p>A, O, RFO,</p>	<p>Concerns freight RUs access to a marshalling yard. Complainant contests the distribution of competences between incumbent RU and IM regarding path allocation.</p> <p>Annex II, pkt 2c</p>
				x	1	<p>Investigation of OS (IM)</p> <p>Direct bearing on cases related to</p> <p>A, O, RFT, RFO, RPT, C</p>	<p>Concerns OS (an IM, Gares&Connections) belonging to incumbent RUs Company group, SNCF). Investigation of separate accounting.</p> <p>Direct bearing on cases related to</p> <p>Annex II, pkt 2-4</p>
	6/2012	x	1			<p>OS against IM</p> <p>A, C, RFO</p>	<p>Concerns request from Europorte Channel to IM on cancelling a charge for 2012 for contros of illegal human presence on freright trains crossing the Channel through the Tunnel.</p>

							Annex II, pkt 2g, 3c
	3,7,11/2014			x	1	Investigation of IM A, RFO, RPT, RFT, C	Concerns IMs allocation criterias for marshalling yards and charges hereto. Annex II, pkt 2c
				x	2	Investigation of two IMs. A, RPT, C	Concerns access charges to passenger train stations run by two IMs. Annex II, pkt 2a
				x	1	Investigation of incumbent RU and IM A, RPT, RFO, RFT, C, SF	Concerns need for transparency and publication of the info provided for applicants seeking access to service facilities, and the OS' charges hereto. Annex II, pkt 2-4
				x	1	Investigation of OS A, RFT	Lack of details. In general concerning access to combined transport terminals (at least freight terminals) Annex II, pkt 2b
				x	1	Investigation of OS (IM) Direct bearing on cases related to A, O, RFT, RFO, RPT, C	Concerns OS (an IM, Gares&Connections) belonging to incumbent RUs Company group, SNCF). Investigation of separate accounting. Direct bearing on cases related to Annex II, pkt 2-4
				x	1	Investigation of OS Direct bearing on cases related to A, O, RFT, RFO, RPT, C	Concerns OS (SCNF Infra) which is an activity branch – but not a subsidiary – of SNCF. Deals with infrastructure maintenance and traffic control. Investigation of separate accounting. Direct bearing on cases related to Annex II, pkt 2-4

				x	1	Investigation of IM A, RFT, C	Concerns IMs obligations to secure transparency and publication of info provided for applicants seeking access to service facilities, and the OS' charges hereto. Annex II, pkt 2-4
				x	1	Investigation of OS (IM) A, RFT, RFO, RFO	Concerns access to fuel and refueling facilities Annex II, pkt 2i
	3/2015	x	1			TA against OS A, C, O, RA, RPT	Concerns complaint by STIF (regional transport authority) against SNCF branch managing passenger stations (Gares & Connexions) on numbers of aspects: stations charges, transparency, cost allocation ao. Annex II, pkt 2a
	1/2016	x	1			Two TA against IM A, C, RPT	Concerns station charges set by IM. Concerns status of platforms: Whether platforms to be considered as part of station => access according to cost allocation principles Art 31(7), or as part of infrastructure (Art 31(3)) => re Annex I and Annex II, pkt 1c. The latter with direct bearing on cases related to: Annex II pkt 2a.
	DAREBO 2016			x	1	Investigation of IM A, O, RA, RPT, RFT, RFO	Concerns formal notice to IM to stop operating fuel supply stations Annex II, pkt 2i
	IRG-Rail doc (19)7 of 02.10.2019			x	1	Investigation of OS A, RFO, RFT, RA	Concerns application for exemption from some articles in Reg 2017/2177 for a number of service facilities considered partly to be provided in a competitive market, partly

							impairment of the function of the service facility market. Dir 2012/34, art 13(9), Annex II, pkt 2b
Germany DE	11/2009			x	1	Investigation of IM (as an OS) A, SF, RPT, RFO, RFT	Exact number of cases unknown. Review of IM service facility statements. Annex II, pkt 2,b,c,d Art 4+5 in Reg 2017/ 2177
				x	1	Investigation of IM (as an OS). A, SF, C, RPT, RFO, RFT	Exact number of cases unknown Review of charging principles in IM service facility statements. Cases on "hidden competition" involved. IM intend to rebate the incumbent freight RUs use of sidings encumbering the competitors of the incumbent. Annex II, pkt 2,b,c,d Art 4+5 in Reg 2017/2177
	6, 11/2011	x	1			RU against incumbent RU A, RFO, RA	Exact number of cases unknown. Questionnaire mentions that nb complaints of competitors of the incumbent about poor possibilities to enter shunting yards and other facilities where shunting is possible are increasing. Annex II, 2c

		x	1			RU against IM A, RFO, RA	Concerns access to shunting yard and storage sidings Annex II, 2c,d
				x	1	Investigation of IM A, RPT, C	Investigation of IMs charging principles on access to pass stations (station charge) Annex II, 2a
		x	1			RU against IM A, E, RA, RFT	Concerns IM denying freight RU access and capacity to shunting and storage tracks at shunting yard. IM had leased almost all tracks at service facility to incumbent freight RU. Annex II, pkt 2c,d
		x	1			RU against IM A, C, RA, RPT	Concerns IMs wrongly calculated station charges for two local passenger RUs Annex II, pkt 2a
	6, 11/2012			x	1	Investigation of OS (also a IM) A, RFT, RA	Investigation of whether OS in a non-discriminatory way or not has treated different freight RUs conflicting interests with respect to access to service facilities in a marshalling yard. IM had leased almost all tracks at service facility to incumbent freight RU. Annex II, pkt 2 c,d
		X (court case)	1			RU against Regulatory Body (RB). A, RA, RFT	Above case as court case. RB appealed to higher Court. Annex II, 2 c,d

