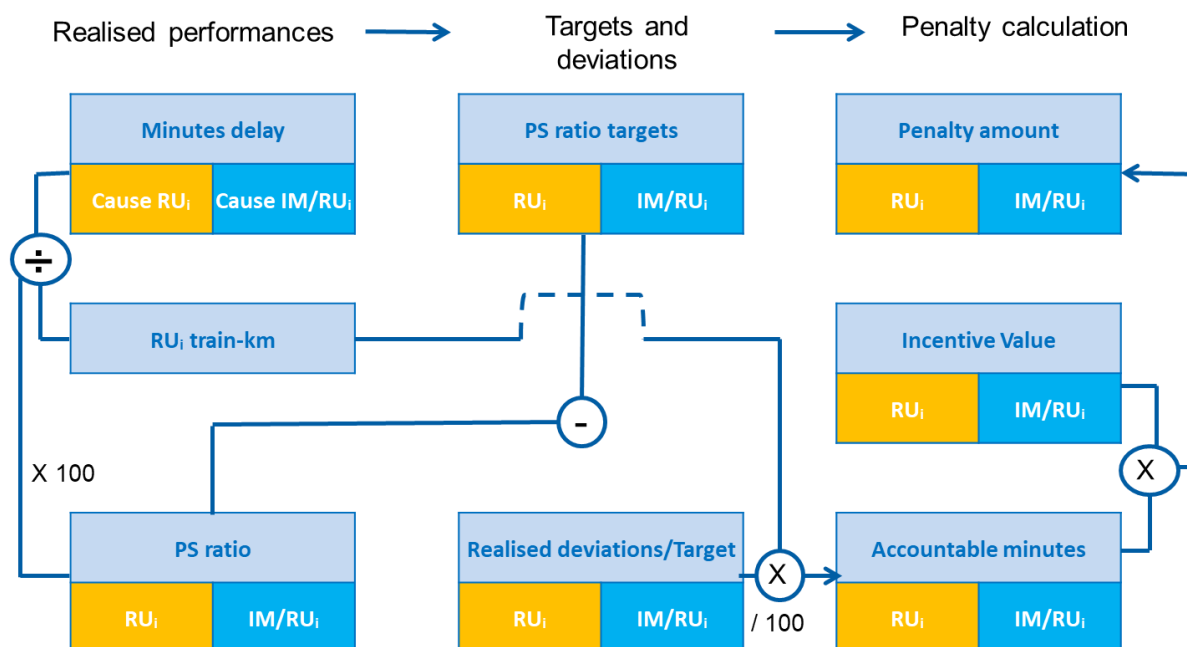


Part 1: Description of the bilateral model



1. Realised performances

1.1 Minutes delay

1.1.1 Recording

The "minutes delay" refer to the minutes that were caused:

- by the railway undertaking (RU) to the first **loaded train** impacted by the incident for which the RU is responsible listed in the incident report– this first train may be the train that caused the incident or the first train impacted by the incident if it was caused by a train running empty;
- by the infrastructure manager (IM) to the first **loaded train** impacted by the incident for which the IM is responsible listed in the incident report. Minutes of delay caused by a train running empty are not counted; in this case, the minutes caused to the next loaded train are taken into account.

This does not include the minutes of delay caused to other trains included in the incident report.

The "minutes delay" are counted as follows:

- Minutes delay RU(i) = the total of all minutes of delay attributed to the RU(i) as recorded in the reports attributable to the RU(i) during the measurement year.
- Minutes delay IM/RU(i) = the total of all minutes of delay attributed to the IM as recorded in the reports attributable to the IM(i) during the measurement year.

1.1.2 Capping the number of minutes delay

There is a cap on the minutes of delay RU(i) and IM/RU(i) per report. The following rules apply.

- In a first step, determination by sector of the median number of minutes delay per report associated with first trains for each year (y-1), (y-2) and (y-3);

- In a second stage, based on the medians of each year (from y-1 to y-3), as calculated by the above method, the median of the sector is determined which serves to cap the number of minutes taken into account for each report in the measurement year.

