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**TRANS 370**  
**CODEC 1477**  
**CONSOM 307**

## PROPOSAL

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	27 September 2017
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2017) 548 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on rail passengers' rights and obligations (recast)

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Delegations will find attached document COM(2017) 548 final.

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Encl.: COM(2017) 548 final



Brussels, 27.9.2017  
COM(2017) 548 final

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)

{SWD(2017) 317 final}

{SWD(2017) 318 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### 1.1. Reasons for and objectives of the proposal

Regulation (EC) No 1371/2007 on rail passengers' rights and obligations<sup>1</sup> (the Regulation) aims to protect rail passengers in the EU. Like air, waterborne transport, bus and coach passengers, rail passengers have rights to information, reservations and tickets, assistance, care and compensation in the event of delay or cancellation, free-of-charge assistance (for persons with disabilities and for persons with reduced mobility), compensation in the event of an accident, a quick and accessible system of complaint-handling and full application and effective enforcement of EU law through national enforcement bodies (NEBs) designated by Member States.

The Regulation builds on an existing system of international law (the Uniform Rules concerning the Contract for International Carriage of Passengers and Luggage by Rail (CIV)<sup>2</sup>) and extends its scope to domestic rail passenger services.

In 2013, the Court of Justice of the European Union (CJEU) ruled that the current Article 17 of the Regulation does not allow for railway undertakings to be exempted from compensating passengers for delays caused by *force majeure*<sup>3</sup>. This distinguishes rail from other transport modes.

The Member States may exempt the following domestic services from the application of the Regulation (apart from certain mandatory requirements):

- long-distance services, for a maximum of five years, renewable twice, i.e. until 2024;
- urban, suburban and regional services, for an unlimited period; and
- services of which a significant part is operated outside the EU, for a renewable period of five years (*de facto* no time limit).

In its 2013 report on the application of the Regulation<sup>4</sup>, the Commission highlighted certain problematic areas which were confirmed by an impact assessment in 2016/2017<sup>5</sup>. This proposal strikes a balance between strengthening rail passenger rights and reducing the burden on railway undertakings, as follows:

- The 2013 application report and a 2015 report on exemptions<sup>6</sup> identified the **extensive use of exemptions** as a major hindrance to the uniform application of the Regulation. The proposal removes exemptions for long-distance domestic services by 2020. For services operated outside the EU, it requires that Member States grant exemptions only if they can prove that passengers are adequately protected on their

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<sup>1</sup> Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations (OJ L 315, 3.12.2007, p. 14).

<sup>2</sup> Appendix A to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980, as amended by the Protocol of 3 June 1999 for the modification of the COTIF (1999 Protocol).

<sup>3</sup> Case C 509/11 *ÖBB-Personenverkehr*.

<sup>4</sup> Report from the Commission to the European Parliament and the Council on the application of Regulation (EC) No 1371/2007 (COM(2013) 0587).

<sup>5</sup> (SWD link to be added).

<sup>6</sup> COM(2015) 117.

territory. To ensure legal certainty in cross-border regions, the Regulation will apply in full to urban, suburban and regional services that operate across borders.

- The proposal strengthens the **rights of persons with disabilities and of persons with reduced mobility**. For persons with disabilities it complies with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)<sup>7</sup>. Member States can no longer exempt the provision of assistance and compensation for damaged mobility equipment<sup>8</sup>. Information must be provided in accessible formats in line with the requirements proposed in the European Accessibility Act<sup>9</sup>. Rail staff will have to be trained accordingly.
- Passengers are not always adequately informed when their journey does not go according to plan. The proposal requires that they be given basic **information** on their rights at booking, e.g. printed on the ticket or electronically. Notices informing passengers of their rights have to be placed in prominent positions in stations and on board.
- The impact assessment confirmed the limited availability of **through-tickets**. Selling tickets for journey segments only, allows railway undertakings to bypass obligations relating to compensation, re-routing and assistance. By selling through-tickets on their own services only, big market players keep new entrants who cannot offer through-journeys out of the market.
- The proposal provides for passengers to be given fuller information on through-tickets. In line with the *Interpretative Guidelines* of 2015<sup>10</sup> and the 4th railway package of 2016<sup>11</sup>, railway undertakings and ticket vendors have to make efforts to offer through-tickets. They must prove that they informed passengers where their passenger rights do not apply to the whole journey but only to its segments.
- It is currently not entirely clear how NEBs should handle complaints and this results in weak **enforcement**. Passengers' rights are not always upheld. The proposal sets out the complaint-handling process and deadlines in more detail. Passengers should complain to rail operators in the first instance and then, if necessary, to an alternative dispute resolution body (in line with Directive 2013/11/EU<sup>12</sup>) or an NEB. The proposal specifies NEBs' responsibilities in cross-border cases and requires them to cooperate effectively.
- The proposal introduces a general clause prohibiting any form of **discrimination**, e.g. based on nationality, residence, location or currency of payment. This aligns rail with other modes of transport. Passengers who feel that their rights have been

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<sup>7</sup> <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

<sup>8</sup> Articles 19-25 of the Regulation.

<sup>9</sup> Proposal for a Directive on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services (COM/2015/0615 final – 2015/0278 (COD)).

<sup>10</sup> Commission Communication, *Interpretative Guidelines on Regulation (EC) No 1371/2007* (OJ C 220, 4.7.2015, p. 1).

<sup>11</sup> Directive (EU) 2016/2370 of the European Parliament and of the Council of 14 December 2016 amending Directive 2012/34/EU as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure (OJ L 352, 23.12.2016, p. 1).

<sup>12</sup> Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (OJ L 165, 18.6.2013, p. 63).

infringed can turn to NEBs rather than having to initiate court proceedings under Article 18 of the Treaty on the Functioning of the EU.

- The current inclusion of the **CIV** Uniform Rules in Annex I to the Regulation can lead to problems of consistency as amendments to the CIV cannot be reflected without a full-fledged revision of the Regulation. Having acceded to the Convention concerning International Carriage by Rail (COTIF)<sup>13</sup> in 2013, the EU is now a member of the Intergovernmental Organisation for International Carriage by Rail (OTIF) and participates in its work to revise the CIV. However, in order to ensure legal certainty and transparency, the text will remain included in Annex I. To ensure consistency with the COTIF and the CIV, the proposal introduces an empowerment for the Commission to update Annex I to take account of amendments to the CIV.
- Under the 4th railway package, railway undertakings have to draw up **contingency plans** to protect and assist passengers in the event of major transport disruptions. No such obligations exist for other actors. To reduce the burden on railway undertakings, the proposal obliges station and infrastructure managers also to have contingency plans. Member States will decide on the detail and coordination of the plans with national authorities, for example.
- Depending on applicable national rules, railway undertakings may have difficulties in obtaining redress from a third party responsible for a delay. The proposal enables railway undertakings to use a **right to redress**, in accordance with applicable law, if delays were caused by a third party's fault or negligence. The measure aligns rail passenger rights with air passenger rights<sup>14</sup>.
- Railway undertakings have to compensate passengers for delays caused by *force majeure*. Before the CJEU ruling in 2013, stakeholders commonly understood that the Regulation contained a *force majeure* clause exempting carriers from compensation. After the ruling, railway undertakings felt discriminated against as compared with other transport operators who benefit from *force majeure* exemptions.
- The impact assessment found no compelling evidence that the absence of such a clause placed a major economic burden on railway undertakings. However, there is a risk of the principles of legal fairness and proportionality being breached if the railway undertakings have to pay compensation in situations that they did not cause and could not prevent. To limit the restriction of passengers' rights and ensure legal certainty, the proposal introduces a *force majeure* clause that applies only in very exceptional situations caused by severe weather conditions and natural disasters<sup>15</sup>.