				x	1	Investigation of OS (also a IM) A, C, RA, RPT	Investigation on whether IMs calculation of station charges for a local passenger RUs is set in a non-discriminatory way or not compared to station charges set for incumbent pass RU. <u>Above case also raised as court case</u> (Dir 2001/14, Art 30(3)) Annex II, pkt 2a
				x	1	Investigation of OS (also a IM) as consequence of court case A, RFT, SA	Investigation of whether OS in a non-discriminatory way or not has treated different freight RUs conflicting interests with respect to access to service facilities in a marshalling yard. IM had leased almost all tracks at service facility to incumbent freight RU. Annex II, pkt 2 c,d
				x	1	Investigation of OS (also a IM) as consequence of court case A, C, RA, RPT	Investigation on whether IMs calculation of station charges for a local passenger RUs is set in a non-discriminatory way or not compared to station charges set for incumbent pass RU. (Dir 2001/14, Art 30(3)) Annex II, pkt 2a
				x	1	Investigation of OS and RU A, O, C, RA, RFT	Investigation on whether OS (RFT) by planned change of business model acts in a discriminatory between freight RUs using the freight terminal. Incumbent freight RU is affiliated with OS within company group.

							Annex II, pkt 2b
	3,7,11 /2013	x	46			RUs against OS A, C, RPT	Concerns size of station prices charged by OS Annex II, pkt 2a
				x	36	Investigations of IM A, SF, RA, RTF	Concerns IMs Network Statements and their new paradigm for capacity allocation in service facilities such as marshalling yards of freight terminals. Paradigm implies that IM? OS? can deny access to RU1 to a certain siding with a conflicting application in favour of RU2. Annex II, pkt 2, b,c,d
		x	1			OU against OS A, O, RFT,	Exact number of cases unknown Concerns OS belonging to the incumbent, the DB-corporate Group. OS intends to rule out contracts with authorized applicants re Dir 2012/34 Art 3(9) and only conclude contracts with RUs. Contracts with authorized applicants are essential to rights of open access to service facilities Annex II, pkt 2b
				x	73	Investigation of IM A, RFT, RFO, RPT	Concerns railway control centres and personnel planning of IM. Considerable lack of personnel led eg to unmanned control centres on marshalling yards tracks in service facilities thus jeopardizing rights of access. Case where matters related to essential functions has bearing on (lack of) access to service facilities.

							Annex II, pkt 1d and Annex II, pkt 2c
	7/2014			x	2	Investigation of OS A, SF, RTF	OS belonging to the incumbent, the DB-corporate Group. Concerns freight terminal operator refusing to publish service facility statement as the OS consider themselves not to fall under rail regulation. If handling of goods involves rail services then rail regulation applies. Annex II, pkt 2b
	2015			x	1	Investigation of IM (also a OS) A, RPT, RA	OS belonging to the incumbent, the DB-corporate Group. Concerns station portal for use of passenger stations (applications and acceptance of offers for use) Annex II, pkt 1f => Annex II pkt 2a
	2016			X (court case)	1	Investigation of IM (also a OS) A, RPT, RA	Concerns station portal for use of passenger stations (applications and acceptance of offers for use) Annex II, pkt 1f => Annex II pkt 2a
				x	12	Investigation of IM A, RFT, RFO, RPT	Concerns allocation of infrastructure capacity to rail services. IM intends to refuse train path requests to service facilities leading to non-availability of service facilities. Annex II, pkt 2
				X (court case)	1	Investigation of OS A, RFT	OS belonging to the incumbent, the DB-corporate Group.

							Concerns OS of trimodal freight terminal denying to issue terms of use for service facility. OS states they cater for different modes of transport in addition to rail. Court states that also tri-model terminals (ships-trucks-rail) falls within rail reg. definition of service facility. Annex II, pkt 2b
			X (court case)	1	Investigation of OS A, O, RFT	Concerns authorized applicants access rights to freight terminals. Court states that shippers have unrestricted right of access and independent usage rights to freight terminals. Annex II, 2b	
			x	72	Investigation of OS A, C, RPT	Concerns OS' pricing of station charges AnnexII, pkt 2a	
	DAREBO2016		X (?)	1	Investigation of IM A, SF, RFT, RPT, RFO	Lack of details Concerns obligation to draw up and notify conditons of use (of service facility) Annex II, pkt 2	
			X(?)	1	Investigation of IM A, RFT, RFO, RPT	Lack of details Concerns IMs intention to reject proposal on access to a service facility Annex II, pkt 2	
	DAREBO 2019		x	1	Investigation of OS A, C, RPT	Concerns OS' charges for use of stations 2020 Annex II, pkt 2a	

	IRG-Rail doc (19)7 of 02.10.2019			x	27	Investigation of OS A, RPT, RFO, RFT, RA	Concerns applications for exemption from some articles in Reg 2017/2177 for a number of service facilities considered partly to be of non-strategic importance, partly to be provided in a competitive market, partly impairment of the function of the service facility market and partly of cultural-historic nature. Dir 2012/34, art 13(9), Annex II, pkt 2
Greece GR	DAREBO 2016			x	1	Investigation of RU A, RPT, RFO	Concerns infringement of competition rules and violation of relevant railway railway legislation Lack of details. Is assumed to be related to also: Annex II, pkt 2a-d
HUNGARY HU	6/2011			x	1	Investigation of IM A, RA, C, RFO, RFT, RPT	Concerns IMs billing practice for traction current and traction fuel. Some IMs impose charges on the RU that provides traction and not to the RU owning the train path, though services of train currents is requested by the latter RU. Annex II, pkt.1 e with direct bearing on cases related to Annex II, pkt 3a.
	6,11/2012			x	1	Investigation of IM A, RA, C, RFO, RFT, RPT	Concerns IMs billing practice for traction current and traction fuel. Some IMs impose charges on the RU that provides traction and not to the RU owning the train path, though services