1.1.3 Capped number of minutes delay

The capped minutes of delay resulting from points 1.1.1 and 1.1.2 above.

1.2 Performance Scheme ratio

The “Performance Scheme ratio (PS ratio)” is calculated according to the following formulas:

$$PS \text{ ratio } RU(i) = \frac{\text{Capped minutes delay } RU(i) \text{ for year } (y)}{\text{Effective train-km } RU(i) \text{ during year } (y) / 100}$$

$$PS \text{ ratio } IM(i) = \frac{\text{Capped minutes delay } IM/RU(i) \text{ for year } (y)}{\text{Effective train-km by } RU(i) \text{ during year } (y) / 100}$$

The effective train kilometres (train-km) are based on all trains of the RU(i) which have operated on the Belgian rail network.

2. Targets and deviations

2.1 Target PS ratio

The PS ratio targets for the year (y) are set for each railway undertaking separately, taking into account its performance in year (y-1) compared to the average PS ratio target for the sector in year (y-1). In this way, a situation is avoided in which undertakings that outperform the sector average in (y-1) must achieve an improvement in year (y) of the same magnitude as their sector peers that performed worse in (y-1).

2.1.1 Calculation of the PS ratio (y-1) based on individual performances (y-1)

Reference basis: minutes delay

The “minutes delay reference basis” is calculated as follows:

- Reference basis for minutes delay RU(i) for year (y-1) = the total of the capped minutes delay of the RU(i) for year (y-1)
- Reference basis for minutes delay IM/RU(i) for year (y-1) = the total of the capped minutes delay of the IM/RU(i) for year (y-1)

Reference basis: effective train-km

The “effective train-km reference basis” is calculated as follows:

Reference basis trkm RU(i) for year (y-1) = the sum of the effective trkm of RU(i) of year (y-1) / 100

Calculation of PS ratio (y-1)

The PS ratio (y-1) is calculated according to the following formulas:

$$PS \text{ ratio } RU(i) (y-1) = \frac{\text{the minutes delay reference basis } RU(i) \text{ for year } (y-1)}{\text{the effective train-km reference basis } RU(i) \text{ for year } (y-1)}$$

$$PS \text{ ratio } IM/RU(i) (y-1) = \frac{\text{the minutes delay reference basis } IM/RU(i) \text{ for year } (y-1)}{\text{the effective train-km reference basis } RU(i) \text{ for year } (y-1)}$$

2.1.2 Calculation of the average PS ratio (y-1) based on sector performances

Three sectors are defined:

- Passenger public service (PPS): domestic passenger transport, fulfilling a public service obligation
- Passenger commercial service (PC): domestic passenger transport, which does not fulfil a public service obligation
- Freight (F): freight transport

The “average PS ratio of the sector (z) (y-1)” is calculated according to the following formulas:

$$\begin{aligned} \text{Average PS ratio } RU \\ \text{of the sector (z) for} \\ \text{year (y-1)} \end{aligned} = \frac{\text{Sum of the PS ratios } RU(i) \text{ for year (y-1) of all RUs within} \\ \text{the sector (z)}}{\text{Number of RUs within the sector (z)}}$$

$$\begin{aligned} \text{Average PS ratio} \\ \text{IM/RU of the} \\ \text{sector (z) for year} \\ \text{(y-1)} \end{aligned} = \frac{\text{Sum of the PS ratios } IM/RU(i) \text{ for year (y-1) of all RUs} \\ \text{within the Sector (z)}}{\text{Number of RUs within the sector(z)}}$$

2.1.3 Target PS ratio

Target PS ratio RU(i) for year (y)

The “Target PS ratio RU(i) for year (y)” is determined on the basis of the performance (y-1) of RU(i) compared to the average performance of the year (y-1) of the sector (z) to which RU(i) belongs:

