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## **REPORT**

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From:	General Secretariat of the Council
To:	Delegations
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Subject:	Proposal for a Regulation of the European Parliament and of the Council on rail passengers' rights and obligations (recast) – Progress report

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Provisional state of play on Chapters I, II and III.

↓ 1371/2007/EC (adapted)

2017/0237 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on rail passengers' rights and obligations**

**(recast)**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty ~~establishing the European Community~~  on the Functioning of the European Union  , and in particular Article ~~74~~  91  (1) thereof,

Having regard to the proposal from the  European  Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

Acting in accordance with the ~~procedure laid down in Article 251 of the Treaty, in the light of the joint text approved by the Conciliation Committee on 31 July 2007<sup>3</sup>~~ ☒ ordinary legislative procedure ☒ ,

Whereas:

*[Recitals not reproduced]*

HAVE ADOPTED THIS REGULATION:

## Chapter I

### General provisions

#### *Article 1*

#### Subject matter

This Regulation establishes rules ☒ applicable to rail transport ☒ as regards the following:

- ~~(a) the information to be provided by railway undertakings, the conclusion of transport contracts, the issuing of tickets and the implementation of a Computerised Information and Reservation System for Rail Transport,~~

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<sup>3</sup> ~~Opinion of the European Parliament of 28 September 2005 (OJ C 227 E, 21.9.2006, p. 490), Council Common Position of 24 July 2006 (OJ C 289 E, 28.11.2006, p. 1), Position of the European Parliament of 18 January 2007 (not yet published in the Official Journal), Legislative Resolution of the European Parliament of 25 September 2007 and Council Decision of 26 September 2007.~~

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↓ new

- (a) non-discrimination between passengers with regard to transport conditions;

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↓ 1371/2007/EC

- (b) the liability of railway undertakings and their insurance obligations for passengers and their luggage;
- ~~(c) the obligations of railway undertakings to passengers cases of delay;~~

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↓ new

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- (c) passengers' rights in the event of an accident arising from the use of railway services and resulting in death, personal injury or loss of, or damage to, their luggage;
- (d) ↻ minimum requirements for ↻ passengers' rights in the event of cancellation or delay;

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↓ 1371/2007/EC (adapted)

⇒ new

↻ Council

- ⇒ (e) minimum ⇐ ☒ information to be provided to passengers; ☒
- ~~(d)~~ the protection of ⇒ non-discrimination against ⇐, and ↻ [...] ↻ assistance to ☒ for ☒, disabled persons ☒ with disabilities ☒ and persons with reduced mobility ~~travelling by rail~~;
- ~~(e)~~ the definition and monitoring of service quality standards<sub>2</sub> ☒ and ☒ the management of risks to the personal security of passengers; ~~and~~

- (h) the handling of complaints; ~~and~~
- (fi) general rules on enforcement.

## Article 2

### Scope

1. This Regulation shall apply to ~~all~~  domestic and international  rail journeys and services throughout the ~~Community~~  Union  provided by one or more railway undertakings licensed in accordance with Directive 2012/34/EU of the European Parliament and of the Council<sup>4</sup> ~~Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings<sup>5</sup>~~.

~~2. This Regulation does not apply to railway undertakings and transport services which are not licensed under Directive 95/18/EC.~~

~~3. On the entry into force of this Regulation, Articles 9, 11, 12, 19, 20(1) and 26 shall apply to all rail passenger services throughout the Community.~~

~~4. With the exception of the provisions set out in paragraph 3, a Member State may, on a transparent and non-discriminatory basis, grant an exemption for a period no longer than five years, which may be renewed twice for a maximum period of five years on each occasion, from the application of the provisions of this Regulation to domestic rail passenger services.~~

➔ Council

➔ 1a. Where a Member State has granted an exemption to its domestic rail passenger services pursuant to this Regulation, it may renew that exemption up to two times for a maximum period of five years on both occasions. ©

<sup>4</sup> OJ L 343, 14.12.2012, p. 32.

<sup>5</sup> OJ L 143, 27.6.1995, p. 70. Directive as last amended by Directive 2004/49/EC of the European Parliament and of the Council (OJ L 164, 30.4.2004, p. 44).