						of train currents is requested by the latter RU. Annex II, pkt.1 e with direct bearing on cases related to Annex II, pkt 2i, 3a.
				x	1	Investigation of IM A, RA, C, RFO, RFT, RPT Concerns investigation of Neetwork Statement for incumbent IM, in which eg services on provision of traction current and fuel, refueling facilities ao were not sufficiently covered. Annex II, pkt.1 e with direct bearing on cases related to Annex II, pkt 2i, 3a.
	3,7/2013	x	1			RU against IM A, RA, C, RFO, RFT, RPT Concerns charges set by IM for traction energy and invoicing hereof. Annex II, pkt.1 e with direct bearing on cases related to Annex II, pkt 2i, 3a.
				x	1	Investigation of RU A, C, O, RA, RPT Concerns report from RU on its separate accounts for separate railway activities being based on business units Business units for traction and maintenance of rolling stock were not separated and provision of traction current not included in IMs activities. Case has direct bearing on cases related to Annex II, pkt 2e, I, pkt 3a
				x	1	Investigation of IM A, RA, C, RFO, RFT, RPT Concerns track access agreements between IMs and RU. Charges and invoicing of traction energy forms part hereof. Case concerns matters of incurred cost, fluctuations in prices of fuel and electricity ao. Annex II, pkt.1 e with direct bearing on cases related to Annex II, pkt 2i, 3a.

	3,7/2015			x	1	Investigation of IM A, RA, C, RFO, RFT, RPT	Concerns track access agreements between IMs and RU. Charges and invoicing of traction energy forms part hereof. Case concerns matters of incurred cost, fluctuations in prices of fuel and electricity ao. Annex II, pkt.1 e with direct bearing on cases related to Annex II, pkt 2i, 3a.
				x	1	Investigation of OS A, RA, RFO, O	Concerns an operator of an inland waterway port. Question of what kind of rules to be applicable for the entity that is considered as operator for the facility providing access to rail infrastructure within the port. Annex II, pkt 2g
				x	1	Investigation of RU A, C, O, RA, RPT	Concerns report from RU on it's separate accounts for separate railway activities being based on business units Business units for traction and maintenance of rolling stock were not separated and provision of traction current not included in IMs activities. Case has direct bearing on cases related to Annex II, pkt 2e, I, pkt 3a
	DAREBO 2017			x	1	Investigation of OS A, RA, RR, E, RFT	Investigation related to services provided under Annex II, pkt .2d (access to storage sidings) Case concerns access to storage sidings operated by freight terminal operator BILK, and operators compliance with maximum time limit set for answering requests for access hereto by RB. In addition hereto investigation of matters of viable alternatives.

							Annex II, pkt 2d
				x	1	Investigation of OS A, RA, RR, RFT, SF	In continuation of above case: Investigation on the – via the Network Statement - publication of information on conditions for access to service facilities, and the registration as an operator of a service facility providing services regulated under Annex II, pkt 2d. Annex II, pkt 2d
	DAREBO 2018			x	1	Investigation of OS A, RA, RR, E, RFT, RPT, RFO	Investigation related to services provided under Annex II, pkt .2e (access to maintenance facilities) Case concerns access to maintenance facility operated by an OS – RAIL TECHNIKA (also a RU?) and the operators compliance with maximum time limit set for answering requests for access hereto by RB. In addition hereto investigation of matters of viable alternatives. Annex II, pkt 2e
				x	1	Investigation of OS A, RA, RR, E, RFO, RFT	Investigation related to services provided under Annex II, pkt .2d (access to storage sidings) Case concerns access to storage sidings operated by the operator EDUVIZIG, and operators compliance with maximum time limit set for answering requests for access hereto by RB. In addition hereto investigation of matters of viable alternatives. Annex II, pkt 2d

				x	1	Investigation of potential OS. A, RA, RR, RFT, RFO, RPT, SF	Investigation related to services provided under Annex II, pkt .2e (access to maintenance facilities). A potential operator of such service facility – BOBO- was obliged to fulfill its reporting obligations towards the VPE (independent capacity allocation body compiling Network Statement) on information on conditions for access to service facilities, and the registration as an operator of a service facility providing services regulated under Annex II, pkt 2d. Annex II, pkt 2e. .
				x	1	Investigation of OS A, SF, RFT, RFO, RPT	Concerns an obligation for OS's in Hungary to notify, that they are operating as operators of a service facilities. This according to Hungarian law. Direct bearing on cases related to Annex II, pkt 2-4.
IRELAND							No cases
IE							
ITALY	11, 2009	x	1			RU against IM (as OS) A, RFO, RA	Concerns IM denying freight RU to conduct shunting services at station. Annex II, pkt 2c
IT		x	1			OU against OS A, RFT, RA, O	Concerns an OS of a freight terminal, controlled by IM, denying two users of the terminal access to this.

							Annex II, pkt 2b
				x	1	Investigation of IM A, RPT, RA	Concerns IMs rejection of a RUs request for access to maintenance centres for the rolling stock and to space within travellers station. Concerns matters of recumbent RUs dominant position in national rail passenger market (re eg HS passenger trains). Annex II, pkt 2a, c, e, pkt 4e
	6/2010	x	1			RU against OS A, SF, RA, RPT	Concerns RUs request for acces to shunting and handling services at terminal not listed ie IMs Network Statement. Terminal run by private company and IM has no direct contril on OS or terminal. Annex II, 2c
				x	1	Investigation of three RUs and an IM A, RPT, RA	Concerns problems encountered for RU of new international passenger service (Brenner Route). Relates to eg access to pertaining facilities of cleaning of wagons and provisions of water and electricity for preheating of passenger trains, access to and use of maintenance facilities. Annex II, pkt 2a, c, e, f, I, pkt 3b
	3,11/2013	x	1			RU against IM A, RPT, RA	Concerns IM's denial of RUs request for stop for HS-trains at stations reserved for metropolitan services. Annex II, pkt, 2a
		x	7			RU against IM A, RPT, RA	Concerns problems encountered by RU on matters of operation of HS-trains, eg information concerning HS- train delays, access to maintenance facilities ao.