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<sup>13</sup> Agreement between the European Union and the Intergovernmental Organisation for International Carriage by Rail on the Accession of the European Union to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980, as amended by the Vilnius Protocol of 3 June 1999 (OJ L 51, 23.2.2013, p. 8); [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22013A0223\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22013A0223(01)&from=EN)

<sup>14</sup> Article 13 of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ L 46, 17.2.2004, p. 1).

<sup>15</sup> See part 6 of the impact assessment.

## 1.2. Consistency with existing policy provisions in the policy area

The 2011 transport white paper<sup>16</sup> stressed the need for high-quality, accessible and reliable passenger rail services and for mobility continuity in the event of travel disruption. It also calls for clarification of passenger rights legislation and improved transport for elderly passengers and those with disabilities or reduced mobility.

The proposal aligns rail with general aspects of passenger rights legislation on other transport modes, notably non-discrimination, contingency planning, disability training, complaint-handling and enforcement. It takes account of the specificities of rail transport, e.g. by allowing Member States to exempt urban, suburban and regional services from certain provisions.

Strengthened rights will protect passengers in the liberalised market envisaged under the 4th railway package.

By introducing a *force majeure* clause, the proposal again ensures consistency with other EU legislation, such as that on passenger rights in other transport modes and the Package Travel Directive<sup>17</sup>, which exempt operators from paying compensation where delays are caused by extraordinary circumstances.

## 1.3. Consistency with other Union policies

The Regulation will be listed in the Annex to the revised Consumer Protection Cooperation Regulation<sup>18</sup>, which sets out minimum investigation and enforcement powers for national enforcers and procedures for investigations and enforcement where at least two Member States are concerned. This is expected to strengthen cross-border enforcement.

Strengthening the rights of persons with disabilities is in line with the UNCRPD and the 2010-2020 European Disability Strategy<sup>19</sup>. Directive (EU) 2016/797 on the interoperability of the rail system (recast)<sup>20</sup> also contains references to accessibility. The requirements of the European Accessibility Act will apply as regards accessible information. Persons with reduced mobility will also benefit from better accessibility.

The proposal includes references to the COTIF (the CIV Uniform Rules), thus extending its rules to domestic rail transport in the EU. As members of OTIF, the EU and its Member States apply the CIV rules, participate in OTIF general assemblies and vote on revisions to the CIV.

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<sup>16</sup> *Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system* (COM/2011/0144 final).

<sup>17</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).

<sup>18</sup> Proposal for a Regulation of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws (COM(2016) 283).

<sup>19</sup> European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, COM(2010) 636 final, 15.11.2010.

<sup>20</sup> OJ L 138, 26.5.2016, p. 44.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

### **2.1. Legal basis**

The legal basis is Article 91 (1) of the Treaty on the Functioning of the EU, to which the co-decision procedure applies.

### **2.2. Subsidiarity (for non-exclusive competence)**

Rail transport is cross-border by nature and even domestic services are used by residents of different EU countries. The divergent application and enforcement of the Regulation creates legal uncertainty, weakens passengers' rights and affects competition among rail operators. Only coordinated EU intervention can address these issues.

The proposal will ensure similar levels of passenger protection across the EU by reducing national exemptions. More robust rules will create a level playing-field for the rail sector while harmonising basic passenger rights across the EU.

### **2.3. Proportionality**

The proposal complies with the principle of proportionality. Additional costs for the rail sector and national authorities are limited to those necessary to improve the application and enforcement of passengers' rights. Higher costs due to reduced exemptions and thus increased provision of care, assistance and compensation are balanced *inter alia* by the introduction of a *force majeure* clause.

### **2.4. Choice of instrument**

As this proposal aims to revise an existing Regulation, the same instrument will be kept.

## **3. RESULTS OF EX POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

### **3.1. Ex post evaluations/fitness checks of existing legislation**

No separate *ex post* evaluation was carried out in addition to the 2013 report. The impact assessment confirmed and, where necessary, updated the findings of the report.

### **3.2. Stakeholder consultations**

For the impact assessment, stakeholders' input was gathered by various means, including an open public consultation (OPC) and targeted consultations by an external contractor. Both qualitative input (opinions, views, suggestions) and quantitative information (data, statistics) were sought.

The stakeholders included participants from the industry, groups representing passengers/consumers, persons with disabilities and persons with reduced mobility (PRMs), and public authorities, i.e. those affected by the policy, those who apply it and those with a vested interest in it.

### *3.2.1. Open public consultation*

The OPC was held between February and May 2016 on *Your voice in Europe*<sup>21</sup> to gather stakeholders' opinions on perceived problems with the Regulation, possible solutions and their likely impacts. There were 190 replies from various categories of respondent: citizens, passenger/consumer associations, PRM organisations, public authorities, industry federations, railway undertakings, infrastructure managers, a ticket vendor and others.

### *3.2.2. Targeted consultations*

The targeted consultations involved a series of interviews based on questionnaires for the various stakeholders. A set of 13 case studies was produced and the findings were used to refine and finalise the problem definition. In addition, 13 non-case studies were prepared to collect further data.

### *3.2.3. Analysis of results in relation to the main problems identified*

#### *3.2.3.1. Awareness and information about passenger rights*

Passenger and consumer associations complained about low awareness of passenger rights. Of the PRM organisations, five (63 %) suggested that persons with disabilities and persons with reduced mobility are not well informed about their rights and called for better passenger information. The majority of public authorities confirmed low awareness levels and criticised the level of information provided during the journey. Railway undertakings argued that passengers are well informed.

#### *3.2.3.2. Exemptions*

Of the passenger and consumer associations, seven (47 %) agreed that there should be fewer exemptions. Some PRM organisations called for the removal of exemptions but four (50 %) had 'no opinion'. Industry federations and railway undertakings supported exemptions.

#### *3.2.3.3. Assistance for persons with disabilities and persons with reduced mobility*

PRM organisations complained about outdated PRM rights and insufficient information. Passenger and consumer associations shared this view. Other problems relate to the accessibility of stations and rolling stock, costly pre-notification processes, refusal to provide assistance and a lack of available assistance at certain times of the day. Railway undertakings were mostly concerned with abuses of PRM assistance as a free 'porter' service.

#### *3.2.3.4. Tasks of the NEBs and enforcement*

Citizens, passenger/consumer associations and PRM organisations complained about inadequate complaint-handling procedures. NEBs called for their roles and tasks to be clarified. The infrastructure manager considered that only railway undertakings should handle complaints. Industry federations disagreed with the proposal to strengthen the role of NEBs. They and the infrastructure manager favoured a deadline of three months for lodging complaints.

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<sup>21</sup> [https://ec.europa.eu/transport/content/stakeholder-consultation-regulation-ec-13712007-rail-passengers-rights-and-obligations\\_en](https://ec.europa.eu/transport/content/stakeholder-consultation-regulation-ec-13712007-rail-passengers-rights-and-obligations_en)



### 3.2.3.5. Ticketing

Passenger and consumer associations asked for clarification on through-tickets. Of the railway undertakings, eight (73 %) suggested that the concepts of ‘carrier’ and ‘missed connection’ were unclear, while seven (64 %) found the concept of ‘through-ticket’ clear. One NEB found that the *Interpretative Guidelines* complicated the issue of through-tickets, but industry federations did not share this view.