~~5. With the exception of the provisions set out in paragraph 3 of this Article, a Member State may exempt from the application of the provisions of this Regulation urban, suburban and regional rail passenger services. In order to distinguish between urban, suburban and regional rail passenger services, Member States shall apply the definitions contained in Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways<sup>6</sup>. In applying these definitions, Member States shall take into account the following criteria: distance, frequency of services, number of scheduled stops, rolling stock employed, ticketing schemes, fluctuations in passenger numbers between services in peak and off-peak periods, train codes and timetables.~~

~~6. For a maximum period of five years, a Member State may, on a transparent and non-discriminatory basis, grant an exemption, which may be renewed, from the application of the provisions of this Regulation to particular services or journeys because a significant part of the rail passenger service, including at least one scheduled station stop, is operated outside the Community.~~

~~7. Member States shall inform the Commission of exemptions granted pursuant to paragraphs 4, 5 and 6. The Commission shall take appropriate action if such an exemption is deemed not to be in accordance with the provisions of this Article. No later than 3 December 2014, the Commission shall submit to the European Parliament and the Council a report on exemptions granted pursuant to paragraphs 4, 5 and 6.~~

↓ new

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2. Subject to paragraph 4, Member States may exempt the following services from the application of this Regulation:

- (a) urban, suburban and regional rail passenger services ↻ [...] ↻ ↻, including ↻ cross-border services within the Union;

<sup>6</sup> ~~OJ L 237, 24.8.1991, p. 25. Directive as last amended by Directive 2006/103/EC (OJ L 363, 20.12.2006, p. 344).~~

(b) international rail passenger services of which a significant part, including at least one scheduled station stop, is operated outside the Union, provided that passengers' rights are adequately ensured under relevant national law on the territory of the Member State granting the exemption.

3. Member States shall inform the Commission of exemptions granted pursuant to points (a) and (b) of paragraph 2, and on the adequacy of their national law on their territory for the purposes of point (b) of paragraph 2.

4. Articles 5, 10, 11 , 12 [...]  and Chapter V shall apply to all rail passenger services referred to in paragraph 1, including services exempted in accordance with points (a) and (b) of paragraph 2.

↓ 1371/2007/ EC (adapted)

⇒ new

⇒ Council

### Article 3

#### Definitions

For the purposes of this Regulation the following definitions shall apply:

(2) 'railway undertaking' means a railway undertaking as defined in Article ~~2~~ 3(1) of Directive ~~2001/14/EC~~<sup>7</sup> 2012/34/EU, ~~and any other public or private undertaking the activity of which is to provide transport of goods and/or passengers by rail on the basis that the undertaking must ensure traction; this also includes undertakings which provide traction only;~~

<sup>7</sup> ~~Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure (OJ L 75, 15.3.2001, p. 29). Directive as last amended by Directive 2004/49/EC.~~

~~(2) ‘carrier’ means the contractual railway undertaking with whom the passenger has concluded the transport contract or a series of successive railway undertakings which are liable on the basis of this contract;~~

⇒(1a) ‘carrier’ means the contractual railway undertaking with whom the passenger has concluded the transport contract or a series of successive railway undertakings which are liable on the basis of this contract; ☺

~~(3) ‘substitute carrier’ means a railway undertaking, which has not concluded a transport contract with the passenger, but to whom the railway undertaking party to the contract has entrusted, in whole or in part, the performance of the transport by rail;~~

⇒(1b) ‘substitute carrier’ means a railway undertaking, which has not concluded a transport contract with the passenger, but to whom the railway undertaking party to the contract has entrusted, in whole or in part, the performance of the transport by rail; ☺

• (42) ‘infrastructure manager’ means ⇒ an infrastructure manager ⇐ ~~any body or undertaking that is responsible in particular for establishing and maintaining railway infrastructure, or a part thereof, as defined in Article 3 of Directive 91/440/EEC 2012/34/EU, which may also include the management of infrastructure control and safety systems; the functions of the infrastructure manager on a network or part of a network may be allocated to different bodies or undertakings;~~

• (53) ‘station manager’ means an organisational entity in a Member State, which has been made responsible for the management of a railway station and which may be the infrastructure manager;