							Filed by RB as 7 separate cases. Annex II, pkt 2a,e, pkt 4 a,b
		x	1			RU against IM A, RPT, RA	Concerns IM allegedly lack of providing information services to the public by the operation of new HS/HC-lines. Annex II, pkt 1f with direct bearing on cases related to Annex II, 2a.
		x	1			RU against IM (as OS) A, RA, RPT	Concerns IMs rejection of RUs request for access to and use of public spaces at rail stations, ticketing machines and info displaying at monitors. Annex II, pkt 2a
	3/2015	x	1			RU against IM (as OS) A, RPT, RA	Concerns IMs allocation of station space for automatic ticketing and other commercial activities Annex II, pkt 2a
				x	1	Investigation of IM (also as OS) A, RPT, RFT, RFO, RA	Concerns access to national rail infrastructure and services, eg access to marshalling and shunting services, relief facilities and services, allocation of advertising spaces at rail stations, automatic selling machines and info desks. Annex II, pkt 2a, c, h
				x	1	Investion of IM (also as OS). A, RPT, RFT, RFO, C, RA	Concerns planned revision of charging system for access to rail infrastructure and services in general Concerns also: Annex II, pkt 2-4.

	1,6/2016	x	1			RU against OS and IM A, RPT, RA	Concerns an IM's and OS' lack of transparent and non-discriminatory allocation of station spaces needed for provision of ticketing services, info desks ao. Annex II, pkt 2a
				x	1	Investigation of IM A, RPT	Concerns IM's non-compliance with regulatory measures for provisions of access to services, allocation of spaces at stations ao. Annex II, pkt 2a
		x	1			RU against OS A, RPT, RA	Concerns an OS' failing to satisfy a RU's request for suitable localization of ticketing services, info desks ao under fair, non-discriminatory and transparent conditions. Annex II, pkt 2a
	DAREBO 2017			x	1	Investigation of IM A, C, E, RPT, RFO, RFT, RA	Concerns effectivity and efficiency in the management of marshalling services dealing with 13 complex and strategically located service facilities. And non-discriminatory and transparent access to these. Annex II, pkt 2-4
	DAREBO 2018			x	1	Investigation of IM A, RPT, RA,	Concerns IMs provision of suitable ticketing services at a railway station in Venice. Annex II, pkt 2a
Latvia LV	6/2009	x	1			RU against IM A, RFO, RPT	Concerns private carriers access to stations near State border to Russia and Belarus

							Annex II, pkt 2a
	7/2014	x	1			RU against IM A, RFO, RPT	Concerns IM discriminatory treatment on Estonian freight? RUs opportunities to use private wagons at Latvian stations Annex II, pkt 2a
	DAREBO 2017	x	1			RU against IM (also a OS) A, RPT, RA	Concerns IM denial of RUs access to maintenance facility (Depot, maintenance rolling stock) Annex II, pkt 2e
	DAREBO 2017			x	1	Review of time limits set by OS to answer requests from RU A, E, RA, RR RFT, RPT, RFO	Lack of details Dir 2012/34 art 13(4) Annex II, pkt 2-4
Lithuania LT							No cases
LUXEMBOURG LU	DAREBO 2018? or 2019 ?			x	1	Related to OS in general (?) A, RA, RR, RPT, RFT, RFO	Lack of details. Concerns regulation set by RB for access request to service facilities. Annex II, pkt 2-4.
MALTA MT							No cases

<p>The Netherlands</p> <p>NL</p>	<p>11/2009</p>	<p>x</p>	<p>1</p>			<p>RU against IM</p> <p>A, RA, C, RFO, RFT</p>	<p>Concerns case, where a number of freight RUs complained about accessibility problems related to access to fuel stations: Quality of the installations, insufficient information and intransparency of the tariffs</p> <p>Annex II, pkt 2i</p>
	<p>11/2010</p>	<p>x</p>	<p>5</p>			<p>RU against OS</p> <p>A, RA, RPT, RFT, RFO</p>	<p>10 cases filed as informal complaints leading to around 5 complaint cases by RB.</p> <p>Concerns subjects as eg:</p> <ul style="list-style-type: none"> * Possible abuse of power of owner of a rail related facility with regard to access to the service * Unfair user charges and general terms and conditions for parking trains * Discriminatory planning of maintenance and repair activities. <p>Annex II, pkt 2-4</p>
				<p>x</p>	<p>1</p>	<p>Investigation of IM (as OS)</p> <p>A, RA, C, RFO, RFT</p>	<p>Concerns complaints in 2009 from freight RUs about accessibility problems related to access to fuel stations: Quality of the installations, insufficient information and intransparency of the tariffs</p> <p>Annex II, pkt 2i</p>
	<p>3/2013</p>	<p>x</p>	<p>1</p>			<p>RU against IM (as OS)</p>	<p>Concerns IM's ban to some RU's to the use of mobile tanking at fuel installation. RU's consider this as an act of discrimination.</p>

						A, RA, RFT, RFO, RPT	Annex II, pkt 2i
	[11/2014]	[x]	[1]			[RU against incumbent RU A, RA, RPT ?]	<p>[Concerns passenger RU claiming that incumbent RU had refused to give a reasonable offer for the use of rail services, in particular stations, and such as ticket machines at stations, service counters and break locations for staff. Also claims of abuse of dominant position. Both parties are bidders for PSO-contract in NL.</p> <p>Unclear whether this case relates to dir 2012/34 art 13, or other regulatory regime, as eg a tender procedure.</p> <p>Possibly</p> <p>Annex II, pkt 2a]</p> <p>Case may not be relevant for this study?</p>
	3,7,12/2015			x	1	Investigation of RU's A, RA, O, RFT, RPT, RFO	<p>Concerns RBs investigation of which RUs operating in NL do have a dominant position and need to apply separate accounts for their service facilities according to dir 2012/34 Art 13.</p> <p>Direct bearing on subsequent cases related to Annex II, pkt 2-4.</p>
		X	1			OU against OS (also a RU) A, RA, RPT, C	Concerns OU (company (OU) specialized in offerings services in the field of rail passenger transport, eg traction, consulting, personnel plans) claiming that they only against high costs can