### 3.2.3.6. Force majeure

A majority of respondents among citizens, passengers/consumers and PRM associations, and several NEBs rejected the introduction of a *force majeure* clause. On the other hand, industry federations and railway undertakings were in favour of such a clause to bring rail into line with other transport modes and ensure legal clarity and consistency. An informal consultation of Member States showed a majority in favour of a *force majeure* clause.

## 3.3. Collection and use of expertise

The Commission sought expertise from an external contractor (Steer Davies Gleeve), collected data, prepared case studies and provided an analytical tool for the impact assessment. The study report will be publicly available once approved.

## 3.4. Impact assessment

A first impact assessment report was submitted to the Regulatory Scrutiny Board (RSB) on 18 January 2017. The RSB issued a negative opinion on the basis of shortcomings as regards, in particular, the economic justification for the introduction of a *force majeure* clause. Other issues concerned the structure and content of policy options, the representation of stakeholders’ views, and the analysis and comparison of policy impacts, especially regarding cost and monitoring arrangements.

The shortcomings were addressed as follows: in view of the high number of unconnected options, policy options were broken down, in a sequential approach analysing and comparing costs and benefits and selecting a preferred policy scenario per theme. The final preferred option is thus a combination of preferred scenarios by individual topic. As regards *force majeure*, the very limited evidence available showed the minor economic scale of the problem. Nevertheless, the impact assessment addressed the issue in response to significant stakeholder demand from the railway sector and Member States, notably to ensure that the principles of legal fairness and proportionality are respected.

A revised impact assessment report was submitted to the RSB on 7 April 2017 and received a positive opinion on 12 May 2017. The final report, which responds to the RSB's recommendations for clarifying certain aspects further, is submitted together with this proposal.

### 3.4.1. Issues linked to the economic analysis

The key economic and social costs and benefits were calculated quantitatively according to the data available. Other costs and benefits were assessed qualitatively. The overall net social value was assessed on the basis of the conflicting interests of the two main stakeholders: passengers and the rail sector. The impact assessment looked at the impact of the following on railway undertakings’ costs:

- (a) compensation for delays;

- (b) assistance for passengers in the event of disruptions/delays; and
- (c) staff training on PRM issues.

There is a direct correlation between costs and passenger welfare, e.g. more compensation for delays equals greater passenger welfare.

All costs and benefits are analysed over a 15-year period (2020-2035).

### 3.4.2. Policy option analysis by theme distinguishing between major and secondary issues

#### Major issues

Exemptions		
Policy scenario A	Policy scenario B	Policy scenario C
<ul style="list-style-type: none"> <li>Bring removal of exemptions for long-distance domestic services forward to 2020;</li> <li>Limit exemptions for services with non-EU countries</li> </ul>	<ul style="list-style-type: none"> <li>Bring removal of exemptions for long-distance domestic services forward to 2020;</li> <li>Limit exemptions for services with non-EU countries;</li> <li>Remove exemptions for cross-border urban, suburban and regional services</li> </ul>	<ul style="list-style-type: none"> <li>Bring removal of exemptions for long-distance domestic services forward to 2020;</li> <li>Limit exemptions for services with non-EU countries;</li> <li>Remove exemptions for cross-border urban, suburban and regional services;</li> <li>Remove exemptions for all urban, suburban and regional services</li> </ul>

The impact assessment selected scenario B as the preferred option. It involves a balanced compromise between the conflicting interests of passengers and railway undertakings by increasing passenger protection without imposing an excessive financial burden on the rail industry (0.13 % overall cost increase expected for the rail sector). Complete removal of exemptions on urban, suburban and regional services would represent an excessive burden for the rail sector bearing the risk that some operators decide to discontinue services.

Applicability of PRMs rights to all services	
Policy scenario A	Policy scenario B
<ul style="list-style-type: none"> <li>Guidelines to promote application of PRM rights</li> </ul>	<ul style="list-style-type: none"> <li>Regulatory provision on application of PRM rights</li> </ul>

The impact assessment selected scenario B as the preferred option. It combines greater benefits for PRMs with a low burden for the rail industry.

Information for PRMs	
Policy scenario A	Policy scenario B
<ul style="list-style-type: none"> <li>Journey information is accessible to all PRMs</li> </ul>	<ul style="list-style-type: none"> <li>Journey information is accessible to all PRMs;</li> <li>Information on passenger rights is accessible to all PRMs</li> </ul>

The impact assessment selected scenario B as the preferred option. It involves a comprehensive approach to the problem of inaccessible information without generating high costs for the rail sector.

<b>PRM assistance</b>	
Policy scenario A	Policy scenario B
<ul style="list-style-type: none"> <li>• Best-practice exchange on disability awareness training</li> </ul>	<ul style="list-style-type: none"> <li>• Require disability awareness training for rail staff</li> </ul>

Providing disability awareness training does not represent a high burden for the rail sector, with an increase of only 0.31 % in its total costs. The impact assessment therefore selected scenario B as the preferred option.

<b>Complaint-handling</b>	
Policy scenario A	Policy scenario B
<ul style="list-style-type: none"> <li>• Guidelines for the rail sector</li> </ul>	<ul style="list-style-type: none"> <li>• Regulatory provisions (new obligations for station and infrastructure managers)</li> </ul>

The impact assessment selected scenario B as the preferred option. The rail sector will have to follow a clear, detailed complaint-handling process. Passengers will have better means of complaint and redress.

<b>Through-tickets</b>	
Policy scenario A	Policy scenario B
<ul style="list-style-type: none"> <li>• Define through-ticket and linked obligations</li> </ul>	<ul style="list-style-type: none"> <li>• Define through-ticket and linked obligations;</li> <li>• Encourage railway undertakings and ticket vendors to sell through-tickets wherever possible; burden of proof on undertakings and vendors if no through-ticket was sold</li> </ul>

The impact assessment selected scenario B as the preferred option. It involves not only defining through-tickets, but also encouraging undertakings and vendors to offer them and requiring them to inform passengers about their rights.

<b>NEB complaint-handling and enforcement</b>	
Policy scenario A	Policy scenario B
<ul style="list-style-type: none"> <li>• NEBs report on their activities</li> </ul>	<ul style="list-style-type: none"> <li>• Detailed instructions on the complaint-handling process;</li> <li>• Duty on NEBs to cooperate on cross-border issues</li> </ul>

The impact assessment selected scenario B as the preferred option. It clarifies NEBs' roles and responsibilities in relation to complaint-handling and cooperation, including on cross-border issues. Improved NEB working arrangements will lead to better enforcement.

<b>Force majeure</b>	
Policy scenario A	Policy scenario B
<ul style="list-style-type: none"> <li>• Introduce a <i>force majeure</i> clause in Article 17 (compensation);</li> <li>• <u>Narrow definition</u> of <i>force majeure</i></li> </ul>	<ul style="list-style-type: none"> <li>• Introduce a <i>force majeure</i> clause in Article 17 (compensation);</li> <li>• <u>Broad definition</u> of <i>force majeure</i></li> </ul>

The introduction of a *force majeure* clause will reduce the financial burden on railway undertakings. At the same time it will reduce passengers' right to compensation. Scenario B, which is based on a broad definition of *force majeure*, involves greater financial relief for railway undertakings (EUR 1 299 million more than the baseline scenario and EUR 737 million more than scenario A). With the narrow definition (scenario A), the reduction of passenger rights will be limited, while the burden on railway undertakings will still be reduced as compared with the baseline.

