

## Communiqué DE PRESSE

Paris, 6th December 2022

RAILWAY REGULATION

### Operational conditions for access to the national rail network: the ART's Board refers a grievance against SNCF Réseau to the Sanctions Commission

*The French Transport Regulatory Authority (ART) publishes today a decision in the context of infringement proceedings initiated against SNCF Réseau following complaints from freight operators. These complaints concerned the infrastructure manager's failure to comply with certain injunctions issued in dispute settlement decisions dated 1 October 2013, relating to the operational conditions of access to the national rail network. In Decision No. 2022-078 of 20 October 2022, the ART's Board closed these proceedings concerning three of the four breaches found in SNCF Réseau's formal notice Decision No. 2020-035 of 28 May 2020 and referred the last grievance to the Sanctions Commission.*

#### ON 28 MAY 2020, ART GAVE NOTICE TO SNCF RÉSEAU TO IMPROVE THE TRANSPARENCY AND EFFICIENCY OF THE NATIONAL RAIL NETWORK CAPACITY ALLOCATION PROCESS ON FOUR POINTS

On 13 and 20 June 2019, the freight rail operators ECR, Linéas, Régiorail, T3M and VFLI, estimating that they were suffering the consequences of the infrastructure manager (SNCF Réseau)'s failure to comply with some injunctions issued by the French Transport Regulatory Authority in its dispute settlement decisions 2013-016 to 2013-019 of 1<sup>st</sup> October 2013, to ensure a transparent and efficient process for the allocation of infrastructure capacity on the national rail network, referred to ART to initiate infringement proceedings.

In its formal notice decision no. 2020-035 of 28 May 2020, ART found that SNCF Réseau had effectively disregarded a number of injunctions issued in these dispute settlement decisions and gave the IM (SNCF Réseau) formal notice, within three months as of 24 June 2020, to:

- ensure that capacity applicants receive a systematic and comprehensible alert when SNCF Réseau changes or deletes a path that has been allocated to them and when it gives a definitive response ("strengthening") to a path request that has been provisionally put under consideration because of a conflict with planned network works
- ensure that applicants are systematically, accurately, and comprehensibly informed of the reasons why they could not be allocated a path;
- take into account, in the answers given to the path requests, all the tolerances expressed by the operators, whether in terms of timetables or itineraries;

- offer capacity applicants an alternative solution in the event of the deletion of an initially allocated path.

**BY THE DECISION PUBLISHED TODAY, ART'S BOARD HAS CLOSED THESE PROCEEDINGS CONCERNING THREE OF THE FOUR INJUNCTIONS ISSUED IN THE FORMAL NOTICE ISSUED TO SNCF RÉSEAU ON 28 MAY 2020...**

Since the adoption of this formal notice decision, SNCF Réseau has improved the way in which capacity applicants are informed of changes, deletions and "strengthening" of their train paths and has taken additional commitments in this respect, compliance with which will be monitored by ART in the context of the reasoned opinion that it issues each year on the network statement drawn up by SNCF Réseau. These circumstances have led ART's Board to close the infringement proceedings on the first of the four injunctions.

In addition, ART has closed these proceedings concerning the two injunctions relating, firstly, to SNCF Réseau's responses to requests for train paths taking account of the tolerances expressed by operators in terms of timetables or routes and, secondly, to the proposal of alternative solutions in the event of the cancellation of a train path initially allocated. None of the information gathered during the investigation revealed that these two failings would persist.

**... AND REFERRED TO THE SANCTIONS COMMISSION ONE OF THE FOUR INJUNCTIONS, RELATING TO THE INFORMATION OF RAILWAY OPERATORS ON THE REASONS WHY A TRAIN PATH HAS NOT BEEN ALLOCATED TO THEM**

However, ART considered that SNCF Réseau had not complied to a satisfactory degree with the injunction concerning the information of capacity applicants as to the reasons why a train path had not been allocated to them and decided, as a result, that it was necessary to (i) open sanction proceedings concerning the failure to comply with this injunction, (ii) notify the corresponding grievance to SNCF Réseau and (iii) refer the matter to the Sanctions Commission.

Referral to the Sanctions Commission opens the adversarial procedure and allows the defendant to exercise its rights of defence. It does not prejudge the defendant's guilt. Only the investigation carried out in an adversarial manner, respecting the defendant's rights of defence, will enable the Sanctions Commission, after exchanging written and oral observations, to determine whether or not the grievance notified to SNCF Réseau by ART's Board is founded.

**For further details**

- [Decision No 2022-078 of 20 October 2022 concerning the infringement procedure initiated against SNCF Réseau for failure to comply with ART's Decisions Nos 2013-016 to 2013-019 of 1 October 2013 \(in French\)](#)
- [Press release \(in French\)](#)

### **About the French Transport Regulatory Authority (ART)**

Since 2010, the French railway sector has had an independent authority to accompany its gradual opening to competition: the Autorité de régulation des activités ferroviaires (Araf). Law 2015-990 of 6 August 2015 on growth, activity and equal economic opportunity extended the regulator's powers to road activities - coach transport and motorways.

On 15 October 2015, Araf became the Autorité de régulation des activités ferroviaires et routières (Arafer), with the mission to contribute to the proper functioning of public service and competitive activities for the benefit of rail and road transport customers.

With competence for the regulation of airport charges since 1 October 2019, Arafer became the Transport Regulatory Authority (ART) on that date. Lastly, Law No. 2019-1428 of 24 December 2019 -mobility act- extended the Authority's powers and missions to the opening up of mobility and ticketing data, as well as to the regulation of infrastructure manager activities and security activities carried out by RATP in Île-de-France.

Its opinions and decisions are adopted by a college of five independent members chosen for their economic, legal or technical skills in the field of digital services or transport, or for their expertise in competition matters. It is chaired since 4<sup>th</sup> August 2022 by Philippe Richert, Vice-President and Acting President.