							get access to the stations of the incumbent RU. Annex II, pkt 2a
		X	1			RU against OS A, RA, RPT	Concerns complain from private RU on lack of access to passenger stations in NL, and on problematic conditions for the private carrier to get access cards to the stations. Annex II, pkt 2a
	DAREBO 2018	x	1			RU against IM A, RA, RFT, RFO	Concerns complaint from freight RU related to IMs decision on allocation of tracks between freight RUs at railway yard. Annex II, pkt 2c
North Macedonia							No cases
MK							
NORWAY	11/2012	x	1			RU against IM (as OS) A, RA, RFT	Concerns freight RU not getting access to necessary tracks for loading/unloading at freight terminal. Annex II, pkt 2b, c, d
NO							
				x	1	Investigation of OS A, RA, RFT, RFO	Based on a request from a freight RU RB started investigation of OS' supply of services facilities to RUs in the case of disturbances or unforeseen events is conducted with draft of guidance document in mind. Annex II, pkt 2-4.

	3, 7/2013	x	1			RU against IM (as OS) A, RA, RFT	Concerns freight RU not getting access to necessary tracks for loading/unloading at freight terminal. Annex II, pkt 2b, c, d
		x	1			RU against IM (as OS) A, RA, RFT	Concerns allocation of infrastructure capacity for use of freight RUs access to freight terminal. Annex II, pkt 2b
	3,7,12/2015			x	1	Investigation of RU (as OS) A, RA, RFT	OS is a daughter company of incumbent freight RU and IM. Case concerns contract between OS and IM regarding entrance control at two freight terminals, prior to the transfer of the responsibility for operating the terminals from OS to IM (new OS). Annex II, pkt 2b, pkt 3c
		x	1			RU against IM A, RA, RPT	Concerns incumbent RU claiming that IM, who also owns number of passenger stations, allegedly failed to provide the RU non-discriminatory access to a specific rail station at an airport. Annex II, pkt 2a
	6/2016	x	1			RU against IM A, RA, RPT	Concerns incumbent RU claiming that IM, who also owns number of passenger stations, allegedly failed to provide the RU non-discriminatory access to a specific rail station at an airport. Annex II, pkt 2a
	DAREBO 2017	x	1			RU against IM	Concerns incumbent RU claiming that IM, who also owns number of passenger stations, allegedly failed to

						A, RA, RPT	provide the RU non-discriminatory access to a specific rail station at an airport. Annex II, pkt 2a
Poland PL	6/2009	x	1			RU against RU A, RFO	Case concerns incumbent freight RUs access to infrastructure as hindrance for private freight RUs access Annex II, 1c (minimum access package)
	6/2013			x	1	RU against IM A, C	Concerns IMs unit rates for access service facilities for train operation and further services. Annex II, pkt 2.
	3, 7/2015	x	1			RU against RU A, C, PL, RFT	Case concerns incumbent freight RUs discrimination of private freight RUs access to delivery-receiving tracks to Logistic Centre (CT-area), eg lack of publication of charges for access Annex II, pkt 2, c,d
		x	1			RU against OS A, RA, RFT	Concerns freight RUs lack of access to shunting services in terminal in Pruszkow Annex II, pkt. 2 b,c
		x	1			RU against IM (also an OS) A, RA, RPT	Concerns passenger RUs lack of access to tracks to station in Pruszkow Annex II, 2a
		x	1			RU against IM RFT, RFO, OS	Concerns info on ownership given by IM in Network Statement on info access to freight terminals, refueling facilities, storage sidings and maintenance points form railway vehicles

							Annex II, pkt 2 b,d,e,i
	DAREBO 2018	x	1			RU against OS (also a RU) RPT, A	Case concerns OS offering incomplete overhaul services to RU. Annex II, pkt 2 e, f
	DAREBO 2018	x	1			RU against OS (also a RU) RPT, A, E, RA	Case concerns OS denial offering maintenance services to RU and lack of info on viable alternative. Annex II, pkt 2e
	DAREBO 2018	x	1			RU against IM RPT, A	Concerns unequal treatment on access to test on new constructed line Annex II, pkt 1 a or b? Min access package?
	DAREBO 2018	x	1			RU against OS (also a RU) A, RPT	Concerns OS refusal access to service facility area located at station (maintenance, relief ao technical fac, rolling stock technical revision services). Annex II, pkt 2c,h,f and pkt 4e
PORTUGAL PT	11/2009	X (court case)	1			IM against RB A, RA, RFO, RFT, RPT	Concerns IM's appeal against a binding instruction from RB on clarification of extensions of track access to service facilities and supply of services. Annex II, pkt. 2-4
				x	1	Investigation of incumbent RU A, RA, RFT	Concerns a recommendation from RB to incumbent RU on public freight terminals, based upon a request for

							clarification from a freight RU. Annex II, pkt. 2b
	1/2016	x	1			RU against IM A, RA, PL, C, RPT	Concerns complaint from passenger RU regarding IM's amendmend of Network Statement 2015, eg on IM criterias for charges of rolling stock parking Annex II, pkt 2c,d
ROMANIA RO	DAREBO 2018	x	1			RU against IM A, RA, C, RPT, RFO, RFT	Concerns a group of private RUs claiming that some charges set by IM for additional services within service facilities was set in a discriminatory manner. Annex II, pkt 3-4
	DAREBO 2019	x	1			OS (RU) against IM (as owner of OS) A, RA, C, RPT	Concerns a private passenger RU, operating ticketing offices situated in railway station owned by IM complaining of the rent paid for operating the ticketing offices. Annex II, pkt 2a, pkt 4d
SLOVAKIA SK	DAREBO 2019			x	1	Investigation of OS A, RFT, RA	Concerns exemption from some articles in Reg. 2017/2177 in relation to a freight terminal (siding), Nafta, with a specific focus on the filling of rail tanks with mineral oil from its own production. Dir 2012/34, art 13(9) Annex II, pkt 1, 2b, d