The reduction in passenger rights is counter-balanced by greater benefits to passengers, notably through reduced exemptions and PRM measures, which are expected to reach EUR 191 million. As rights to assistance, care and information are not affected by the clause, a high level of consumer protection is still guaranteed. The burden on NEBs might increase slightly in view of interventions in controversial cases. The narrow definition of *force majeure* leaves less room for interpretation and will trigger fewer interventions.

The impact assessment therefore selected scenario A as the preferred option, as it ensures a fair balance between the interests of passengers and the rail industry. The burden to prove the existence of a *force majeure* lies with the railway undertaking.

### Secondary issues

For a number of secondary issues relating to information, non-discrimination, the CIV, contingency planning, the right to redress and complaint-handling by railway undertakings, only one policy scenario is suggested.

#### Information for all passengers

- Information on rail passenger rights is provided together with the ticket;
- Information on passenger rights is provided in stations and on board trains

#### Non-discrimination

- Prevent discrimination on the basis of nationality, location or currency

#### CIV

- Consistency between the Regulation and the COTIF/CIV rules

Introducing a specific empowerment for the Commission to update the Annex I of the Regulation to take account of amendments to the CIV will ensure consistency between the two.

#### Contingency planning

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|---|
| <ul style="list-style-type: none"><li>• Service-continuity and contingency-planning obligations apply to actors other than railway undertakings</li></ul> |
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Burden-sharing with other stakeholders will limit the cost for railway undertakings.

<b>Right to redress</b>
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| <ul style="list-style-type: none"><li>• Right to redress from third parties</li></ul> |
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Railway undertakings will have easier access to redress from third parties responsible for delays.

<b>Complaint-handling for railway undertakings</b>
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| <ul style="list-style-type: none"><li>• Specify deadlines for passengers to lodge complaints</li></ul> |
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Time limits for lodging complaints will reduce costs, as incident data will not need to be stored for a long period of time.

### **3.5. Fundamental rights**

Article 38 of the Charter of Fundamental Rights requires that Union policies ensure a high level of consumer protection. Article 26 of the Charter calls for the integration of persons with disabilities and requires Member States to take measures to ensure their independence, social and occupational integration, and participation in the life of the community. Strengthening the rights of rail passengers in the EU will further raise the overall high level of consumer protection.

## **4. BUDGETARY IMPLICATIONS**

The proposal has no implications for the EU budget.

## **5. OTHER ELEMENTS**

### **5.1. Implementation plans and monitoring, evaluation and reporting arrangements**

The Commission will monitor the implementation and effectiveness of this initiative on the basis of progress indicators such as numbers of exempted services, percentage of staff receiving disability training, number of assistance requests, compliance with information requirements, number of through-tickets sold, number of complaints and compensation payments. Five years after the entry into force of the proposed legislation, the Commission will evaluate whether its objectives were reached.

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 ~~71~~  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>,

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:

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↓ new

(1) A number of amendments are to be made to Regulation (EC) No 1371/2007 of the European Parliament and of the Council<sup>4</sup>. In the interests of clarity, that Regulation should be recast.

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

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

<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.~~

<sup>4</sup> Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations (OJ L 315, 3.12.2007, p. 14).

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↓ 1371/2007/EC recital 1

- (2) In the framework of the common transport policy, it is important to safeguard users' rights for rail passengers and to improve the quality and effectiveness of rail passenger services in order to help increase the share of rail transport in relation to other modes of transport.

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↓ 1371/2007/EC recital 2  
(adapted)

~~The Commission's Communication Consumer Policy Strategy 2002-2006<sup>5</sup> sets the aim of achieving a high level of consumer protection in the field of transport in accordance with Article 153(2) of the Treaty.~~

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↓ new

- (3) Despite considerable progress made in protecting consumers in the Union, further improvements in protecting the rights of rail passengers are still to be made.

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↓ 1371/2007/EC recital 3

- (4) Since the rail passenger is the weaker party to the transport contract, passengers' rights in this respect should be safeguarded.

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↓ new

- (5) Granting the same rights to rail passengers taking international and domestic journeys should raise the level of consumer protection in the Union, ensure a level playing-field for railway undertakings and guarantee a uniform level of rights for passengers.

- (6) Urban, suburban and regional rail passenger services are different in character from long-distance services. Member States should therefore be allowed to exempt urban, suburban and regional rail passenger services which are not cross-border services within the Union from certain provisions on passengers' rights.

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↓ 1371/2007/EC recital 24  
(adapted)  
⇒ new

- (7) It is an aim of this Regulation to improve rail passenger services within the ☒ Union ☒ ~~Community~~. Therefore, Member States should be able to grant exemptions for services in regions where a significant part of the service is operated

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<sup>5</sup> ~~OJ C 137, 8.6.2002, p. 2~~



outside the ☒ Union, ☒ Community ⇒ provided that an adequate level of passenger rights is ensured on the part of such services provided on those Member States' territory, in accordance with their national law ⇐.

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↓ new

- (8) However, the exemptions should not apply to the provisions of this Regulation that facilitate the use of rail services by persons with disabilities or persons with reduced mobility. Furthermore, exemptions should not apply to the rights of those wishing to purchase tickets for travel by rail to do so without undue difficulty, to the provisions on railway undertakings' liability in respect of passengers and their luggage, to the requirement that railway undertakings be adequately insured, and to the requirement that they take adequate measures to ensure passengers' personal security in railway stations and on trains and to manage risk.
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↓ 1371/2007/EC recital 4  
⇒ new

- (9) Users' rights to rail services include the receipt of information regarding the service both before and during the journey. Whenever possible, railway undertakings and ticket vendors should provide this information in advance and as soon as possible. ⇒ That information should be provided in accessible formats for persons with disabilities or persons with reduced mobility. ⇐
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↓ 1371/2007/EC recital 5  
(adapted)

- (10) More detailed requirements regarding the provision of travel information ~~will be~~ ☒ are ☒ set out in the technical specifications for interoperability (TSIs) referred to in Commission Regulation (EU) No 454/2011<sup>6</sup> ~~Directive 2001/16/EC of the European Parliament and of the Council of 19 March 2001 on the interoperability of the conventional rail system<sup>7</sup>.~~
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↓ 1371/2007/EC recital 6  
(adapted)

- ~~(11)~~ Strengthening of the rights of rail passengers should build on the existing system of international law ~~on this subject~~ contained in Appendix A — Uniform rules concerning the Contract for International Carriage of Passengers and Luggage by Rail (CIV) to the Convention concerning International Carriage by Rail (COTIF) of 9 May
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<sup>6</sup> Commission Regulation (EU) No 454/2011 of 5 May 2011 on the technical specification for interoperability relating to the subsystem 'telematics applications for passenger services' of the trans-European rail system (OJ L 123, 12.5.2011, p.11).

<sup>7</sup> OJ L 110, 20.4.2001, p. 1. Directive as last amended by Commission Directive 2007/32/EC (OJ L 141, 2.6.2007, p. 63).