- (64) ‘tour operator’ means an organiser or retailer, other than a railway undertaking, within the meaning of Article 23, points (2)(8) and (3)(9) of Directive ~~90/314/EEC~~<sup>8</sup> (EU) 2015/2302 of the European Parliament and of the Council<sup>9</sup>;
- (75) ‘ticket vendor’ means any retailer of rail transport services concluding transport contracts and selling tickets on behalf of a railway undertaking or for its own account;
- (86) ‘transport contract’ means a contract of carriage for reward or free of charge between a railway undertaking or a ticket vendor and the passenger for the provision of one or more transport services;
- (97) ‘reservation’ means an authorisation, on paper or in electronic form, giving entitlement to transportation subject to previously confirmed personalised transport arrangements;
- (108) ‘through-ticket’ means a ticket or tickets representing a  single  transport contract for successive railway services operated by one or ~~several~~  more  railway undertakings;

↓ new

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- (9) ‘service’ means a passenger  [...]  transport service that operates between rail stations or stops according to a timetable;
- (10) ‘journey’ means the carriage of a passenger between a station of departure and a station of arrival under a single transport contract;

<sup>8</sup> ~~Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours (OJ L 158, 23.6.1990, p. 59).~~

<sup>9</sup> Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC (OJ L 326, 11.12.2015, p. 1).

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↓ 1371/2007/ EC (adapted)

⇒ new

- (11) ‘domestic rail passenger service’ means a rail passenger service which does not cross a border of a Member State;
- ⇒ (12) ‘international rail passenger service’ means international rail passenger service as defined in Article 3(5) of Directive 2012/34/EU; ⇐
- (~~12~~13) ‘delay’ means the time difference between the time the passenger was scheduled to arrive in accordance with the published timetable and the time of his or her actual or expected arrival ☒ at the final station of destination ☒;
- (~~13~~14) ‘travel pass’ or ‘season ticket’ means a ticket for an unlimited number of journeys which provides the authorised holder with rail travel on a particular route or network during a specified period;

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↓ new

- (15) ‘missed connection’ means a situation where a passenger misses one or more services in the course of a journey as a result of the delay or cancellation of one or more previous services;

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↓ 1371/2007/ EC (adapted)

⇒ new

~~(14) ‘Computerised Information and Reservation System for Rail Transport (CIRSRT)’ means a computerised system containing information about rail services offered by railway undertakings; the information stored in the CIRSRT on passenger services shall include information on:~~

~~(a) schedules and timetables of passenger services;~~

~~(b) availability of seats on passenger services;~~

~~(c) fares and special conditions;~~

~~(d) accessibility of trains for disabled persons and persons with reduced mobility;~~

~~(e) facilities through which reservations may be made or tickets or through tickets may be issued to the extent that some or all of these facilities are made available to users;~~

- ~~(1516)~~ ‘~~disabled~~ person  with disabilities  or  and  ‘person with reduced mobility’ means any person whose mobility when using transport is reduced due to any  who has a permanent or temporary  physical disability (sensory or locomotory, permanent or temporary),  mental,  intellectual disability or  sensory  impairment, or any other cause of disability, ⇨ which, in interaction with various barriers, may hinder their full and effective use of transport on an equal basis with other passengers ⇨ or as a result of  whose mobility when using transport is reduced due to  age, and whose situation needs appropriate attention and adaptation to his or her particular needs of the service made available to all passengers;
- ~~(1617)~~ ‘General Conditions of Carriage’ means the conditions of the ~~carrier~~  railway undertaking  in the form of general conditions or tariffs legally in force in each Member State and which have become, by the conclusion of the contract of carriage, an integral part of it;
- ~~(1718)~~ ‘vehicle’ means a motor vehicle or a trailer carried on the occasion of the carriage of passengers;

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↓ new

↻ Council

- (19) 'CIV Uniform Rules' means the Uniform Rules concerning the Contract for International Carriage of Passengers and Luggage by Rail (CIV), as set out in Appendix A to the Convention concerning International Carriage by Rail (COTIF).
- ↻ (20) 'station' means where a passenger train regularly stops, ends or where it is foreseen that passengers can get on or off. ↻

## Chapter II

### Transport contract, information and tickets

#### *Article 4*

##### **Transport contract**

Subject to the provisions of this Chapter, the conclusion and performance of a transport contract and the provision of information and tickets shall be governed by the provisions of Title II and Title III of Annex I.

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#### *Article 5*

##### **Non-discriminatory conditions of transport contract**

Without prejudice to social tariffs, railway undertakings or ticket vendors shall offer contract conditions and tariffs to the general public without direct or indirect discrimination on the basis of the final customer's nationality or residence, or the place of establishment of the railway undertaking or ticket vendor within the Union.