	IRG-Rail doc (19)7 of 02.10.2019			x	1	Investigation of OS A, RFT, RA	Concerns application for exemption from some articles in Reg 2017/2177 for a number of service facilities considered to be of nonstrategic importance . Dir 2012/34, art 13(9), Annex II, pkt 2b
Slovenia SI	6/2010	x	1			RU against IM (as OS) A, RA, RFT	Concerns a freight RUs request for provision of a stable air compressor for carrying out complete brake performance test "A" in freight station Koper (port of Koper), and IMs lack of providing this. IM stated, that the compressor was a property of the incumbent RU. Annex II, pkt 2g
		x	1			RU against OS A, RA, RFT	Concerns a RU complaining about his access to rail freight station Koper (port of Koper?) for shunting. Annex II, pkt 2 b,c or pkt 2 c. g
	6/2011	x	1			RU against IM A, RA, RFO	Concerns IM having rejected an application from an international freight RU to perform shunting operations for freight transport at a passenger station, where a national OS performed shunting operations as a permanent shunting group. Annex II, pkt 2c
				x	1	Investigation of IM A, RA, RFO	Based on an investigation of the further conditions of the above case RB decided, that the selection of shunting provider should be performed transparent and non-discriminatory.

							Annex II, pkt 2c
		x	1			RU against IM A, RA, RFO	Concerns IMs denial of freight RU to perform trial run between railway station and factory siding. Alleged infringement on RUs' right on access to public railway infrastructure. Annex II, pkt 1a with direct bearing on cases related to eg Annex II, pkt 2d
				x	1	Investigation of IM A, RA, RFO	Based on an investigation of the further conditions of the above case RB decided, that IM should assure free access to both state owned infrastructure and private sidings to all RU's. Annex II, pkt 1a with direct bearing on cases related to eg Annex II, pkt 2d
	6, 11/2012	x	1			RU against IM A, RA, RFT, RFO	Concerns freight transport operated between inland freight station Koper and freight terminal at a port (port of Koper). Due to weather conditions IM ordered several carriers (several freight RUs) to stop at inland freight station and shunting services were not provided for access to the port terminal. Freight station Koper part of public rail infrastructure, and IM is shunting provider (OS) for both station and terminal. Annex II, pkt 2 b,c
				x	1	Investigation of IM A, SF, RFT, RFO	Concerns IMs identification and publication of freight stations, shunting stations and special shunting facilities in Network Statement 2011-2012.

							Annex II, pkt 2, c, d, g
		x	1			RU against IM (as OS) A, RA, RFT, C	Concerns an earlier case whereby a freight RUs requested for provision of a stable air compressor for carrying out complete brake performance test in freight station Koper (port of Koper). IM denied providing this, as IM stated that the compressor was a property of the incumbent RU. On need for additional brake performance test services RU wants contract based on a tender procedure, as RU believes price for complete service is too high. Annex II, pkt 2b, g
	6/2016			x	1	Investigation of IM and OS A, RA, RFT	During a 3-months period a significant number trains were delayed in direction to Port terminal Koper. Investigation concerned whether particular RUs was treated discriminatory by IM or service operator (OS) in freight terminal. Annex II, pkt 2b, g
	DAREBO 2017			x	1	Investigation of IM A, RFT, RA, C, PL	Concerns IMs allegedly discriminatory set charging of track usage fees for deposition of vehicles at Port of Koper. IM was required to publish charging methodology in Network Statement. Annex II, 2d, g
SPAIN ES	11/2012			x	1	Investigation of IM (as OS) A, RFT	Concerns procedures to avoid or minimize consequences of unexpected interruptions in the provision of freight services.

							Annex II, pkt 2b
				x	1	Investigation of IM (as OS) A, RFT	Concerns IMs compliance with legislative measures for securing transparent and non-discriminative freight terminal management. Annex II, pkt 2b
	3/2013	x	1			OUs (several rolling stock owners) against incumbent RU (as OS) A, RPT, RFT, RPT, RA, C	Concerns rolling stock owners' access to repair and treatment of rolling stock and contractual set up and charges for this. Alleged dominance of incumbent RU. Annex II, pkt 2e
		x	1			OU against IM (as OS) A, RFT, RA	Concerns combined operators (primarily road hauliers) problems at freight terminals operated by IM. Eg bad working of intermodal crane, delays, breakdowns etc. Annex II, pkt 2b
				x	1	Investigation of OS (IM) A, RFT, RA	Concerns investigations of several terminals managed by IM and based on above complaint cases. Annex II, pkt 2b
	6/2018			x	1	Investigation of IM A, RFT, RFO, RPT, SF, RA, RR	Concerns Network Statement's capacity procedure for access to service facilities, principles applied to access fee and ancillary services tariffs and publication of relevant info. Annex II, pkt 2-4
				x	1	Investigation of OS (IM and others) A, RFT, C	Concerns tariffs for container manipulation within service facilities set by OS. A total of 32 service facilities provides these services. In 12 provides IM service, 14 owned by IM but

							service is provided by third manager and 6 not owned by IM. Annex II, pkt 2b
	DAREBO 2016			x	1	Investigation of IM and other OS A, RFT, RPT, RFO, C, RA, PL	Concerns analyzes of tariffs set by IM and other OS for supply of services and supplementary services in general, and the informations from OS here upon. Annex II, pkt 2-4
				x	1	Investigation of OS A, C, RFT, PL	Concerns OS' tariff proposals for complementary services in a rail terminal in the port of Barcelona Annex II, pkt 2b,g, pkt 3-4
				x	1	Investigation of IM and other OS A, RFT, RPT, RFO, C, RA, PL	Concerns analyzes of tariffs set by IM and other OS for supply of complementary services Annex II, pkt 2-4
	DAREBO 2017			x	1	Investigation of IM A, RFT, RPT, RFO, C, RA, PL	Concerns IMs proposal for additional services provided by IM in 2018 (traction power supply, fuel supply of traction, exceptional transport, handling intermodal transport units). Annex II, Pkt. 1e, 2b,c,d, 3a,c
				x	7	Investigation of OS A, RFT, C, PL	Concerns OS' tariffs 2017 for complementary services in 7 different intermodal rail freight terminals. Annex II, pkt 2b, 3-4
	DAREBO 2018			x	3	Investigation of OS A, RFT, C, PL	Concerns OS' tariffs 2018 for complementary/additional services in 3 different intermodal rail freight terminals.