1980, as modified by the Protocol for the modification of the Convention concerning International Carriage by Rail of 3 June 1999 (1999 Protocol). However, it is desirable to extend the scope of this Regulation and protect not only international passengers but domestic passengers too. ☒ On 23 February 2013, the Union acceded to the COTIF. ☒

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↓ new

(12) In the context of the sale of tickets for the transport of passengers, Member States should take all necessary measures to prohibit discrimination on the basis of nationality or residence, regardless whether the passenger concerned is present, permanently or on a temporary basis, in another Member State. Those measures should cover all covert forms of discrimination which, by the application of other criteria, such as residence, physical or digital location, may have the same effect. In light of the development of online platforms selling passenger transport tickets, Member States should pay special attention to ensuring that no discrimination occurs during the process of accessing online interfaces or purchasing tickets. However, transport schemes involving social tariffs should not be automatically precluded, provided that they are proportionate and independent of the nationality of the persons concerned.

(13) The increasing popularity of cycling across the Union has implications for overall mobility and tourism. An increase in the use of both railways and cycling in the modal split reduces the environmental impact of transport. Therefore, railway undertakings should facilitate the combination of cycling and train journeys as much as possible, in particular by allowing the carriage of bicycles on board trains.

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↓ 1371/2007/EC recital 7  
(adapted)

(14) Railway undertakings should cooperate to facilitate the transfer of rail passengers from one operator to another by the provision of through-tickets, whenever possible.

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↓ 1371/2007/EC recital 8

~~The provision of information and tickets for rail passengers should be facilitated by the adaptation of computerised systems to a common specification.~~

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↓ 1371/2007/EC recital 9

~~The further implementation of travel information and reservation systems should be executed in accordance with the TSIs.~~

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↓ 1371/2007/EC	recital	10
(adapted)		
⇒ new		

(15) ⇒ In the light of the United Nations Convention on the Rights of Persons with Disabilities and in order to give persons with disabilities and persons with reduced mobility opportunities for rail travel comparable to those of other citizens, rules for non-discrimination and assistance during their journey should be established. ⇐ ~~Rail passenger services should benefit citizens in general. Consequently, disabled persons~~ ~~Persons~~ ~~with disabilities~~ ~~and persons with reduced mobility, whether caused by disability, age or any other factor, should have opportunities for rail travel comparable to those of other citizens. Disabled persons and persons with reduced mobility have the same right as all other citizens to free movement, freedom of choice and to non-discrimination. Inter alia, special attention should be given to the provision of information to disabled persons~~ ~~with disabilities~~ ~~and persons with reduced mobility concerning the accessibility of rail services, access conditions of rolling stock and the facilities on board. In order to provide passengers with sensory impairment with the best information on delays, visual and audible systems should be used, as appropriate. disabled persons~~ ~~with disabilities~~ ~~and persons with reduced mobility should be enabled to buy tickets on board a train without extra charges.~~ ⇒ Staff should be adequately trained to respond to the needs of persons with disabilities and persons with reduced mobility, notably when providing assistance. To ensure equal travel conditions, such persons should be provided with assistance at stations and on board at all times when trains operate and not only at certain times of the day. ⇐

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↓ 1371/2007/EC	recital	11
(adapted)		
⇒ new		

(16) Railway undertakings and station managers should take into account the needs of ~~disabled persons~~ ~~with disabilities~~ ~~and persons with reduced mobility, through compliance with the TSI for persons with reduced mobility, so as to ensure that~~ ~~in addition~~ ~~, in accordance with Community~~ ~~Union~~ ~~public procurement rules,~~ ⇒ in particular Directive 2014/24/EU of the European Parliament and of the Council<sup>8</sup>, ⇐ all buildings and rolling stock ~~are~~ ~~should be~~ ~~made accessible through the progressive elimination of physical obstacles and functional hindrances when acquiring new material or carrying out construction or major renovation work.~~

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<sup>8</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

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↓ 1371/2007/EC recital 14  
(adapted)  
⇒ new

- (17) It is desirable that this Regulation create a system of compensation for passengers in the case of delay which is linked to the liability of the railway undertaking, on the same basis as the international system provided by the COTIF and in particular ~~appendix~~ CIV ☒ Uniform Rules ☒ thereto relating to passengers' rights. ⇒ In the event of a delay of a passenger service, railway undertakings should provide passengers with compensation based on a percentage of the ticket price. ⇐

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↓ 1371/2007/EC recital 12  
⇒ new

- (18) Railway undertakings should be obliged to be insured, or to make equivalent arrangements, for their liability to rail passengers in the event of accident. ~~The minimum amount of insurance for railway undertakings should be the subject of future review.~~ ⇒ Where Member States set a maximum amount for compensatory damages in the event of death or personal injury to passengers, that amount should be at least equivalent to the amount set out in the CIV Uniform Rules. ⇐

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↓ 1371/2007/EC recital 13

- (19) Strengthened rights of compensation and assistance in the event of delay, missed connection or cancellation of a service should lead to greater incentives for the rail passenger market, to the benefit of passengers.

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↓ new

- (20) In the event of delay, passengers should be provided with continued or re-routed transport options under comparable transport conditions. The needs of persons with disabilities and persons with reduced mobility should be taken into account in such an event.

- (21) However, a railway undertaking should not be obliged to pay compensation if it can prove that the delay was caused by severe weather conditions or major natural disasters endangering the safe operation of the service. Any such event should have the character of an exceptional natural catastrophe, as distinct from normal seasonal weather conditions, such as autumnal storms or regularly occurring urban flooding caused by tides or snowmelt. Railway undertakings should prove that they could neither foresee nor prevent the delay even if all reasonable measures had been taken.

- (22) In cooperation with infrastructure managers and railway undertakings, station managers should prepare contingency plans to minimise the impact of major disruptions by providing stranded passengers with adequate information and care.

(23) This Regulation should not restrict the rights of railway undertakings to seek compensation from any person, including third parties, in accordance with applicable national law.

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↓ 1371/2007/EC recital 15

(24) Where a Member State grants railway undertakings an exemption from the provisions of this Regulation, it should encourage railway undertakings, in consultation with organisations representing passengers, to put in place arrangements for compensation and assistance in the event of major disruption to a rail passenger service.

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↓ 1371/2007/EC recital 16

(25) It is also desirable to relieve accident victims and their dependants of short-term financial concerns in the period immediately after an accident.

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↓ 1371/2007/EC recital 17

(26) It is in the interests of rail passengers that adequate measures be taken, in agreement with public authorities, to ensure their personal security at stations as well as on board trains.

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↓ 1371/2007/EC recital 18

(27) Rail passengers should be able to submit a complaint to any railway undertaking involved regarding the rights and obligations conferred by this Regulation, and be entitled to receive a response within a reasonable period of time.

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↓ 1371/2007/EC recital 19

⇒ new

(28) Railway undertakings ⇒ and station managers ⇐ should define, ⇒ make publicly available, ⇐ manage and monitor service quality standards for rail passenger services.