	If	Then
Case 1	The PS ratio RU(i) of the year (y-1) is lower than the average PS ratio RU of the sector (z) of the RU(i) for the year (y-1); synonymous – in the year (y-1) – with performance of the RU(i) that is above the average performance of the sector (z) to which it belongs.	Target PS ratio RU(i) for year (y) = Average PS ratio RU of sector (z) of RU(i) for year (y-1)
Case 2	The PS ratio RU(i) of the year (y-1) is higher than the average PS ratio RU of the sector (z) of the RU(i) for the year (y-1); synonymous – in the year (y-1) – with performance of the RU(i) that is below the average performance of the sector (z) to which it belongs.	Target PS ratio RU(i) for year (y) = PS ratio RU(i) of the year (y-1)

Target PS ratio IM/RU(i) for the year (y)

The “Target PS ratio IM/RU(i) for the year (y)” is determined on the basis of the performance (y-1) of the IM/RU(i) compared to the average performance of the year (y-1) of the sector (z) to which RU(i) belongs:

	If	Then
Case 1	The PS ratio IM(i) of the year (y-1) is lower than the average PS ratio IM/RU of the sector (z) of the RU(i) for the year (y-1); synonymous – in the year (y-1) – with performance of the IM relative to the RU(i) that is higher than its average performance compared with all RUs that belong to the same sector (z) as the RU(i).	Target PS ratio RU(i) for year (y) = Average PS ratio IM/RU of the sector (z) of RU(i) for year (y-1)
Case 2	The PS ratio IM(i) of the year (y-1) is higher than the average PS ratio IM/RU of the sector (z) of the RU(i) for the year (y-1); synonymous – in the year (y-1) – with performance of the IM relative to the RU(i) that is lower than its average performance compared with all RUs that belong to the same sector (z) as the RU(i).	Target PS ratio IM/RU(i) for year (y) = PS ratio IM/RU(i) for year (y-1)

Target PS ratio of new RUs:

If a new railway undertaking joins the Belgian railway network during the year, it is subject to the PS rules as of 1 January of the following year. The target PS ratio for this new RU is then calculated using a modified formula because full-year figures are missing. The objectives are therefore set as follows:

For RU(i):

Target PS ratio RU(i) for year (y) = Average PS ratio RU of sector (z) of RU(i) for year (y-1)

For IM/RU(i):

Target PS ratio IM/RU(i) for year (y) = Average PS ratio IM/RU of sector (z) of RU(i) for year (y-1)

2.2 Realised deviations / Target

2.2.1 Calculation of the "PS ratio deviation"

The "PS ratio deviation" indicates the extent to which the undertaking's or the infrastructure manager's performance deviates from their target.

- *PS ratio deviation RU(i) for year (y) =
PS ratio RU(i) for year (y) - Target PS ratio RU(i) for year (y)*
- *PS ratio deviation IM/RU(i) for year (y) =
PS ratio IM/RU(i) for year (y) - Target PS ratio IM/RU(i) for year (y)*

A penalty should be calculated only if the "PS ratio deviation" is positive, since a positive "PS ratio deviation" occurs only when the railway undertaking or the infrastructure manager has not achieved its target. If the railway undertaking or infrastructure manager does meet its target (PS ratio deviation ≤ 0), the "PS ratio deviation" is reduced to 0 and no penalty is calculated for the party concerned.

2.2.2 Maximum amount of "PS ratio deviation"

The maximum variation of the "PS ratio deviation" from the "target PS ratio" is determined by sector as follows:

- Passengers Public Service (PPS): 30%
- Passengers Commercial Service (PC): 50%
- Freight (F): 60%
- *Maximum deviation from the PS ratio of the RU(i) for the year (y) = Target PS ratio RU(i) for the year (y) multiplied by the maximum variation percentage of the sector to which the RU(i) belongs.*
- *Maximum deviation from the PS ratio of the IM/RU(i) for the year (y) = Target PS ratio IM/RU(i) for the year (y) multiplied by the maximum variation percentage of the sector to which the RU(i) belongs.*

For example, if the "PS ratio deviation" of an RU belonging to sector "F" deviates more than 60% from its "target PS ratio," the value of its "PS ratio deviation" will be capped at 60% of its "target PS ratio."

