

ADVISORY BOARD FOR THE CAPACITY REGULATION

TERMS OF REFERENCE
(DRAFT 12 MARCH 2026
WITH MINOR CHANGES 18 MARCH)
(DRAFT 08 APRIL 2026 FOR WRITTEN PROCEDURE)



Funded by
the European Union

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1 General principles

These Terms of Reference are intended to provide a clear, proportionate and transparent framework for the effective functioning of the Advisory Board for the Capacity Regulation (ABCR). They aim to support meaningful participants engagement while avoiding unnecessary administrative burden.

The following general principles underpin the organisation and operation of the ABCR:

- **Inclusiveness and non-discrimination:** the ABCR shall seek to ensure a fair representation of operational stakeholders other than Infrastructure Managers (IMs) and relevant public entity views. Participation and discussion shall be conducted in a non-discriminatory manner, without favouring organisations or geographic areas, and while ensuring that discussions remain focused on issues of EU relevance.
- **Transparency and accountability:** the work of the ABCR shall be conducted in a transparent manner, subject to confidentiality and data protection requirements, and its outputs shall be traceable, well documented and publicly available.
- **Clarity and predictability:** the ABCR works based on Terms of Reference, which clearly define roles, responsibilities, processes and rights, enabling all participants to understand how the ABCR operates and how its outputs are developed.
- **Proportionality and efficiency:** the Terms of Reference shall enable the work of ABCR to be efficient, avoiding unnecessary bureaucracy while ensuring orderly, flexible and effective cooperation.
- **Respect and constructive dialogue:** discussions within the ABCR shall be conducted in a spirit of openness, interaction and solution-orientation, recognising the diversity of perspectives represented.
- **Effective participation and contribution:** members and observers are expected to have the competence, mandate and capacity to actively contribute to the work of the ABCR, including through preparation, attendance and follow-up.

These principles inform the present Terms of Reference and serve their interpretation and application.

2 Purpose and Scope

The Advisory Board for the Capacity Regulation (“ABCR”) is established by RailNetEurope (“RNE”) as platform for the engagement and coordination with operational stakeholders other than infrastructure managers, in relation to preparatory work for the implementation of the upcoming EU Regulation on the use of railway infrastructure capacity (“Capacity Regulation”).

The mandate of the ABCR comprises engagement activities carried out by RailNetEurope in its role as candidate Network Coordinator on issues of EU relevance. ~~The mandate of the ABCR shall be limited in duration and shall cease upon the establishment of the European Railway Platform.~~

These Terms of Reference (ToR) define the organisation, functioning, rights and obligations of the ABCR, in line with the mandate described in the RNE’s General Assembly dated 10 December 2025. They are also in line with the Call for Applications published on 23 December 2025 on RNE’s website.

~~These Terms of Reference shall cease to have effect, upon the holding of the inaugural plenary of the European Railway Platform (ERP) established pursuant to Article 63 of Capacity Regulation of the European Parliament and of the Council on the use of railway infrastructure capacity.~~

RNE emphasizes the need for an efficient dialogue with operational stakeholders. The European Railway Platform (ERP) referred to in Article 63 of the forthcoming Capacity Regulation will become the central platform for discussion and coordination between operational stakeholders (other than IMs). RNE therefore is committed to review and further develop the dialogue with operational stakeholder involving ERP as its key counterpart, either:

- through the dissolution of the ABCR and its replacement with another format for dialogue; or
- through the reorganisation of the ABCR and the revision of its Terms of Reference, in a way that avoids duplication of work.

3 Tasks of the ABCR

The ABCR shall:

- enable RNE, acting as candidate Network Coordinator, to conduct its engagement activities of EU relevance related to the implementation of the Capacity Regulation;
- provide feedback on procedural, technical and operational aspects of capacity management, cross-border traffic coordination, disruption and crisis management, performance review and coordination between infrastructure managers;
- serve as a platform for escalation of critical issues and, where appropriate, preparation of stakeholder recommendations;
- facilitate the exchange of information and experience on the performance of rail infrastructure management and rail transport services.

Kommentiert [A1]: RNE suggests another wording below indicating the need to formalise a dialogue between IMs (ENIM/NC) and the operational stakeholders. This dialogue can mean the dissolution of the ABCR and its replacement by another format of dialogue, or the review and reorganisation of the ABCR to fit the purpose of this dialogue.

4 Composition

The ABCR shall be composed of:

- Members, appointed from European and national associations representing operational stakeholders other than infrastructure managers;
- Observers, appointed from public authorities, regulatory bodies, EU institutions and other relevant public entities.