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↓ 1371/2007/EC recital 20

~~The contents of this Regulation should be reviewed in respect of the adjustment of financial amounts for inflation and in respect of information and service quality requirements in the light of market developments as well as in the light of the effects on service quality of this Regulation.~~

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↓ new

- (29) To maintain a high level of consumer protection in rail transport, Member States should be required to designate national enforcement bodies to monitor closely and enforce this Regulation at national level. Those bodies should be able to take a variety of enforcement measures. Passengers should be able to complain to those bodies about alleged infringements of the Regulation. To ensure the satisfactory handling of such complaints, the bodies should also cooperate with each other.
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↓ 1371/2007/EC recital 21  
(adapted)  
⇒ new

- (30) ⇒ Processing of personal data should be carried out in accordance with Union law on the protection of personal data, in particular with ~~↔ This Regulation should be without prejudice to Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>9</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>10</sup>.~~
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↓ 1371/2007/EC recital 22

- (31) Member States should lay down penalties applicable to infringements of this Regulation and ensure that these penalties are applied. The penalties, which might include the payment of compensation to the person in question, should be effective, proportionate and dissuasive.
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↓ 1371/2007/EC recital 23  
(adapted)

- (32) Since the objectives of this Regulation, namely the development of the ~~↔~~ Union's ~~↔~~ ~~Community's~~ railways and the introduction of passenger rights, cannot be sufficiently achieved by the Member States, and can therefore be better achieved at ~~↔~~ Union ~~↔~~ ~~Community~~ level, the ~~↔~~ Union ~~↔~~ ~~Community~~ may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

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<sup>9</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>10</sup> ~~OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).~~

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↓ new

(33) In order to ensure a high level of passenger protection, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated on the Commission to amend the Annexes I, II, and III in respect of the CIV Uniform Rules, the minimum information to be provided by railway undertakings and ticket vendors, on minimum service quality standards, and to adjust, in the light of inflation, the financial amounts referred to in the Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>11</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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↓ 1371/2007/EC recital 25  
(adapted)

~~Railway undertakings in some Member States may experience difficulty in applying the entirety of the provisions of this Regulation on its entry into force. Therefore, Member States should be able to grant temporary exemptions from the application of the provisions of this Regulation to long distance domestic rail passenger services. The temporary exemption should, however, not apply to the provisions of this Regulation that grant disabled persons or persons with reduced mobility access to travel by rail, nor to the right of those wishing to purchase tickets for travel by rail to do so without undue difficulty, nor to the provisions on railway undertakings' liability in respect of passengers and their luggage, the requirement that undertakings be adequately insured, and the requirement that those undertakings take adequate measures to ensure passengers' personal security in railway stations and on trains and to manage risk.~~

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↓ 1371/2007/EC recital 26

~~Urban, suburban and regional rail passenger services are different in character from long distance services. Therefore, with the exception of certain provisions which should apply to all rail passenger services throughout the Community, Member States should be able to grant exemptions from the application of the provisions of this Regulation to urban, suburban and regional rail passenger services.~~

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<sup>11</sup> OJ L 123, 12.5.2016, p. 1.

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↓ 1371/2007/EC recital 27

~~The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>12</sup>.~~

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↓ 1371/2007/EC recital 28

~~In particular, the Commission should be empowered to adopt implementing measures. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation, or to supplement it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.~~

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↓ new

(34) This Regulation respects fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union, in particular Articles 21, 26, 38 and 47 concerning, respectively, the prohibition of any form of discrimination, the integration of persons with disabilities, a high level of consumer protection, and the right to an effective remedy and to a fair trial. The Member States' courts must apply this Regulation in a manner consistent with these rights and principles,

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↓ 1371/2007/ EC (adapted)

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>12</sup> OJ L 184, 17.7.1999, p.23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p.11).



↓ new

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

↓ 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;~~

↓ new

(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) passengers' rights in the event of cancellation or delay;

↓ 1371/2007/EC (adapted)

⇒ new

⇒ (e) minimum ⇐  information to be provided to passengers;

~~(d) the protection of~~ ⇒ non-discrimination against ⇐, and ⇒ mandatory ⇐ assistance ~~to~~  for  , ~~disabled~~ persons  with disabilities  and persons with reduced mobility ~~travelling by rail~~;

~~(e) the definition and monitoring of service quality standards~~  and  the management of risks to the personal security of passengers; ~~and~~

~~(h) the handling of complaints~~; ~~and~~

~~(f) 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>13</sup> ~~Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings<sup>14</sup>~~.

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

<sup>13</sup> OJ L 343, 14.12.2012, p. 32.

<sup>14</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. 14).~~

~~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.~~

~~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>15</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

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 as referred to in Directive 2012/34/EU, except cross-border services within the Union;
- (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 and 25 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.

<sup>15</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).~~

### Article 3

#### Definitions

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

- (1) ‘railway undertaking’ means a railway undertaking as defined in Article ~~2~~ 3(1) of Directive ~~2001/14/EC<sup>16</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;~~
- ~~(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;~~
- ~~(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;~~
- ~~(4) ‘infrastructure manager’ means  $\Rightarrow$  an infrastructure manager  $\Leftarrow$  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;~~
- ~~(5) ‘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;~~
- ~~(6) ‘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>17</sup> (EU) 2015/2302 of the European Parliament and of the Council<sup>18</sup>;~~
- ~~(7) ‘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;~~
- ~~(8) ‘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;~~

<sup>16</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.~~

<sup>17</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>18</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).

(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;

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↓ new

(9) 'service' means a passenger rail 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;

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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; ⇐

(1213) '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 .

(1314) '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;~~

~~(e) 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' or '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

(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).

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↓ 1371/2007/ EC

## 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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↓ new

*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

*Article ~~5~~ 6*

**Bicycles**

~~Railway undertakings shall enable passengers~~  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 keep their bicycles under supervision during the journey and ensure that no inconvenience or damage is caused 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 in accordance with Regulation (EU) No 454/2011.

*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,  including in accessible formats for persons with disabilities in accordance with accessibility requirements laid down

in Directive XXX<sup>19</sup>, and before their implementation, decisions to discontinue services either permanently or temporarily.

#### Article 9

##### Travel information

- ~~Without prejudice to Article 10,~~ 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.
- Railway undertakings and, where possible, ticket vendors shall provide the passenger during the journey, including at connecting stations, with at least the information set out in Annex II, Part II.
- The information referred to in paragraphs 1 and 2 shall be provided in the most appropriate format including by using up-to-date communication technologies. Particular attention shall be paid ~~in this regard to the needs of people with auditory and/or visual impairment~~ 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.

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↓ new

- Station managers and infrastructure managers shall make real-time data relating to trains, including those operated by other railway undertakings available to railway undertakings and ticket vendors, in a non-discriminatory manner.

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↓ 1371/2007/EC (adapted)  
⇒ new

#### Article 10

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

- Railway undertakings and ticket vendors shall offer, ~~where available,~~ tickets and, where available, through-tickets and reservations. They shall make all possible efforts to offer through-tickets, including for journeys across borders and with more than one railway undertaking.
- 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:

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<sup>19</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).

- (a) ticket offices or ~~selling~~  ticketing  machines;
- (b) telephone, the Internet or any other widely available information technology;
- (c) 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;
- (b) of the nearest railway station or place at which ticket offices and/or ~~selling~~  ticketing  machines are available.

↓ new

5. Where there is no ticket office or accessible ticketing machine in the station of 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 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

#### *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 railway undertaking to ☒ be adequately insured ⇒ , in accordance with Article 22 of Directive 2012/34/EU and on the basis of an assessment of its risks, ⇐ 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.

## **CHAPTER IV**

### **DELAYS, MISSED CONNECTIONS AND CANCELLATIONS**

#### *Article 15*

#### **Liability for delays, missed connections and cancellations**

Subject to the provisions of this Chapter, the liability of railway undertakings in respect of delays, missed connections and cancellations shall be governed by Chapter II of Title IV of Annex I.