The variation rate by sector could be revised by the Performance Scheme Management Body (PSMB) if – taking into account the evolution of the situation and based on the analysis of the data collected under the PS – it is found that it needs to be updated.

3. Penalty calculation

The penalty for each party is calculated by multiplying the "accountable minutes" (see point 3.1) by the "value incentive" (see point 3.2). This calculation may be capped in accordance with point 4 of this document.

3.1 Accountable minutes

The "accountable minutes" are calculated according to the following formulas:

- *Accountable minutes RU(i) for year (y) =*
PS ratio deviation RU(i) for year (y) x effective train-km by RU(i) during year (y) / 100
- *Accountable minutes IM/RU(i) for year (y) =*
PS ratio deviation IM/RU(i) for year (y) x effective train-km by RU(i) during year (y) / 100

3.2 Value incentive

The PS uses a value incentive broken down by sector and by party involved (IM or RU), namely:

- Value incentive IM for year (y) per sector (z)
- Value incentive RU per year (y) per sector (z)

A total of 6 value incentives per minute have been determined, 3 for the IM and 3 for the RU (1 per sector).

The "value incentive" is calculated according to the formulas below:

<i>Value incentive RU of the sector (z) for year (y)</i>	=	<i>Sum of maximum amounts RU(i)¹ of all RUs of the sector (z) for the year (y)</i>
		<i>Sum of the "maximum PS ratio deviations" of the RU(i)² of sector (z) for year (y) x effective trkm of the RU(i) of sector (z) during year (y) / 100</i>
<i>Value incentive IM of the sector (z) for year (y)</i>	=	<i>Maximum amount of the IM⁵ of the sector (z) for the year (y)</i>
		<i>Sum of the "maximum PS ratio deviations" of the IM/RU(i)³ of sector (z) for year (y) x effective trkm of the RU(i) of sector (z) during year (y) / 100</i>

3.3 Penalty amount

The "Penalty amount" is calculated according to the following formulas:

- *Penalty RU(i) for year (y) =*
Accountable minutes RU(i) for year (y) x Penalty per minute RU of sector (z) to which RU(i) belongs for year (y)
- *Penalty IM/RU(i) for year (y) =*
Accountable minutes IM/RU(i) for year (y) x Penalty per minute IM of the sector (z) to which RU(i) belongs for year (y)

¹ See point 4 of this appendix.

² The "maximum PS ratio deviation" is calculated for each railway undertaking by multiplying its target by the coefficients established for each sector in point 2.2.2.

³ The "maximum PS ratio deviation" is calculated for the IM/RU(i) report by multiplying the target of the IM relative to that RU by the coefficients established for each sector in point 2.2.2.

If $\text{Penalty IM/RU}(i) > \text{Penalty RU}(i) \rightarrow \text{Penalty IM/RU}(i) - \text{Penalty RU}(i) = \text{Amount for year } (y) \text{ that IM pays to RU}(i) \text{ (limited to the maximum amount IM/RU}(i)^4)$

If $\text{Penalty RU}(i) > \text{Penalty IM/RU}(i) \rightarrow \text{Penalty RU}(i) - \text{Penalty IM/RU}(i) = \text{Amount for year } (y) \text{ that RU}(i) \text{ pays to IM (limited to the maximum amount RU}(i)^5)$

If IM/RU(i) and RU(i) both meet their targets, no penalty is due.

4. Determination of the maximum amount

The “maximum amount” that the IM must pay to the RU or the RU to the IM is capped. It is also the financial risk that each undertaking bears in the Performance Scheme.

