

**TRAIN TRAFFIC PERFORMANCE REGIME
ON THE CFR NETWORK**

CHAPTER I

Object and scope

Art. 1. - (1) The introduction of Train Traffic Performance Regime on the CFR network aims at increasing the quality of railway services and satisfying the final beneficiaries of railway freight and passenger transport.

(2) The Train Traffic Performance Regime on the CFR network aims at defining the process of ensuring an adequate response of the railway system to the deviations from the train traffic flow timetable on the CFR network, closing the quality circle by ensuring a documented process of making the necessary corrective measures in the event of deviations from the train traffic timetable on the CFR network.

(3) The provisions of these Regulations shall apply to passengers and freight trains detailed below, which circulate on the public railway network in Romania, hereinafter referred to as the "CFR network". The railway infrastructure that connects the state railway border stations belonging to the CFR network and the state border stations belonging to the railway networks of the neighbouring countries to Romania, to which the provisions of the cross-border agreements and the conventions concluded by CFR with the railway infrastructure managers in neighbouring countries, is not part of the CFR network. The provisions of these regulations do not apply to isolated locomotives (a locomotive that moves between two points of the CFR network) to ensure the operability necessary for providing with hauling means of the planned trains.

(4) The following types of trains are subject to these regulations on train delays:

a) For the railway passenger transport undertakings: the trains operated by them, with the traffic approved by the daily traffic program, which have deviations of more than 20 minutes from the traffic timetable in the stations where the traffic timetable provides for stopping;

b) For the railway freight undertakings: the trains operated by them, with the traffic approved by the daily traffic program, arriving at the destination station (i.e. the exit border station on the CFR network) with more than 60 minutes of delay from the time of arrival according to the approved path.

CHAPTER II

Definitions

Art. 2. - (1) *The CFR network*: the totality of public railway infrastructure in Romania (both the interoperable and the non-interoperable lines), except for the railway lines linking Romania's state borders with the state border stations of the neighbouring states.

(2) *Infrastructure manager*: Infrastructure manager means both Compania Nationala de Cai Ferate "CFR" S.A. (as an interoperable public infrastructure manager and traffic capacity allocation body as required by law), as well as non-interoperable railway infrastructure managers.

(3) *IAC*: Charge for accessing public railway infrastructure, calculated according to legal provisions and regulations in force.

(4) *Deviation from the traffic timetable*: the mathematical difference between the estimated time of arrival, departure or passing of a train through the train traffic timetable through a point on the rail network where the regularity of the traffic is measured and the actual time of arrival, departure or passing of the train through that point. Deviations are measured in minutes and can be:

a) - delays, when they have the algebraic sign "+";

b) – advances, when they have the algebraic sign „-”

CHAPTER III

Principles of Train Traffic Performance Regime

Art. 3. – (1) The Train Traffic Performance Regime shall include:

(a) - the regularity of train traffic based on the calculation of the differences between the hours of traffic provided in the established paths for the use in the traffic schedule and the actual hours of traffic of the trains in question;

(b) - the stability of the traffic program, by analysing the differences between the daily train traffic and their actual traffic times;

(c) - the commercial speed of trains running on the CFR network;

(d) - other quality parameters linked to the trains traffic.

(2) The Train Traffic Performance Regime shall apply equally and non-discriminatory to all transport undertakings and CFR. The general requirements of the Train Traffic Performance Regime are: simplicity, transparency, accountability, economic efficiency, the use of measurable data so as not to lead to excessive, burdensome legal, administrative and financial effects for both transport undertakings and CFR.

(3) Flexibility in the railway transport is an important factor due to the competition with other transport systems. The Train Traffic Performance Regime is defined by taking into account the achievement of this purpose.

(4) All parties involved in the railway transport process have an obligation to act according to their competencies and attributions in order to reduce train delays.

CHAPTER IV

Mode of application of Train Traffic Performance Regime

Art. 4. – (1) Regularity of train traffic is the main quality indicator of the Train Traffic Performance Regime. The criterion by which a train is registered in the Train Traffic Performance Regime is the deviation from the traffic timetable in accordance with the provisions of Art. 1 par. (4).

(2) Trains delays shall be coded in accordance with the provisions of Chapter X. Coding of delays shall allow for the differentiation of the participant in the transport process which has generated the delays of the trains. The object of these regulations is:

a) - The delays caused by CFR or by third parties being in contractual relations with CFR that provide one of its tasks;

b) - The delays caused by the railway undertakings or by third parties in contractual relations with those that provide one of the tasks of the Railway Transport Undertakings;

(c) - The delays caused by force majeure, by the governmental authorities or by third parties not having contractual relations with one of the parties listed above are not subject to these regulations. The following delays are also not subject to these regulations:

- delays caused by waiting for the resumption of the traffic service on the sections where the traffic activity is suspended;
- delays caused by accidental line closures;
- delays caused by the impossibility of receiving freight trains at stations serving seaports, due to causes connected to port operators.