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↓ 1371/2007/EC (adapted)

⇒ new

⇒ Council

*Article ~~5~~ 6*

**Bicycles**

~~Railway undertakings shall enable P~~ passengers  shall be entitled  to ~~bring~~  take  bicycles on  board  to the train, where appropriate for a  reasonable  fee, ~~if they are easy to handle, if this does not adversely affect the specific rail service, and if the rolling stock so permits.~~  They shall  [...]  ensure that  their bicycles cause  no inconvenience or damage  [...]  to other passengers, mobility equipment, luggage or rail operations. The carriage of bicycles may be refused or restricted for safety or operational reasons, provided that railway undertakings, ticket vendors, tour operators and, where appropriate, station managers inform passengers of the conditions for such a refusal or restriction  accordingly   [...]

*Article ~~6~~ 7*

**Exclusion of waiver and stipulation of limits**

1. Obligations towards passengers pursuant to this Regulation may not be limited or waived, notably by a derogation or restrictive clause in the transport contract.
2. Railway undertakings may offer contract conditions more favourable for the passenger than the conditions laid down in this Regulation.

*Article ~~7~~ 8*

**Obligation to provide information concerning discontinuation of services**

Railway undertakings or, where appropriate, competent authorities responsible for a public service railway contract shall make public by appropriate means,  $\Rightarrow$  including in accessible formats for persons with disabilities in accordance with accessibility requirements laid down in Directive XXX<sup>10</sup>,  $\Leftarrow$  and before their implementation, decisions to discontinue services  $\Rightarrow$  either permanently or temporarily  $\Leftarrow$ .

*Article ~~8~~ 9*

**Travel information**

1. ~~Without prejudice to Article 10, r~~ Railway undertakings and ticket vendors offering transport contracts on behalf of one or more railway undertakings shall provide the passenger, upon request, with at least the information set out in Annex II, Part I in relation to the journeys for which a transport contract is offered by the railway undertaking concerned. Ticket vendors offering transport contracts on their own account, and tour operators, shall provide this information where available.
2. Railway undertakings  $\Rightarrow$  and, where possible, ticket vendors  $\Leftarrow$  shall provide the passenger during the journey  $\Rightarrow$ , including at connecting stations,  $\Leftarrow$  with at least the information set out in Annex II, Part II.
3. The information referred to in paragraphs 1 and 2 shall be provided in the most appropriate format  $\Rightarrow$  including by using up-to-date communication technologies  $\Leftarrow$ . Particular attention shall be paid ~~in this regard to the needs of people with auditory and/or visual impairment~~  $\Rightarrow$  to ensuring that this information is accessible to persons with disabilities in accordance with the accessibility requirements laid down in Directive XXX and Regulation 454/2011  $\Leftarrow$ .

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<sup>10</sup> Directive XXX on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services (European Accessibility Act) (OJ L X, X.X.XXXX, p. X).

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↓ new

↻ Council

4. [...] As soon as it is available, infrastructure managers shall make real-time data relating to trains, including those operated by other railway undertakings available to railway undertakings, station managers and ticket vendors, in a non-discriminatory manner. Station managers shall facilitate the dissemination of such data to ticket vendors and to passengers.

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↓ 1371/2007/EC (adapted)

⇒ new

↻ Council

*Article 10*

**Availability of tickets, through-tickets and reservations**

1. Railway undertakings and ticket vendors shall offer, ~~where available,~~ tickets and, where available, through-tickets and reservations. Without prejudice to Article 13a of Directive 2012/34/EU, they shall offer through-tickets, including for journeys across borders and with more than one railway undertaking.

2. Without prejudice to paragraphs 3 and 4, railway undertakings and ticket vendors shall distribute tickets to passengers via at least one of the following points of sale:

- ticket offices or ~~selling~~ ticketing machines;
- telephone, the Internet or any other widely available information technology;
- on board trains.



~~3. Without prejudice to paragraphs 4 and 5, ⇨ Member States may require ⇨ railway undertakings shall distribute ☒ to provide ☒ tickets for services provided under public service contracts via ☒ through ☒ at least ⇨ more than ⇨ one of the following points of sale.~~

~~(a) ticket offices or selling machines;~~

~~(b) on board trains.~~

43. Railway undertakings shall offer the possibility to obtain tickets for the respective service on board the train, unless this is limited or denied on grounds relating to security or antifraud policy or compulsory train reservation or reasonable commercial grounds.