↓ 1371/2007/EC (adapted)  
⇒ new

#### *Article 16*

#### **Reimbursement and re-routing**

1. Where it is reasonably to be expected ⇒ , either at departure or in the event of a missed connection in the course of a journey with a through-ticket, ⇐ that arrival at the final destination under the transport contract will be subject to a delay of more than 60 minutes, the passenger shall immediately have the choice between ☒ one of the following ☒ :
  - (a) reimbursement of the full cost of the ticket, under the conditions by which it was paid, for the part or parts of his or her journey not made and for the part or parts already made if the journey is no longer serving any purpose in relation to

the passenger's original travel plan, together with, when relevant, a return service to the first point of departure at the earliest opportunity. The payment of the reimbursement shall be made under the same conditions as the payment for compensation referred to in Article 17; ~~en~~

- (b) continuation or re-routing, under comparable transport conditions, to the final destination at the earliest opportunity; ~~en~~
- (c) continuation or re-routing, under comparable transport conditions, to the final destination at a later date at the passenger's convenience.

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↓ new

- 2. For the purposes of point (b) of paragraph 1, comparable re-routing may be operated by any railway undertaking and may involve the use of transport of a higher class and alternative modes of transport without generating additional costs to the passenger. Railway undertakings shall make reasonable efforts to avoid additional connections. The total travel time when using an alternative mode of transport for the part of the journey not completed as planned shall be comparable to the scheduled travel time of the original journey. Passengers shall not be downgraded to transport facilities of a lower class unless such facilities are the only re-routing means available.
- 3. Re-routing transport service providers shall pay particular attention to providing persons with disabilities and persons with reduced mobility with a comparable level of accessibility to the alternative service.

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↓ 1371/2007/EC (adapted)  
⇒ new

### Article 17

#### Compensation of the ticket price

- 1. Without losing the right of transport, a passenger may request compensation for delays from the railway undertaking if he or she is facing a delay between the places of departure and destination stated ~~on the ticket~~ ⇒ in the transport contract ⇐ for which the  cost of the  ticket has not been reimbursed in accordance with Article 16. The minimum compensations for delays shall be as follows:
  - (a) 25 % of the ticket price for a delay of 60 to 119 minutes,
  - (b) 50 % of the ticket price for a delay of 120 minutes or more.
- 2.  Paragraph 1 also applies to  ~~passengers~~ passengers who hold a travel pass or season ticket.  If they  ~~and who~~ encounter recurrent delays or cancellations during ~~its~~  the  period of validity ⇒ of the travel pass or season ticket, they ⇐ may request adequate compensation in accordance with the railway undertaking's compensation arrangements. These arrangements shall state the criteria for determining delay and for the calculation of the compensation. ⇒ Where delays of less than 60 minutes occur repeatedly during the period of validity of the travel pass or season ticket, the delays shall be counted cumulatively and passengers shall be

compensated in accordance with the railway undertaking's compensation arrangements. ↩

3. Compensation for delay shall be calculated in relation to the ☒ full ☒ price which the passenger actually paid for the delayed service. Where the transport contract is for a return journey, compensation for delay on either the outward or the return leg shall be calculated in relation to half of the price paid for the ticket. In the same way the price for a delayed service under any other form of transport contract allowing travelling several subsequent legs shall be calculated in proportion to the full price.
4. The calculation of the period of delay shall not take into account any delay that the railway undertaking can demonstrate as having occurred outside the territories ☒ of the Union ☒ ~~in which the Treaty establishing the European Community is applied.~~
25. The compensation of the ticket price shall be paid within one month after the submission of the request for compensation. The compensation may be paid in vouchers and/or other services if the terms are flexible (in particular regarding the validity period and destination). The compensation shall be paid in money at the request of the passenger.
36. The compensation of the ticket price shall not be reduced by financial transaction costs such as fees, telephone costs or stamps. Railway undertakings may introduce a minimum threshold under which payments for compensation will not be paid. This threshold shall not exceed EUR 4 ☒ per ticket ☒.
47. The passenger shall not have any right to compensation if he is informed of a delay before he buys a ticket, or if a delay due to continuation on a different service or re-routing remains below 60 minutes.

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↓ new

8. A railway undertaking shall not be obliged to pay compensation if it can prove that the delay was caused by severe weather conditions or major natural disasters endangering the safe operation of the service and could not have been foreseen or prevented even if all reasonable measures had been taken.

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↓ 1371/2007/EC (adapted)  
⇒ new

### *Article 18*

#### **Assistance**

1. In the case of a delay in arrival or departure, passengers shall be kept informed of the situation and of the estimated departure time and estimated arrival time by the railway undertaking ⇒ or ticket vendor ↩ or by the station manager as soon as such information is available.
2. In the case of any delay as referred to in paragraph 1 of more than 60 minutes, passengers shall also be offered free of charge:
  - (a) meals and refreshments in reasonable relation to the waiting time, if they are available on the train or in the station, or can reasonably be supplied ⇒ taking

into account criteria such as the distance from the supplier, the time required for delivery and the cost ⇐;

- (b) hotel or other accommodation, and transport between the railway station and place of accommodation, in cases where a stay of one or more nights becomes necessary or an additional stay becomes necessary, where and when physically possible;
  - (c) if the train is blocked on the track, transport from the train to the railway station, to the alternative departure point or to the final destination of the service, where and when physically possible.
3. If the railway service cannot be continued anymore, railway undertakings shall organise as soon as possible alternative transport services for passengers.
  4. Railway undertakings shall, at the request of the passenger, certify on the ticket ⇒ or by any other means ⇐ that the rail service has suffered a delay, led to a missed connection or that it has been cancelled, as the case might be.
  5. In applying paragraphs 1, 2, ~~and~~ 3 ⇒ and 4 ⇐, the operating railway undertaking shall pay particular attention to the needs of ~~disabled~~ persons ☒ with disabilities ☒ and persons with reduced mobility and any accompanying persons.

↓ new

6. In addition to the obligations on railway undertakings pursuant to Article 13a(3) of Directive 2012/34/EU, the station manager of a railway station handling at least 10 000 passengers per day on average over a year shall ensure that the operations of the station, the railway undertakings and the infrastructure manager are coordinated through a proper contingency plan in order to prepare for the possibility of major disruption and long delays leading to a considerable number of passengers being stranded in the station. The plan shall ensure that stranded passengers are provided with adequate assistance and information, including in accessible formats in accordance with the accessibility requirements laid down in Directive XXX. Upon request, the station manager shall make the plan, and any amendments to it, available to the national enforcement body or to any other body designated by a Member State. Station managers of railway stations handling fewer than 10 000 passengers per day on average over a year shall make all reasonable efforts to coordinate station users and to assist and inform stranded passengers in such situations.