							Annex II, pkt 2b, 3-4
				x	1	Investigation of IM A, RFT, RPT, RFO, C, RA, PL	Concerns IMs proposal for additional and ancillary services provided by IM in his own service facilities for 2019. Annex II, Pkt. 2-4
				x	1	Investigation of OS A, RFT, RPT, RFO, C, RA, PL	Concerns OS' charges for additional services in a service facility Annex II, Pkt. 2-4
				x	1	Investigation of OS A, RFT, C	Concerns charges set by OS for complementary services by combined terminal in a port (in Barcelona) Annex II, pkt 2-4
				x	1	Investigation of OS A, RA, RR,	Concerns RB decisions of maximum limits for responding to requests for access and provision of services in railway service facilities ao. Annex II, pkt 2-4
	DAREBO 2019 and IRG-Rail doc (19)7 of 02.10.2019			x	5	Investigation of IM A, RFT, RFO, RA	Concerns application for exemptions from some articles in Reg 2017/ 2177 in relation to 301 freight terminals and other service facilities in freight services not used last two years. Dir 2012/34, art 13(9) Annex II, pkt 1, 2b-4
	DAREBO 2019 and			x	4	Investigation of IM A, RFT, RFO, RA	Concerns application for exemptions from some articles in Reg 2017/ 2177 in relation to 9 freight terminals and other service facilities in freight services not used last two years.

	IRG-Rail doc (19)7 of 02.10.2019						Dir 2012/34, art 13(9) Annex II, pkt 1, 2b-4
	DAREBO 2019 and IRG-Rail doc (19)7 of 02.10.2019			x	3	Investigation of IM A, RFT, RA	Concerns application for exemptions from some articles in Reg 2017/ 2177 in relation to an intermodal terminal (Termisur Eurocargo?) Dir 2012/34, art 13(9) Annex II, pkt 1, 2b
	DAREBO 2019 and IRG-Rail doc (19)7 of 02.10.2019			x	6	Investigation of IM A, RFT, RFO, RA	Concerns application for exemptions from some articles in Reg 2017/ 2177 in relation to 5 car terminals and other service facilities in freight services not used last two years. Dir 2012/34, art 13(9) Annex II, pkt 1, 2b-4
	DAREBO 2019 and IRG-Rail doc (19)7 of 02.10.2019			x	2	Investigation of IM A, RPT, RA	Concerns applications for exemption from some articles in Reg 2017/ 2177 in relation to 585 passenger stations of non- strategic importance. Dir 2012/34, art 13(9) Annex II, pkt 1, 2a
	DAREBO 2019 and IRG-Rail doc (19)7 of 02.10.2019			x	1	Investigation of RU (as OS) A, RPT, RA	Concerns application for exemptions from some articles in Reg. 2017/2177 in relation to 875 passenger terminals with PSO-stops, and 6 washing facilities of non- strategic importance. . The commercial stops for 24 of these passenger terminals do not exceed the activity threshold and cleaning facilities of the particular region. Dir 2012/34, art 13(9) Annex II, pkt 1, 2a, 2f

	DAREBO 2019			x	7	Investigation of OS A, RFO, RPT, RPT, RA	Concerns application for exemption from some articles in Reg. 2017/2177 in relation to a port of non- strategic importance. Dir 2012/34, art 13(9) Annex II, pkt 1, 2g
	and						
	IRG-Rail doc (19)7 of 02.10.2019						
	DAREBO 2019			x	8	Investigation of OS A, RFO, RPT, RFT, RA	Concerns applications for exemptions from some articles in Reg. 2017/2177 in relation to maintenance facilities (26 workshops) of non- strategic importance. Dir 2012/34, art 13(9) Annex II, pkt 1, 2e
	and						
	IRG-Rail doc (19)7 of 02.10.2019						
	DAREBO 2019			x	9	Investigation of OS A, RFO, RPT, RFT, RA	Concerns applications for exemptions from some articles in Reg. 2017/2177 in relation to maintenance facilities (2 workshops) of non- strategic importance. Dir 2012/34, art 13(9) Annex II, pkt 1, 2e
	and						
	IRG-Rail doc (19)7 of 02.10.2019						
SWEDEN	11/2009			x	1	Investigation of IM A, C RFO, RPT?	Concerns charges in ports and charges levied by smaller IMs Annex II, pkt 2g
SE							
				x	1	Investigation of IM A, C RFO, RPT, RFT	Concerns charges for electricity for heating trains for operation as well as electric lightening up of sidings and marshalling yards Annex II pkt 1 with direct bearing on pkt 2a-d, 3b

	7,11/2011			1	4	Investigation of 4 IMs A, RA, RPT	Concerns audit regarding access to facilities and rail related services in advance of opening of the rail passenger market in SE Annex II, pkt 2 a, c
				x	1	Investigation of IM A, C, RPT, RFO, RFT	Concerns IM's charging schemes on charges for traction currents. Annex II pkt 1 with direct bearing on cases related to pkt 2-4
				x	4	Investigation of 4 IM A, C, SF, PL, RPT	Concerns Network Statement and charges for access and capacity procedures related to municipalities and one port. Annex II, pkt 2-4
	7,11/2013			x	7	Investigations of 7 IMs (also OS) A, C, SF, RA, PL, RFT, RPT, RFO	Concerns whether Network Statement, access charges and capacity allocations to municipalities and ports are non-discriminatory (stations, maintenance facilities and depots, station facilities, freight and intermodal terminals etc) Annex II, pkt 2-4.
		x	1			RU against IM A, C, RPT	Concerns IMs (Network Statements) requirement for information from RU before train departure, and charges levied by IM as penalty for lack of info from RU.