Each member and observer shall nominate one representative and one alternate representative.

Only organisations, not individuals acting in a personal capacity, may be appointed as members or observers.

5 Appointment, Term and Replacement of members and observers

Members and observers shall be appointed by the RNE Joint Office following assessment of applications submitted under the Call for Applications.

Members and observers shall remain in office until replaced, resignation, or termination decided by RNE in accordance with these ToR.

Members or observers who no longer fulfil the conditions of participation or who are no longer able to contribute effectively may be replaced.

6 Chair

The ABCR shall be chaired by the Head of Market & Performance of RNE's Joint Office. The Chair shall steer meetings and ensure orderly conduct of discussions.

The RNE Joint Office shall support the organisation and the administration of the ABCR and its activities.

7 Meetings

In principle, the ABCR shall hold two to four plenary meetings per year.

Meetings may be held physically, in particular at RNE premises, or by videoconference.

Representative and alternate representative per organisation are invited to participate and contribute to each plenary meeting.

Meetings shall be convened by the Chair on own initiative or following a justified request from a simple majority of the members.

8 Agenda, Documentation and Minutes

The chair shall prepare the draft agenda.

The members and observers may submit proposals for agenda items at any time. Proposals submitted until 4 weeks before a meeting shall be considered for inclusion in the draft agenda. The draft commented agenda shall be circulated to members and observers 2 weeks in advance of meetings.

The agenda shall be adopted by the ABCR at the beginning of each meeting.

The chair shall prepare the minutes of the meeting and send them to the participants at the latest 3 weeks after the meeting. The participants shall have 3 weeks to provide their comments on the minutes.

9 Deliberations and opinions of the ABCR

The ABCR shall discuss topics and documents included in the meeting's agenda. The members and observers shall have the right to express their views and positions. These views and positions shall be documented in the minutes of each meeting, with a clear differentiation between members and observers.

The chair shall determine the opinion of the ABCR at least in the following two situations: (1) to establish mandate-based collaboration to clarify and consolidate stakeholder positions in accordance with section 10 and (2) to approve or amend the Terms of References in accordance with sections 15 and 16. Observers shall not participate in the determination of the ABCR's opinion.

In order to determine the Board's opinion, the Chair shall seek consensus among the members of the ABCR. For members who do not take the floor, silence shall be taken as agreement. Unless a member objects, the Chair may determine that the ABCR has reached a positive opinion by unanimity on the proposed establishment of a mandate-driven collaboration, and on the approval or amendment of the Terms of Reference in accordance with sections 15 and 16.

Where unanimity cannot be reached, the Chair shall determine the opinion of the ABCR by a formal opinion-gathering of members present. Each member shall be entitled to one opinion, either 'Yes', 'No' or 'Abstention'. The Chair shall determine that the ABCR has reached a positive opinion on the proposed creation of a taskforce by simple majority, if the number of 'Yes' opinions is equal to or larger than the total number of 'yes', 'no', and 'abstention' opinions (two-thirds majority).

The opinion of the ABCR's members shall be recorded in the minutes of the meeting.

Where necessary, before or after a meeting, the Chair may launch a written opinion-gathering procedure to determine the ABCR's position. In such cases, members shall be granted a period of at least two weeks from the date of the request to submit their opinion. The Chair shall determine that the ABCR has reached a positive opinion if the number of 'yes' opinions is equal to or larger than the total number of 'yes', 'no', and 'abstention' opinions (two-thirds majority). The number of "yes", "no", and "abstention" opinions expressed by the ABCR's members shall be submitted by the Chair in written.

Kommentiert [A2]: Comment received: What does this mean? Just to be very clear, ABCR is not a board recognised by the Cap Reg. and any decision considered here is strictly limited to an informal and unofficial collaboration, nothing more.

Reply from RNE: this is one of a format of engagement activity we suggest (see section 10), as a way of collaborative work with operational stakeholders (other than IMs). It is not related to the legal requirement (e.g on consultation) from the CR.

Kommentiert [A3]: High priority
Comment received: Probably a legacy from old versions? There is nothing about a task force in this document (except the table: potential method on preparation).

Any voting process shall not be limited to a decision on a task force.

Kommentiert [A4R3]: Reply from RNE: Indeed, thank you for pointing this omission from the working version.

As the ABCR is a non decision-making body, we suggest limiting any „decision-making procedure“ (opinion-gathering procedure) to a rather narrow scope and at least for these 2 cases:
- to establish mandate-driven collaboration
-and approve or amend the ToR.