Deviations from the agreed timetable following line closures, speed restrictions, and failures at SCB facilities will be mandatory set by the CFR in accordance with the "Train Traffic Performance Regime on CFR network.

On the saturated capacity sections declared as such by CFR in accordance with the legal provisions, the causes of the delays shall be analysed taking into account the reduced traffic capacity and the frequency of delays due to the lack of capacity reserve (which has the role of alleviating traffic disturbances and to reduce trains delays). For freight trains, the analysis of the delays directly caused by traffic on the saturated sections is not subject to the Train Traffic Performance Regime.

Art. 5. CFR, as an infrastructure manager, keeps track in accordance with the legal provisions in force, of the train delays throughout the CFR network. The railway undertakings have access to the information recorded on the delays of the trains that have circulated on the railway infrastructure managed by them. The railway undertakings have access to the information recorded on the delays of the trains operated by each of them. Access is provided by IT applications dedicated to railway traffic (ATLAS or other similarly managed by CFR).

Art. 6. Railway transport undertakings (RU) will validate the coding of their own train delays made by CFR through specific IT applications. Validation shall be performed for delays classified as generated by the railway transport undertaking (Class 5 or 6 encodings). When the railway undertakings do not agree with the classification established by CFR, they will propose another classification with the justification by explanation of that classification. Trains for which railway undertakings have requested another classification will be subject to the periodic review set out in Chapter V.

CHAPTER V

Periodic analysis of train delays records

Art. 7. CFR and the railway transport undertakings shall analyse monthly the data on train delays in the previous period. The documented data may modify the recorded data on train delays during the period under review if the parties agree thus. Failure to present at the agreed time and place to perform the analysis of one of the parties means acceptance by that party of the recorded data relating to train delays for the previous period in the registered form.

Art. 9. The penalty fee for one minute of delay is ROL 0.2/ minute. The maximum monthly penalty amount owed by one of the parties may not exceed 1% of the total IAC of the respective railway transport undertaking for that month. This limit of 1% of the IAC value applies in the relationship between CFR and a railway transport undertaking.

Article 10. Details of how to calculate and highlight records of the train delays are provided in Chapter XI.

CHAPTER VI

The payment obligations resulting from the application for train timetabling in accordance with the timing of train traffic

Art. 11. – (1) This provision aims to motivate the railway transport undertakings to request paths for additional trains compared to the annual traffic timetable (when the existing paths in the annual traffic timetable do not satisfy the requirements of the railway transport undertakings) as soon as possible, thereby facilitating the best use of the traffic capacity and other resources used in the rail transport process, taking into account the train paths already allocated to other railway transport undertakings and the unavailability of the railway infrastructure due to the maintenance process.

(2) These payment obligations are billed separately from penalties for train delays, but are part of the Train Traffic Performance Regime.

Art. 12. If the train timetable is scheduled at the latest when the daily traffic program is established, then the railway transport undertaking shall not incur any additional payment to the IAC for that train.

Art. 13. If the timetabling of a train is scheduled after the completion of the daily routine, the party responsible for the cause of the request - the rail transport undertaking or CFR, depending on the coding of the request for train path programming) shall pay a penalty equal to 0.5% of the IAC value of the train running on that path.

Art. 14. The maximum monthly value of penalties owed by one party may not exceed 0.5% of the IAC for that month. This limit of 0.5% of the IAC value is applied in the relationship between an infrastructure manager and a rail transport undertaking (RU).

Art. 15. In cases of force majeure, trains that have been scheduled after the completion of the daily routing program, coded for the reason for requesting train schedules are not subject to these regulations and do not result in payment obligations to any party.

When planning the traffic of additional trains over a daily route program on paths including RU saturated sections, they shall record the cause of the train traffic generation, according to the user manual for specific IT applications. CFR shall change the case only in well-justified cases. If the RU does not agree with the change in the CFR's case assignment, it shall request detailed analysis and conciliation at the dedicated meetings that take place after the end of the month.

Art. 16. Details of the calculation and highlighting of the payment obligations resulting from the request for train traffic programming, in accordance with the time period from sending the request for programming to the requested time of departure of the train from the first station on the requested path is provided in Chapter XII.

CHAPTER VII

Payment obligations resulting from the non-use of the traffic capacity (non-use of the scheduled path), in accordance with the time when requesting the non-use of the traffic capacity (the moment of communication of the train traffic cancellation).