The “maximum amount” is calculated according to the following formulas:

- *Maximum amount IM for year (y) = 0.40% of total user charges in year (y-1)*
- *Maximum amount IM/RU(i) for year (y) = 0.40% of total user charges in year (y-1) of sector (z) to which RU(i) belongs x allocation key RU(i)*
- *Maximum amount RU(i) for year (y) = 0.40% of total user charges in year (y-1) of sector (z) to which RU(i) belongs x allocation key RU(i)*

Where “allocation key RU(i)” = train-km RU(i) of sector (z) during year (y) / train-km all RUs of sector (z) during year (y)

5. Stepwise introduction of financial leverage

The performance scheme is accompanied by a system of degressive discounts for the years 2023 and 2024. The table below lists the discount applied to the penalty calculated according to the conditions described above:

Year	Discount on the financial conditions
2023	50%
2024	25%

This will limit the impact on undertakings of unforeseen effects with major financial consequences.

⁴ See point 4 of this appendix.

⁵ See point 4 of this appendix.

Part 2: Organisation and operation of the Performance Scheme Management Body

1. Roles and tasks of the PSMB

The Performance Scheme Management Body (PSMB) is the sole point of contact for information, consultation and decision-making between the IM and the RU regarding the Performance Scheme.

The PSMB meets at least twice a year to take decisions on the implementation and development of the PS:

- It makes proposals for decisions concerning the development of the economic model of the PS, which it also validates (developing the values of the minutes delay, raising or lowering the penalty cap, etc.)
- It defines and validates targets relating to the PS Ratio
- It defines and validates objectives for improving PS indicators
- It lays down rules for the dissemination of information.

2. Composition of the PSMB

The PSMB consists of two separate parts:

- infrastructure manager
- railway undertakings that wish to be represented.

The general underlying principle of the PSMB is essentially based on parity of votes between the two parties, the infrastructure manager and the railway undertakings.

The Regulatory Body for Railway Transport will act as arbitrator in the event of disagreement between the two parties in accordance with the role assigned to it by the Rail Code.

3. Establishment of the PSMB

The PSMB can define and specify a minimum number of train-km per undertaking or per group/organisation of undertakings to be eligible to join. The composition will be as described in point 2.

This system allows smaller undertakings to set up an organisation of railway undertakings in which they can be represented.

Where an organisation of railway undertakings is established, it can join the PSMB if the sum of the number of train-km of all affiliated railway undertakings reaches the minimum number of train-km required by the PSMB.

To avoid the exclusion of certain sector(s) based on the above measure, the PSMB will lift the entry requirement if no undertaking or group/organisation of undertakings meets the criterion. The PSMB will then invite the undertaking or group/organisation of undertakings with the most train-km in this sector, or the next largest number of train-km in case of refusal.

If no undertaking or group/organisation of undertakings in a certain sector wishes to join the PSMB, the PSMB will operate without that sector and take decisions on that sector's behalf with due care and diligence.

The number of votes allocated to the infrastructure manager is equal to the number of railway undertakings and organisations of railway undertakings belonging to the PSMB.

4. Operating / decision-making process of the PSMB

It is essential for the validity of the decision-making process that the parity of votes between the two parties, i.e. the infrastructure manager and the railway undertakings, is respected.

The decision-making process is based on the following principles:

- Each item on which a decision is taken shall be put to the vote
 - Each party has an equal number of votes
 - Each party has a weight of 1
 - Each party supports a single position within its party.
- ⇒ Once both parties, the infrastructure manager and the railway undertakings, have defined their position within their party, they can vote.

Infrabel, for its part, will adopt majority voting.

Railway undertakings are free to determine the decision-making process within their own party.

To ensure that all actors within the PSMB have a solid working basis at meetings, a dynamic decision-making model will be applied.

Decision-making model for dynamic majority:

If unanimity cannot be reached, the dynamic majority principle will be applied.

Dynamic majority voting is based on the principle that no undertaking is subject to discrimination within the decision-making process.

The concept of sector blocks is used. A sector block combines all undertakings from the same sector. Each sector block has one vote.

The sector blocks are divided into three arbitration levels:

- The primary sector blocks are “infrastructure manager” and “railway undertaking”
- The “railway undertaking” sector block can then be further broken down into the secondary sector blocks of “freight transport” and “passenger transport”
- Finally, the “passenger transport” sector block is divided into the tertiary sector blocks of “passenger public service” and “passenger commercial service”.