Kommentiert [A5]: Proposal received: "simple majority".

Reply from RNE: RNE suggests instead a "two-thirds majority" to align with the procedure in section 16

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Kommentiert [A6]: Comment received: there has to be sufficient time for members to react on the written opinion. It should be also in the interest of the chair to ensure that sufficient number of members can send their vote.

Kommentiert [A7R6]: Reply from RNE: agreed and two-thirds majority procedure repeated.

10 Formats of stakeholder engagement activities

The ABCR will be the central platform to give operational stakeholders (members) and public authorities (observers) an overview of RNE's stakeholder engagement activities. The calendar of those activities will be published on the RNE website.¹

In order to ensure an effective, transparent, fair and efficient dialogue with stakeholders, all relevant activities will be organised according to a portfolio of standard formats and procedures for stakeholder engagement.

The procedures for consultations required under the Capacity Regulation will be defined separately as part of the 'consultation guidelines' to be included in the European Frameworks pursuant to Article 57(2) of the Capacity Regulation.

The table hereafter lists and describes these formats and procedures in three areas:

1. Feedback gathering
2. Clarifying and consolidating stakeholder positions
3. Information sharing

¹ Landing page: <https://rne.eu/market-performance/stakeholder-relations/abcr/>

Area	Format / procedure	Purpose	Steps	Addressees
1 Feedback gathering	Feedback procedure	Obtain stakeholder feedback on a specific document / procedure / product / service of RNE/Network Coordinator with a view to improve its quality	Steps of the feedback procedure: <ul style="list-style-type: none"> ▪ RNE publishes the document / procedure / product / service and/or information on it ▪ Stakeholders provide feedback within a certain time period ▪ RNE incorporates feedback subject to internal approvals and publishes updated document / procedure / product / service ▪ RNE debriefs on the consideration of feedback 	Any operational stakeholder
	Decision poll	Collect stakeholder views to inform decision-making on a specific issue, in particular related to implementation issues	<ul style="list-style-type: none"> ▪ RNE addresses stakeholders on a specific question related to implementation ▪ Stakeholders provide views / positions ▪ RNE takes decision, taking into account stakeholder feedback 	Any operational stakeholder
	Generic input / feedback collection	Obtain stakeholders' and/or customers' views, opinions or information on a specific area or issue on an ad-hoc basis	RNE requests views, opinions or information of general nature and / or on specific procedures, applications or services.	Operational stakeholders and/or customers and users concerned by the area / issue

<p>2 Clarification and consolidation of RNE and stakeholder positions</p>	<p>Mandate-driven collaboration</p>	<p>Collaboration between RNE and operational stakeholders with a view to clarify and, where possible, consolidate requirements or expectations on a specific issue, based on an agreed mandate and documented in a deliverable / output.</p>	<ul style="list-style-type: none"> ▪ RNE and/or operational stakeholders propose an issue for collaboration and give other members of the ABCR the possibility to comment. ▪ RNE prepares a draft mandate for collaboration, setting out the expected scope and contents of the output / deliverable and for the method to prepare it (e.g. workshop, taskforce etc.) and submits it to the ABCR to establish the member’s opinion in accordance with section 9. ▪ RNE and ABCR members co-develop the stakeholder requirements and expectations. ▪ ABCR members endorse the output / deliverable by positive opinion. ▪ RNE proceeds on the issue, taking into account the output / deliverable to the extent possible. 	<p>Participants with relevant expertise and committing themselves to contribute actively</p>
<p>3 Information sharing</p>	<p>Information provision</p>	<p>Inform stakeholder on activities on a specific area or issue and give opportunity to clarify questions</p>	<p>RNE provides information and responds to questions</p>	<p>Anyone</p>

	Training ²	Provide training to customers, users and other stakeholders	RNE provides training on a specific procedure / product / service, e.g. an IT application	Customers and users of the procedure / product / service
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² Trainings are provided by the RNE Joint Office, not necessarily the ABRC.

11 Invited Experts

The ABCR may invite experts with specific expertise to participate in meetings on an ad hoc basis.

12 Confidentiality and Professional Secrecy

Members, observers, invited experts and their representatives shall respect confidentiality and professional secrecy obligations.

Breaches of these obligations may lead to appropriate measures by RNE, including termination of participation.

13 Transparency

RNE shall publish information on the ABCR on its website, including its composition and relevant meeting documents.

Agendas, minutes and participation lists shall be made publicly available, subject to applicable confidentiality and data protection rules.