Art. 17. In the case of non-use of the traffic capacity, namely of cancellation of a scheduled train, the party responsible for this shall pay a penalty for cancelling the train traffic.

Art. 18. If a train cannot travel on the assigned path, the responsible party must send the request for non-use of the scheduled path, respectively to announce the cancellation of the train traffic on the scheduled path. As far as possible this request should be sent, i.e. this announcement must be made as soon as possible before the scheduled departure time of the train from the first station on the requested path.

Art. 19. If the request for non-use of the scheduled route or the cancellation of the train traffic on the scheduled route is made at the latest when drawing up the daily traffic schedule, then the railway transport undertaking shall not incur any additional payment.

Art. 20. If the request for non-use of the scheduled path or cancellation of the train traffic on the scheduled path is made after the completion of the daily traffic program, then the party responsible for the cause of the request, the railway transport undertaking or CFR (depending

on the coding related to the cause of the non-use of the path or the cancellation of the train traffic) shall pay a penalty equal to 0.1% of the IAC value of a train with the minimum tonnage that would have circulated on that path.

Art. 21. The maximum monthly penalty amount owed by one party may not exceed 0.5% of the IAC for that month. This limit of 0.5% of the IAC value applies in the relationship between CFR and the railway transport undertaking (RU).

Art. 22. In cases of force majeure, the requests for non-use of a train path or cancellation of the traffic of a scheduled train made after the completion of the daily running program with the codification of the cause of non-use of a train path or cancellation of a train traffic, are not subject to these regulations and do not result in payment obligations to any Party.

Art. 23. The details of the calculation and highlighting of the payment obligations resulting from the non-use of the train paths, respectively the cancellation of the scheduled trains' traffic, in accordance with the request for the non-use of the traffic capacity (the moment of communication of the cancellation of the trains) is set out in Chapter XIII to these regulations.

CHAPTER VIII

Border crossing points of the railway network

Art. 24. At the state borders with the neighbouring railway networks, under the Train Traffic Performance Regime, the delays with which the international trains enter the national railway network (respectively the delay from the scheduled time of arrival at the border station in Romania) are dealt with as delays with external causes, independent of the cases belonging to CFR or the railway transport undertakings. As a consequence, no penalties apply to any of these delays.

Art. 25. At the junction points between CFR and the non-interoperable railway infrastructure managers or between the non-interoperable railway infrastructure managers, it shall act the same as in art. 24 for the infrastructure manager, respectively for each non-interoperable railway infrastructure manager, shall be records with each railway undertaking operating trains on the respective network. Consequently, the delays with which the trains enter the junction point of the receiving home network (i.e. the delay from the scheduled arrival time at the junction point on the receiving network) are treated as delays with external causes, independent of the causes of that infrastructure manager. Railway transport undertakings are only responsible to the extent to which the train operates on both networks, but once, only on the handover network; for the receiving network they are considered to be delays with external causes.

CAPITOLUL IX

Conciliation of divergences

Art. 26. CFR is responsible for recording the data related to the Train Traffic Performance Regime. The railway transport undertakings shall have access to all data related to their own activity area linked to the Train Traffic Performance Regime through computer applications. Any dispute regarding the recorded data shall be treated amicably between the parties within 10 days of the end of the month in which the train whose data is in dispute has been circulated or has been scheduled to circulate.

Art. 27. If, after conciliation, one of the parties considers it unfair, it shall address to the competent dispute resolution authority, according to the law or established by the access contract on the public railway infrastructure.

CHAPTER X

Coding of train delays

Art. 28. – (1) Train delays shall be coded in accordance with the legal provisions.

(2) Detailed regulations as well as exemplifying the classification of the delays in the above-mentioned codes are established by internal CFR procedure which will enter into force after the abrogation through Order of the Minister of the provisions of the Instructions for the programming and technical and operational analysis of the train traffic no. 099/2005.

CHAPTER XI

The modality to calculate and highlight the records of trains delay

Art. 29. – (1) The volume of delay minutes generated by CFR for the trains covered by these regulations operated by a railway undertaking on the railway infrastructure managed by CFR during the analysed period shall be recorded with the acronym Mai and shall be expressed in minutes. It sums up the value for a calendar month.

(2) The volume of delay minutes generated by a railway transport undertaking for the trains covered by these regulations operated by the railway transport undertaking respectively on the railway infrastructure managed by CFR during the analysed period shall be recorded with the acronym Motf and shall be expressed in minutes. It sums the value for a calendar month.

(3) Additional trains shall not be included in the calculation of the volume of delay minutes in addition to the working timetable which is programmed in circulation after the end of the daily train running schedule (at daily schedule adjustments).