A discussion topic dealt with at a particular arbitration level can only be arbitrated at that level if mediation has already taken place at the lower arbitration level.

In other words, if a discussion topic between the sector blocks of “infrastructure manager” and “railway undertakings” is to be mediated, agreement should already have been reached between the sector blocks at tertiary level (passenger public service and passenger commercial service) and the sector blocks at secondary level (railway undertakings passenger transport and railway undertakings freight transport).

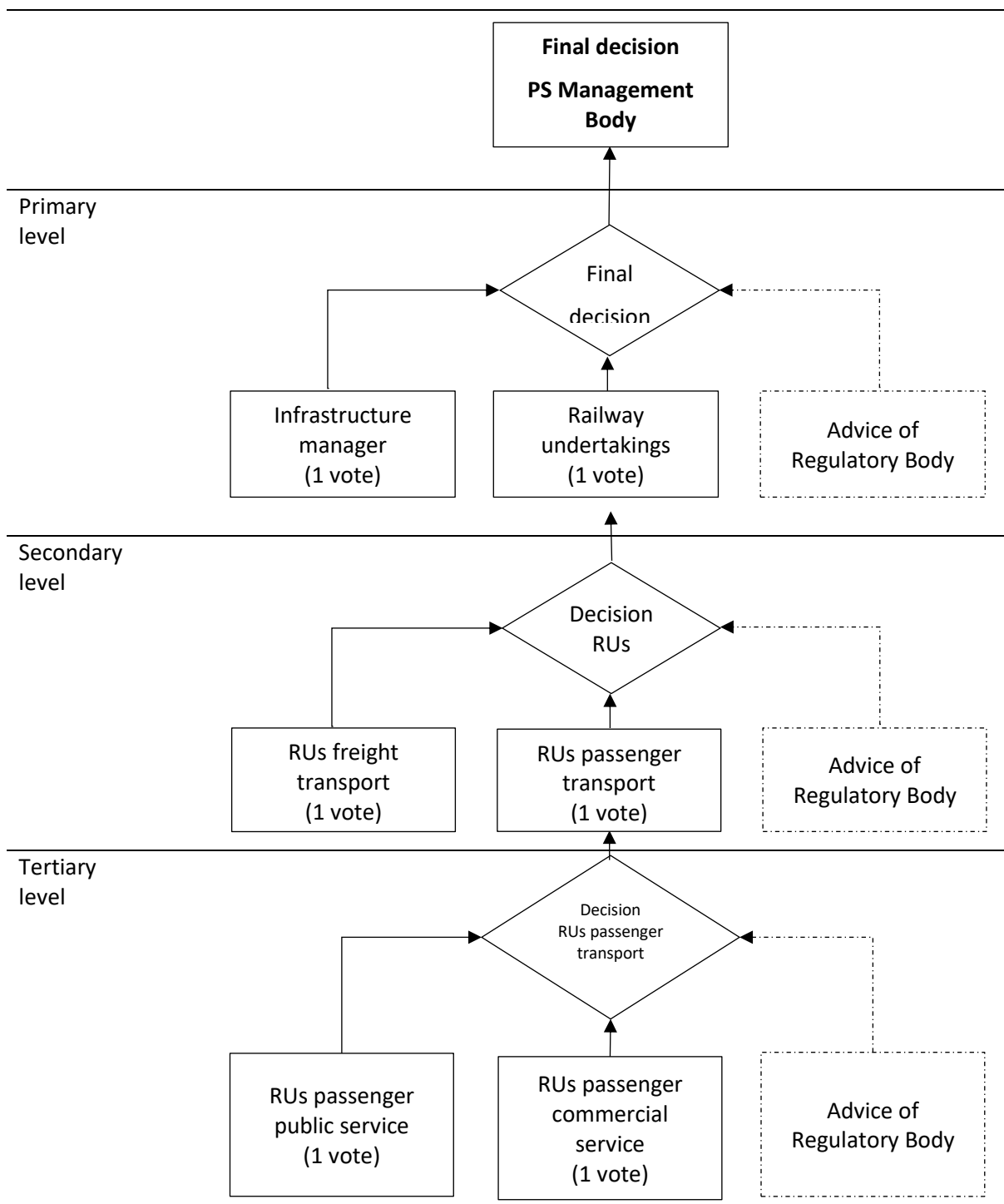
Each arbitration level has two sector blocks, each with one vote. If no agreement is reached between the two sector blocks, there is a risk of deadlock.