							Annex II, 2a
	3, 7, 11/2014	x	1			RU against IM (as OS) A, RA,RPT	Concerns charges in service facilities set by IM (as OS) for RU. Annex II, pkt 2-4
		x	1			IM against RU A, RA, RFO	Concerns a freight RU having unlawfully entered IMs service facility without access agreement hereto. Annex II, pkt 2 b, c + ??
				x	1	Investigation of IM (also OS) A, C, RA, RPT, RFT, RFO	Concerns charges set by IM (as OS) in their service facilities Annex II, pkt 2-4
	3/2015			x	1	Investigation of IM (also OS) A, C, RA, RPT, RFT, RFO	Concerns charges set by IM (as OS) in their service facilities Annex II, pkt 2-4
Switzerland CH	11/2011	x	1			RU against two kinds of OS A, RA, RFT, C	Concerns an OU that had received specific slots to carry out shunting operations to and from freight terminal. A slot organization had specified the fixed windows for the OU. A freight company (another OS) carried out the shunting operations and invoiced the OU for this. OU questioned the invoice. Annex II, pkt 2b, c
	11/2013			x	1	Investigation of IM A, RA, RPT, RFT, RFO, C	Concerns possible discrimination in the application of a flat rate in accordance with the List of Services concerning traction power. Annex II, pkt 1e with direct bearing on cases of various kinds related to Annex II, pkt 2-4.

	11/2014	x	1			RU against IM A, RA, RPT, RFT, RFO, C	Concerns RU that felt disadvantaged by the flat rate allowance provided for traction power. Annex II, pkt 1e with direct bearing on cases of various kinds related to Annex II, pkt 2-4.
	3, 7,12/2015			x	1	Investigation of IM A, RA, RFT, RFO, C	Based on a request from a freight RU was IMs methods of calculation and principles for setting energy price according to category, and possible discriminatory patterns investigated. Annex II, pkt 1e with direct bearing on cases of various kinds related to Annex II, pkt 2-4.
				x	1	Investigation of RU A, RA, RFT, RPT, RFO	Concerns investigation of whether the operation of the marshalling yards by a dominant RU is discriminatory concerning the access to the market. Annex II, pkt 2a, b, c
	6/2016			x	1	Investigation of IM A, RA, RFT, RFO, C	Based on a request from a freight RU was IMs methods of calculation and principles for setting energy price according to category, and possible discriminatory patterns investigated. Annex II, pkt 1e with direct bearing on cases of various kinds related to Annex II, pkt 2-4.
United Kingdom GB	6,11/2010	x	1			RU against OS A, RFT, RA	Concerns freight RUs appeal on various matters related to access to Felixstowe port and terminal. Facility owner and service provider (a RU) allegedly conducted discriminatory and non-transparent charging schemes between rival freight operators.

							Annex II, pkt 2b,g
				x	1	Investigation of RU A, RA, C, RFO	Concerns pricing behaviour of market dominant freight RU in relation to contract with OU on provision of rail haulage of petroleum products. Annex II, pkt 2c
	6/2011	x	1			RU against OS A, RFT, RA	Concerns freight RUs appeal on various matters related to access to Felixstowe port and terminal. Facility owner and service provider (a RU) allegedly conducted discriminatory and non-transparent charging schemes between rival freight operators. Annex II, pkt 2b,g
				x	1	Investigation of OS A, RFT, RFO, RA	Concerns investigation (study) of issues affecting rail freight sites and allocation hereto. Findings suggested that various provisions put in place at privatization to prevent control of sites by rail freight operators may act as barriers to competition. Eg in the choices of hauliers available. Annex II, pkt 2b,c
	3,7/2014			x	1	Investigation of OS A, RPT, RA	Concerns investigation of the industry arrangements for rail ticketing and ticket retails information (the rail ticketing market) Annex II, pkt 2a
				x	1	Investigation of OS	Concerns approval of facility access contract between a freight RU and an OS (also a RU) on

						A, RFO, RA	access for stabling of rolling stock and to overnight berthing and tanking. Annex II, pkt 2 c,d,f,h,i
				x	1	Investigation of OS A, RFO	Concerns approval of terms in freight costumers track access contract granting freight operators right to operate its trains in the port in question on behalf of the port association I question. Annex II, pkt 2g
				x	1	Investigation of OS A, RPT, RA	Concerns investigation of rail ticketing market and code of practice on provisions of ticket retail informations. Annex II, 2a
	3/2015	x	1			RU against OS A, RFO, RFT	Concerns an OS' (port operator) rejection of a freight RUs request for access to maritime termina. Annex II, pkt 2b,g
	1/2016	x	1			RU against IM A, RFO, RA	Concerns IMs denial to transform access rights (a train slot) into right of acces to haulage from a quarry to a depot instead. Annex II, pkt 1b with direct bearing on cases related to Annex II, pkt 2, c,d (?).
		x	1			RU against OS A, RFO, RFT	Concerns an OS' (port operator) rejection of a freight RUs request for access to maritime termina. Annex II, pkt 2b,g
	DAREBO 2017	x	1			RU against IM A, RPT, RA	Concerns rejection of RUs request to access rights to station platform areas for its stabling of trains. Annex II, pkt 2, 2c

	DAREBO 2019			x	2	Investigation of RU A, RPT	Concerns investigation of IMS (or RUs ?) ability to provide appropriate, accurate and timely time table information at the May 2018 timetable disruption. Annex II, pkt 2a Or rather Reg 1371/2007 on passenger rights?