

Rail passenger rights in the European Union

The European Union has set out rights to give rail passengers a minimum harmonised level of protection, assistance and services. These rights also aim to facilitate mobility and encourage the use of public transport. An assessment of EU rail passenger rights is relevant today, in view of the planned plenary vote on the market pillar of the fourth railway package in December. When implemented, this package should accelerate competition and lead to increased efforts from rail companies and Member States to meet passengers' expectations and rights.

Context

The EU's first step in [promoting](#) the safeguarding of passengers' rights in all transport modes, including rail, was the 2001 White Paper on European transport policy for 2010. To [consolidate](#) the implementation of these rights, the European Commission reviewed them in 2011 and created a list of ten core EU rights, including non-discrimination, mobility, information, assistance, compensation, carrier liability and complaint-handling.

The main regulatory act for the rail sector – Regulation 1371/2007 – [defines](#) rail passengers' rights and obligations and has been in force since December 2009. The regulation aims to provide rail travellers across the EU with basic rights, and to improve the quality of rail services, the combined effect of which would help increase the share of rail in EU transport. It establishes fundamental rights, applicable to all EU train services, with regard to: availability of tickets; compensation for injury or death in case of an accident; rail company insurance; non-discriminatory access and information for the disabled and for persons with reduced mobility (DPRM); and passengers' personal security. The regulation affords Member States a temporary opt-out for up to 15 years, from non-fundamental rights on domestic, regional, urban and sub-urban traffic. Such opt-outs concern, for instance, the level of compensation and assistance in case of delays or cancellations, or rules for re-routing, continuation of travel or reimbursement. Finally, the regulation requires railway companies to [report](#) annually on quality standards, such as punctuality, cleanliness and complaint-handling refunds.

Further to a 2012 [evaluation](#) and to its 2013 [report](#) on the regulation, in 2016 the Commission organised a [stakeholder consultation](#) aimed at defining existing problems in relation to the regulation, assessing the possible options and weighing their impact. The results of the consultation have not yet been published. To answer frequent questions raised by national enforcement bodies (NEB), passengers or other stakeholders, in 2015 the Commission also [published](#) new explanations and recommendations on best practices relating to some provisions and definitions contained in the regulation.

Implementation

According to the 2013 Commission report, EU railway companies and Member States have [implemented](#) Regulation 1371/2007 relatively effectively. The report notes the absence of deliberate, severe or systematic non-compliance, or of major ambiguities concerning any of the provisions. The Commission observes in particular that the right to information before and during the journey is generally complied with, notably in cases of disruption, and that with regard to delay or cancellation, national legislation or rail operators' practices even go beyond EU requirements. This overall positive appraisal is shared by the 2012 evaluation drawn up for the Commission. It [notes](#) that there is compliance with passengers' rights even for services that are likely to be costly, such as compensation and assistance in case of travel disruption or assistance for DPRM. No single major problem in the application of the regulatory framework is mentioned.

Main issues

Both above-mentioned reports highlight two main issues: first, the extensive exemptions granted by Member States, and second, rail operators' unsatisfactory or completely missing reports on quality performance.



Regarding the first issue, the Commission considers the application of one regime in domestic services (where exemptions are allowed) and another in cross-border services (where exemptions are not allowed), as stunting the development of a single European railway area. Moreover, Member States apply these exemptions in a non-homogenous way and this has led, according to a 2015 Commission [report](#), to a 'patchwork of different rights', 'depriving passengers of legal certainty'. The same report notes that between 2009 and 2014, only Denmark, Italy, Slovenia and the Netherlands did not apply any exemptions to the regulation. Both Commission staff and the 2012 evaluation agree that, despite some improvements, compliance with the requirement to publish quality performance reports is poor. In its 2013 report, the Commission outlines other specific issues, such as the necessity to improve and extend assistance to travellers in case of a delay of more than one hour, noting that more than 40 % of Member States had exempted their domestic traffic from this obligation. It also highlights that enforcement is lagging behind in some Member States, where NEBs are not fully fledged or empowered, or not sufficiently independent. Another important issue is the definition of '*force majeure*' and the scope of exemptions given in the regulation. The 2012 evaluation notes that while some rail operators use this term to refer to natural disasters, extreme weather conditions, strikes and demonstrations, others use the undefined term 'severe circumstances'. In its 2013 ruling (Case C-509/11) related to refunds for '*force majeure*' circumstances, the Court of Justice of the European Union [concludes](#) that the principle of '*force majeure*' does not exempt a railway company from the obligation to pay compensation in the event of a delay. Finally, according to the 2012 evaluation, the provision on rights in case of delays in journeys involving multiple segments needs to be clarified.

A 2015 European Parliament study on passenger rights across rail, road, water and air transport [says](#) that the lack of a consolidated framework costs the EU €355 million annually. It also finds 82 gaps or inconsistencies in EU legislation, 38 of them considered as major, the most problematic being that on the right to information.

European Parliament

On many occasions, Parliament has taken a stand on passenger rights, either by adopting resolutions or by submitting written questions. It has [made](#) several calls for a charter of passenger rights establishing fundamental rights for all transport modes. It has suggested overseeing and enhancing the legal framework, to avoid ambiguities or loopholes. In particular, it has [underlined](#) the need to inform passengers about their rights and obligations and to circulate widely the list of ten core EU rights for all modes. Parliament has advocated transparent and non-discriminatory ticket-pricing and clear rules to ease the access of passengers to NEBs. In several resolutions, it has [insisted](#) on taking the needs of vulnerable passengers and DPRM into consideration in terms of access to transport, information, assistance and staff training. Finally, it has called for initiatives and measures to promote seamless EU travel across all modes, [implementing](#) an integrated ticketing system in particular for domestic and cross-border rail traffic. In its written questions to the Commission, among others, Parliament has [asked for](#) ways to tighten [security](#) on trains, [discussed](#) cases of price discrimination on rail websites on the grounds of language selected and [addressed](#) the issue of national exemptions from passengers' rights. It has also [asked](#) for special provisions to facilitate the carrying of bicycles on trains and to [develop](#) wi-fi infrastructure on board.

Stakeholders

In 2002, the Community of European Railway and Infrastructure Companies (CER), the International Union of Railways (UIC) and the International Rail Transport Committee (CIT) adopted a voluntary [Charter](#) of rail passenger services to raise the quality of services provided to their customers. In 2012, CER, CIT and the European Passengers' Federation issued a [report](#) on the implementation of Regulation 1371/2007. It notes that, building upon the 2002 charter, the regulation was implemented smoothly. It underlines the improved dialogue between rail operators, passengers' representatives including associations for DPRM, and NEBs. The report also highlights that there is closer cooperation on ticketing and an increased offer of multimodal tickets, and that complaint schemes and information for passengers and DPRM have improved. Looking at the future of passengers' rights, it calls for an intermodal approach and for the involvement of all stakeholders.

In 2011, the European Disability Forum, an NGO bringing together European organisations of persons with disabilities, launched the Freedom of Movement [campaign](#). Based on the United Nations Convention on the Rights of Persons with Disabilities, to which the EU is party and [bound](#) since 22 January 2011, this campaign aims to remove all barriers for DPRM including with regard to transport. It also envisages the adoption of the European Accessibility Act, which is currently going through the ordinary legislative [procedure](#).