54. Where there is no ticket office or ~~selling~~ ☒ ticketing ☒ machine in the station of departure, passengers shall be informed at the station:



(a) of the possibility of purchasing tickets via telephone or the Internet or on board the train, and of the procedure for such purchase;

– of the nearest railway station or place at which ticket offices and/or ~~selling~~ ☒ ticketing ☒ machines are available.

⇩ new

⇨ Council

5. Where there is no ⇨ [...] ⇨ accessible possibility to buy tickets before the departure ⇨, persons with disabilities and persons with reduced mobility shall be permitted to buy tickets on board the train at no extra cost.

6. Where a passenger receives  in a single commercial transaction  separate tickets for a single journey comprising successive railway services operated by one or more railway undertakings, his rights to information, assistance, care and compensation shall be equivalent to those under a through-ticket and cover the whole journey from the departure to the final destination, unless the passenger is explicitly informed otherwise in writing. Such information shall in particular state that when the passenger misses a connection, he or she would not be entitled to assistance or compensation based on the total length of the journey. The burden of proof that the information was provided shall lie with the railway undertaking, its agent, tour operator or ticket vendor.

↓ 1371/2007/EC

#### *Article 10*

#### **~~Travel information and reservation systems~~**

~~1. In order to provide the information and to issue tickets referred to in this Regulation, railway undertakings and ticket vendors shall make use of CIRSRT, to be established by the procedures referred to in this Article.~~

~~2. The technical specifications for interoperability (TSIs) referred to in Directive 2001/16/EC shall be applied for the purposes of this Regulation.~~

~~3. The Commission shall, on a proposal to be submitted by the European Railway Agency (ERA), adopt the TSI of telematics applications for passengers by 3 December 2010. The TSI shall make possible the provision of the information, set out in Annex II, and the issuing of tickets as governed by this Regulation.~~

~~4. Railway undertakings shall adapt their CIRSRT according to the requirements set out in the TSI in accordance with a deployment plan set out in that TSI.~~

~~5. Subject to the provisions of Directive 95/46/EC, no railway undertaking or ticket vendor shall disclose personal information on individual bookings to other railway undertakings and/or ticket vendors.~~

## CHAPTER III

# LIABILITY OF RAILWAY UNDERTAKINGS FOR PASSENGERS AND THEIR LUGGAGE

### *Article 11*

#### **Liability for passengers and luggage**

Subject to the provisions of this Chapter, and without prejudice to applicable national law granting passengers further compensation for damages, the liability of railway undertakings in respect of passengers and their luggage shall be governed by Chapters I, III and IV of Title IV, Title VI and Title VII of Annex I.

↓ 1371/2007/EC (adapted)  
⇒ new  
⇒ Council

### *Article 12*

#### **Insurance ☒ and coverage of liability in the event of passenger death or personal injury ☒**

~~1. The obligation set out in Article 9 of Directive 95/18/EC as far as it relates to liability for passengers shall be understood as requiring a~~ A railway undertaking ~~to~~ ☒ shall ☒ be adequately insured ⇒ , in accordance with Article 22 of Directive 2012/34/EU, ⇐ ☐ [...] ● or ~~to~~ make equivalent arrangements for cover of its liabilities under this Regulation.

~~2. The Commission shall submit to the European Parliament and the Council a report on the setting of a minimum amount of insurance for railway undertakings by 3 December 2010. If appropriate, that report shall be accompanied by suitable proposals or recommendations on this matter.~~

### *Article 13*

#### **Advance payments**

1. If a passenger is killed or injured, the railway undertaking as referred to in Article 26(5) of Annex I shall without delay, and in any event not later than fifteen days after the establishment of the identity of the natural person entitled to compensation, make such advance payments as may be required to meet immediate economic needs on a basis proportional to the damage suffered.
2. Without prejudice to paragraph 1, an advance payment shall not be less than EUR 21 000 per passenger in the event of death.
3. An advance payment shall not constitute recognition of liability and may be offset against any subsequent sums paid on the basis of this Regulation but is not returnable, except in the cases where damage was caused by the negligence or fault of the passenger or where the person who received the advance payment was not the person entitled to compensation.

### *Article 14*

#### **Contestation of liability**

Even if the railway undertaking contests its responsibility for physical injury to a passenger whom it conveys, it shall make every reasonable effort to assist a passenger claiming compensation for damage from third parties.