1. Context

The Belgian government has decided, in accordance with the Law of 7 June 2023 *on support for passenger transport by night trains* and the Royal Decree of 28 November 2023 *on the implementation measures of the Law of 7 June 2023 on support for passenger transport by night trains*, to introduce measures for passenger transport by night trains for the period from 1 July 2023 to 31 December 2024.

2. Scope

To benefit from the financial support scheme for passenger transport by night trains, the train:

- must be organised by an applicant within the meaning of Article 3(11) of the Railway Codex (i.e. a railway undertaking or a non-railway undertaking applicant) and be covered by an agreement concluded with Infrabel within the framework of the process for allocating railway infrastructure capacity referred to in Article 27 et seq. of the Railway Codex (i.e. a user agreement or a capacity agreement)
- must involve an international passenger transport serving at least one station in Belgium – empty runs[1] are excluded - and consist of at least one couchette car and/or sleeping car, whose traffic is scheduled to depart before 23:30 and arrive after 05:00
- must have effectively operated in Belgium
- must be operated during the application period from 1 July 2023 to 31 December 2024.

The applicant must provide Infrabel with the necessary information to prove that the train consists of at least one couchette and/or sleeping car. The applicant must complete the form provided in advance by Infrabel by the 5th working day following the month of operation and send it to the functional mail address 41423.gebruiksrechtredevance@infrabel.be. Therefore, the following data must be filled in for each train: the name of the operator, the name of the traction operator, the train number, the day of operation and the EVN number (European Vehicle Number) of each couchette and/or sleeping car. If the information is not provided by the deadline, Infrabel will issue credit notes based on the information it has available[2].

Applicants must also submit in advance to Infrabel a declaration on honour (see appendix B.2.5 to the network statement for railway undertakings or appendix B.3.3 to the network statement for non-railway undertaking applicants) confirming that they meet the specific conditions of paragraphs 1 and 3 of point 5 below. This declaration will be attached to the user agreement for railway undertakings and the capacity agreement for non-railway undertaking applicants and will be forwarded by Infrabel to the Federal Public Service for Mobility and Transport.

[1] In accordance with the definition of empty runs in appendix A.1 of the network statement.

[2] For journeys between 1 July 2023 and 31 December 2023, applicants must provide the above data by 15 January 2024 at the latest. If the data is not provided by this deadline, Infrabel will issue credit notes based on the information it has available.

3. Nature of the intervention

The financial support scheme for passenger transport by night trains exists of:

1. the reimbursement of the user charge
2. the reimbursement of transport and distribution costs for the provision of traction current
3. the reimbursement of the cost of the provision of traction current.

If, during a semester[3], the total of reimbursements to which the applicants concerned are entitled exceeds the prior financial compensation (advance payment) available to Infrabel in application of Article 3 of the Law of 7 June 2023 on support for passenger transport by night trains, reimbursements will be limited for that semester in proportion to the available advance payment based on the amounts invoiced.

If an applicant chooses an energy supplier other than Infrabel, the reimbursement of the costs of the provision of traction current will be made by the FPS for Mobility and Transport in accordance with the rules established by the latter. This reimbursement is also subject to the proportional rules as described above.

4. Payment methods of the measures

Financial support for passenger transport by night trains is paid by Infrabel through a reimbursement of invoiced amounts, materialised by issuing credit notes no later than 40 days after the end of the relevant semester.

5. Specific conditions to be met by beneficiaries

The amount of financial support for passenger transport by night trains - or the total amount of reimbursements as set out in point 3 above - is limited per semester to 30% of the total cost of the applicant's passenger transport activities by night trains on Belgian territory for the semester in question.

In addition, the level of support should remain below 50% of the external costs avoided by rail transport compared to competing transport modes.

Applicants against whom a repayment order has been issued by the European Commission are not eligible for this financial support scheme for passenger transport by night trains to the extent that the amounts covered by the order have not been repaid.

Undertakings in difficulty, as defined by the European Commission in Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, are not entitled to the current financial support scheme

[3] The term 'semester' is defined, as the period from 1 January to 30 June, or from 1 July to 31 December, in accordance with paragraph 4 of Article 2 of the Law of 7 June 2023 *on support for passenger transport by night trains*.

Applicants receiving financial support to cover the same eligible costs referred to in point 3 above are not eligible for the financial support scheme for passenger transport by night trains provided for by the Law of 7 June 2023 on support for passenger transport by night trains.

6. Provision of information by beneficiaries

Applicants shall keep and maintain documentation at the disposal of the Federal Public Service for Mobility and Transport that allows them to substantiate the following:

1° the total cost of the applicant's night train passenger transport activities on Belgian territory per semester

2° the cost of using the Belgian railway infrastructure per semester, the cost of transport and distribution for the provision of traction current and the cost of the provision of traction current, per train kilometre, MWh and per passenger kilometre for the Belgian railway network

3° the number of passengers transported and/or boarded at stations on Belgian territory

4° proof of the night train's composition.

Applicants shall provide any additional information requested by the FPS for Mobility and Transport in order to verify the proper compliance with the granting conditions within 15 working days.

During this period, the FPS for Mobility and Transport may also proceed to check the documents referred to above or any other document it deems useful, inter alia to verify compliance with the granting conditions.

Please note: If the FPS for Mobility and Transport discovers that the financial support was unjustified or favoured an undertaking that did not comply with the granting conditions at the time of application of the reduction, this reduction will be repaid to the State by the beneficiary within a period of one month following notification by the FPS for Mobility and Transport to the applicant by registered letter. In the absence of payment within this period, the FPS for Mobility and Transport charges the General Administration of Collection and Recovery with the forced recovery of the unjustified support received in accordance with Article 3 of the Law on State Property of 22 December 1949. Undue amounts thus recovered revert to the Treasury.