Working documents shall be shared through a dedicated SharePoint where only participants (members and observers) and RNE have access.

14 Data Protection

Personal data shall be processed in accordance with applicable data protection legislation and RNE's privacy policy.

15 Amendments and Review

These ToR may be amended by the ABCR based on a draft submitted to the ABCR by RNE, on RNE's initiative or following a justified request from at least 5 ABCR members, and following the procedure set out in section 16.

These ToR:

shall may be reviewed after the entry into force of the proposed Capacity Regulation²:

²- See the final compromise text available at <https://data.consilium.europa.eu/doc/document/ST-16098-2025-ADD-1/en/pdf>.

Kommentiert [A8]: High priority
 Comment received: ambiguous provisions shall be avoided in the ToR. Namely here is unclear who justifies the request? While understanding that the initiative should not be allowed in all cases, we suggest to do so where 3 members submit such a request, and let the ABCR itself to decide.

Kommentiert [A9R8]: Reply from RNE: agreed. Based on the current number of members, we suggest a minimum number of 5 members to launch this request, which represents 25% of all members.

Kommentiert [A10]: Comment received: The wording indicates that ToR are (shall) reviewed once the Regulation enters in force, we do not see need to review them already in June 2026. The current compromise version with the suggested language finetuning is already available, thus we are already aware of the approximate final content and we assume RNE considered them in this proposal.

Kommentiert [A11R10]: Reply from RNE: the main purpose of explicitly indicating a review of the ToR is to ensure efficient cooperation with ERP. Therefore deleted the reference to the entry into force of the regulation

Formatiert: Standard, Keine Aufzählungen oder Nummerierungen

~~shall cease to have effect, upon the holding of the inaugural plenary of the European Railway Platform (ERP) established pursuant to Article 63 of Capacity Regulation of the European Parliament and of the Council on the use of railway infrastructure capacity.~~

[These ToR shall be reviewed to ensure a constructive and effective collaboration with the European Railway Platform referred to in Article 63 of the upcoming Capacity Regulation. Consequently, these ToR may either be amended or the ABCR may be dissolved and replaced by another format for dialogue between RNE and the ERP.](#)

16 Final Provisions

These Terms of Reference (ToR) and any amendments shall enter into force based on a positive opinion of the ABCR's members determined in accordance with section 9. [In the event of several diverging proposals on the same subject, the Chair shall determine the opinion of the ABCR by a formal opinion-gathering among the ABCR members, as referred to in section 9.](#) ~~the chair of the ABCR shall have the final say on the approval and amendments, while taking into account the opinions of the ABCR members.~~

~~The Rules of Procedure of RNE groups shall apply to all matters that are not covered in these Terms of Reference. Notwithstanding the above, the ABCR may be dissolved based on a decision of the RNE Governance at any time.~~

Kommentiert [A12]: High priority

Comment received: as indicated by several stakeholders in the ABCR Plenary, the ABCR and ToR shall only be temporary until the set-up of the ERP.

This is to avoid duplication of work, same as contradicts our understanding of the view of the European Parliament and the Council, to give operational stakeholders their own entity for the dialogue and a voice vis-à-vis ENIM.

The future cooperation model between ENIM and ERP should be established in the future on equal partnership, not via ERP membership in ABCR.

Kommentiert [A13R12]: Reply from RNE: RNE will review and amend the scope and goals of the ABCR to make sure that no duplication of work will happen when the ERP is up and running. RNE sees the value of the ABCR as a dialogue at an early stage with the operational stakeholders (other than IMs). A dissolution of the ABCR is of course an option, but should not automatically happen following the establishment of the ERP, as it can support the work of ERP.

This wording is aligned with the section 2 of these ToR.

Kommentiert [A14]: High priority

Comment received: the provision concentrates excessive power in the chair. It gives the chair power to decide on the ToR and which wording in ToR is put in to a vote. In case there are more options, the chairs has the liberty to decide.

The fair and transparent way is:
Make all diverging proposals available to ABCR members and they can decide which of them has the highest support.

Kommentiert [A15R14]: Reply from RNE: agreed: we suggest a opinion-gathering procedure with a "two-thirds majority" of members present, to align with section 9. RNE agrees with deleting the last part of the sentence.

Kommentiert [A16]: Comment received: difficult to ask for ex-ante automatic approvals of other ruling document, which is not known by ABCR members, neither they are involved in their management.

Kommentiert [A17R16]: Reply from RNE: agreed. However, as the ABCR is established by RNE, its dissolution can also be decided unilaterally by RNE.