To prevent such a deadlock from obstructing a decision, the PSMB will seek the Regulatory Body’s advice in case of stalemate:

1. First, the PSMB requests non-binding advice in writing from the Regulatory Body (pursuant to Art. 62 Sec. 2 of the Rail Code).
2. If this advice does not lead to a solution, an RU or IM belonging to the PSMB applies to the Regulatory Body for administrative settlement of a dispute. The Regulator's advice is binding (according to Art. 62 Sec. 4 of the Rail Code).

The foregoing is without prejudice to Article 62, §5, 3° of the Rail Code.

The illustration below shows a graphic of the different levels:



The PSMB will have the option of reviewing all the rules in this document. This will allow the PSMB to have an evolutionary and corrective character if the need arises.

5. Appointment of members

Each railway undertaking and/or organisation of railway undertakings appoints a permanent representative and a deputy to represent it in the PSMB.

A titular representative of the infrastructure manager may represent more than one vote within his section. This measure is introduced in order to limit the number of members made available to the PSMB by the infrastructure manager.

If the titular representative cannot participate in the PSMB, his deputy will take his place. If a titular representative or his deputy is not present at a meeting of the PSMB, his vote is considered and void and is not taken into account, except in the case of justified absence.

In the justified absence of a titular representative or his deputy, he may grant proxy to another titular member of the same party (IM or RU) to represent his interests. A copy of the proxy must be sent to the General Secretariat before the general meeting, otherwise it shall be invalid.

Other persons called for consultation must also sign the attendance list. They have no voting rights, but attend in an advisory capacity.

6. General Secretariat

6.1 Role

A unit of the IM assures the General Secretariat of the PSMB. It is responsible for the entire organisation of the PSMB.

6.2 Tasks

It has the following tasks:

- It defines the agenda for each of the PSMB meetings, based on proposals from its members
- It prepares the necessary files for the smooth running of meetings
- It convenes and leads sub-working groups (see point 7)
- It prepares quality indicators for the PS (e.g., cancelled trains) and analyses these
- It draws up the minutes of PSMB meetings
- It draws up the annual report on the activities of the PSMB.

7. Sub-working group

At the request of the PSMB, the General Secretariat proposes sub-working groups to analyse/address specific topics before they are discussed by the PSMB.

The PSMB validates these working groups as well as their organisation (composition, topics covered, etc.)

8. Invitation

The General Secretariat convenes the titular members of the PSMB by written or electronic invitation.

The provisional agenda, including all documents relevant to the meeting, will be sent by e-mail.

9. Agenda and minutes of the meeting

The General Secretariat determines the agenda based on the tasks that the PSMB has to carry out.

PSMB members wishing to include an item on the agenda must submit their proposal to the General Secretariat for consideration at least one month before the meeting.

The General Secretariat shall draw up the minutes of each PSMB meeting.

These are submitted for approval to all members present. They are deemed to be approved if members have not objected within 15 days of the date of dispatch of the minutes.

The final minutes shall be sent to the PSMB members no later than one month after the date of the meeting.

10. Communication

Each year the General Secretariat prepares an activity report which is sent to all members of the PSMB.

The report is subsequently sent to the various RUs as well as to the Federal Public Service Mobility and Transport.

11. Confidentiality and secrecy of the deliberations

Each member or guest attending PSMB meetings is subject to the obligation of secrecy with regard to all documents and information received, as well as the content of discussions.

Members of the PSMB are bound by secrecy of deliberations.