Art. 30. The result of the periodic analysis is the difference between Mai and Motf, it shall be noted with the acronym Dif and it is expressed in minutes. Dif is calculated in absolute value. The value of the minute of delay is determined by law or an agreement between the parties (if they establish a higher value than the legal one) and it shall be expressed in ROL per minute. The party that generated a higher value (of Mai and Motf respectively) shall pay the other party, based on an invoice, a sum equal to the product of Dif (set as above) and the value of the minute of delay.

Art. 31. The monthly maximum financial value of Dif in ROL cannot exceed 1% of the IAC value for that month. This limit of 1% of the IAC value applies to the relationship between the infrastructure manager and the rail transport undertaking.

Art. 32. Invoicing and payment of Dif shall be made in accordance with art. 43.

CHAPTER XII

The modality to calculate and highlight the records of the train traffic in accordance with the time of their traffic programming

Art. 33. For trains scheduled after the completion of the daily routine, due to the infrastructure manager, the penalty shall be calculated by multiplying the IAC calculated for that train by a coefficient of 0.5%, it shall be noted with the acronym Tsai and it shall be expressed in ROL, rounded to 2 decimals. It sums the value for a calendar month.

Art. 34. For trains scheduled after the completion of the daily traffic schedule due to the railway transport undertaking, the penalty shall be calculated by multiplying the IAC calculated for that train by a coefficient of 0.5%, it shall be noted with the acronym Tsof and it shall be expressed in RON, rounded to 2 decimals. It sums the value for a calendar month.

Art. 35. The result of the periodic analysis is the difference between Tsai and Tsof, it shall be noted with the acronym Dts and it shall be expressed in RON, rounded to 2 decimals. Dts is calculated in absolute value. The Party that generated a higher value (of Tsai and Tsof respectively) shall pay the other party, on an invoice basis, a sum equal to Dts.

Art. 36. The monthly maximum value of the Dts may not exceed 0.5% of the IAC for that month. This limit of 0.5% of the IAC value is applied in the relationship between CFR and the railway transport undertaking.

Art. 37. Dts shall be invoiced and paid in accordance with Art. 43.

CHAPTER XIII

The modality to calculate and highlight the records of unused paths (of trains with cancelled traffic)

Art. 38. For paths whose non-use (cancelling of the train traffic) has been achieved after the completion of the daily traffic program due to the infrastructure manager, the penalty shall be calculated by multiplying the IAC calculated to the minimum tonnage (61 tonnes) at the length of that path by the coefficient of 0.1%, it shall be denoted by the acronym Tnai and it shall be expressed in ROL, rounded to 2 decimals. It sums the value for a calendar month.

Article 39. For paths whose non-use (cancelling of the train traffic) has been achieved after the completion of the daily traffic program due to the railway transport undertaking, the penalty shall be calculated by multiplying the IAC calculated to the minimum tonnage (61 tonnes) at the length of that path with a coefficient of 0.1%, it shall be noted by the acronym Tnotf and it shall be expressed in ROL, rounded to 2 decimals. It sums the value for a calendar month.

Art. 40. The result of the periodic analysis is the difference between Tnai and Tnotf, it shall be noted by the acronym Dtn and it shall be expressed in ROL, rounded to 2 decimals. Dtn shall be calculated in absolute value. The party that generated a higher value (of Tnai and Tnotf respectively) shall pay the other party, on an invoice basis, a sum equal to Dtn.

Art. 41. The maximum monthly value of Dtn may not exceed 0.5% of the IAC value for that month. This limit of 0.5% of the IAC value applies in the relationship between CFR and the railway transport undertaking.

Art. 42. Dtn shall be invoiced and paid in accordance with Art. 43.

CHAPTER XIV

Final and Transitional Provisions

Art. 43. (1) The penalties related to the train delays, the penalties for the trains running on the paths requested after the finalization of the traffic program, respectively the penalties for the unused train paths (trains whose circulation has been cancelled) established after the completion of the schedule of traffic is separately calculated.

(2) The penalties calculated according to this Performance Regime shall be invoiced not later than the last calendar day of the month following that in which they have occurred.

Art. 44. (1) The information related to the application of the provisions of the Train Traffic Performance Regime shall be archived for a period of 5 years from the occurrence of events related to the application of these provisions.

(2) In the month of February of each year, CFR will publish on its internet page the average level of the following parameters:

- the average delay of one hundred train km, separately for all trains and separately for all direct freight trains, which circulated on the CFR network in the previous calendar year;
- the percentage of trains for which cancellation of traffic was requested compared to the total number of trains guided on the CFR network in the previous calendar year separately for all passengers trains and separately for all direct freight trains.