#### Article 19

#### **Right of redress**

Where a railway undertaking pays compensation or meets its other obligations in accordance with this Regulation, no provision of this Regulation or national law may be interpreted as restricting its right to seek compensation for costs from any person, including third parties, in accordance with the law applicable. In particular, this Regulation shall in no way restrict the railway undertaking's right to seek reimbursement from a third party, with whom it has a contract and which contributed to the event which triggered compensation or other obligations. No provision of this Regulation may be interpreted as restricting the right of a third party, other than a passenger, with whom a railway undertaking has a contract, to seek

## CHAPTER V

### ~~DISABLED~~ PERSONS ☒ WITH DISABILITIES ☒ AND PERSONS WITH REDUCED MOBILITY

#### Article ~~19~~20

##### Right to transport

1. Railway undertakings and station managers shall, with the active involvement of representative organisations of ~~disabled~~ persons ☒ with disabilities ☒ and persons with reduced mobility, establish, or shall have in place, non-discriminatory access rules for the transport of ~~disabled~~ persons ☒ with disabilities ☒ and persons with reduced mobility ⇒ including their personal assistants ⇐. ⇒ The rules shall allow the passenger to be accompanied by an assistance dog in accordance with any relevant national rules. ⇐
2. Reservations and tickets shall be offered to ~~disabled~~ persons ☒ with disabilities ☒ and persons with reduced mobility at no additional cost. A railway undertaking, ticket vendor or tour operator may not refuse to accept a reservation from, or issue a ticket to, a ~~disabled~~ person ☒ with disabilities ☒ or a person with reduced mobility, or require that such person be accompanied by another person, unless this is strictly necessary in order to comply with the access rules referred to in paragraph 1.

#### Article ~~20~~21

##### Information to ~~disabled~~ persons ☒ with disabilities ☒ and persons with reduced mobility

1. Upon request, ⇒ a station manager, ⇐ a railway undertaking, a ticket vendor or a tour operator shall provide ~~disabled~~ persons ☒ with disabilities ☒ and persons with reduced mobility with information ⇒ , including in accessible formats in accordance with the accessibility requirements laid down in Regulation (EU) No 454/2011 and Directive XXX, ⇐ on the accessibility of ⇒ the station and associated facilities, ⇐ rail services and on the access conditions of rolling stock in accordance with the access rules referred to in Article ~~20~~19(1) and shall inform ~~disabled~~ persons ☒ with disabilities ☒ and persons with reduced mobility about facilities on board.
2. When a railway undertaking, ticket vendor ~~and/or~~ tour operator exercises the derogation provided for in Article ~~20~~19(2), it shall upon request inform in writing the ~~disabled~~ person ☒ with disabilities ☒ or person with reduced mobility concerned of its reasons for doing so within five working days of the refusal to make the reservation or to issue the ticket or the imposition of the condition of being

accompanied. ⇒ The railway undertaking, ticket vendor or tour operator shall make reasonable efforts to propose an alternative transport option to the person in question taking into account his or her accessibility needs. ⇐

#### ~~Article 21~~

#### ~~Accessibility~~

~~1. Railway undertakings and station managers shall, through compliance with the TSI for persons with reduced mobility, ensure that the station, platforms, rolling stock and other facilities are accessible to disabled persons and persons with reduced mobility.~~

#### Article 22

#### Assistance at railway stations

1. On departure from, transit through or arrival at, a staffed railway station of a ~~disabled~~ person ☒ with disabilities ☒ or a person with reduced mobility, the station manager ⇒ or the railway undertaking or both ⇐ shall provide assistance free of charge in such a way that that person is able to board the departing service, or to disembark from the arriving service for which he or she purchased a ticket, without prejudice to the access rules referred to in Article ~~2019~~(1).

2. In the absence of ~~accompanying staff on board a train or~~ of staff at a station, railway undertakings and station managers shall make all reasonable efforts to enable disabled persons or persons with reduced mobility to have access to travel by rail.

~~2. Member States may provide for a derogation from paragraph 1 in the case of persons travelling on services which are the subject of a public service contract awarded in conformity with Community law, on condition that the competent authority has put in place alternative facilities or arrangements guaranteeing an equivalent or higher level of accessibility of transport services.~~

3. In unstaffed stations, railway undertakings and station managers shall ensure that easily ~~accessible~~ ☒ available ☒ information ⇒ , including in accessible formats in accordance with the accessibility requirements laid down in Directive XXX, ⇐ is displayed in accordance with the access rules referred to in Article ~~2019~~(1) regarding the nearest staffed stations and directly available assistance for ~~disabled~~ persons ☒ with disabilities ☒ and persons with reduced mobility.

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↓ new

4. Assistance shall be available in stations during all times when rail services operate.

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↓ 1371/2007/EC (adapted)

#### Article 23

#### Assistance on board

1. Without prejudice to the access rules as referred to in Article ~~2019~~(1), railway undertakings shall provide ~~disabled~~ persons ☒ with disabilities ☒ and persons

with reduced mobility assistance free of charge on board a train and during boarding and disembarking from a train.

2. In the absence of accompanying staff on board a train, railway undertakings shall make reasonable efforts to enable persons with disabilities or persons with reduced mobility to have access to travel by rail.

3. For the purposes of this Article, assistance on board shall consist of all reasonable efforts to offer assistance to a ~~disabled~~ person with disabilities or a person with reduced mobility in order to allow that person to have access to the same services in the train as other passengers, should the extent of the person's disability or reduced mobility not allow him or her to have access to those services independently and in safety.

↓ new

4. Assistance shall be available on board trains during all times when rail services operate.

↓ 1371/2007/EC (adapted)  
⇒ new

#### Article 24

##### Conditions ~~on~~ under which assistance is provided

Railway undertakings, station managers, ticket vendors and tour operators shall cooperate in order to provide assistance to ~~disabled~~ persons with disabilities and persons with reduced mobility in line with Articles ~~2022~~ and ~~2123~~ in accordance with the following points:

- (a) assistance shall be provided on condition that the railway undertaking, the station manager, the ticket vendor or the tour operator with which the ticket was purchased is notified of the person's need for such assistance at least 48 hours before the assistance is needed. Where ~~the~~ a ticket or season ticket permits multiple journeys, one notification shall be sufficient provided that adequate information on the timing of subsequent journeys is provided. Such notifications shall be forwarded to all other railway undertakings and station managers involved in the person's journey;
- (b) railway undertakings, station managers, ticket vendors and tour operators shall take all measures necessary for the reception of notifications;
- (c) if no notification is made in accordance with point (a), the railway undertaking and the station manager shall make all reasonable efforts to provide assistance in such a way that the ~~disabled~~ person with disabilities or person with reduced mobility may travel;
- (d) without prejudice to the powers of other entities regarding areas located outside the railway station premises, the station manager or any other authorised person shall designate points, within and outside the railway station, at which ~~disabled~~ persons with disabilities and persons with reduced mobility can ~~announce~~ make known their arrival at the railway station and, if need be, request assistance;



- (e) assistance shall be provided on condition that the ~~disabled~~ person ☒ with disabilities ☒ or person with reduced mobility presents him or herself at the designated point at a time stipulated by the railway undertaking or station manager providing such assistance. Any time stipulated shall not be more than 60 minutes before the published departure time or the time at which all passengers are asked to check in. If no time is stipulated by which the ~~disabled~~ person ☒ with disabilities ☒ or person with reduced mobility is required to present him or herself, the person shall present him or herself at the designated point at least 30 minutes before the published departure time or the time at which all passengers are asked to check in.

#### Article 25

### Compensation in respect of mobility equipment, ~~or~~ other specific equipment ☒ or assistive devices ☒

1. ~~If the ☒ Where ☒ railway undertaking ☒ undertakings and station managers cause ☒ is liable for the total or partial loss of, or damage to, ☒ wheelchairs, other ☒ mobility equipment or other specific equipment ☒ assistive devices ☒ and assistant dogs ☒ used by disabled persons ☒ with disabilities and ☒ or persons with reduced mobility, no financial limit shall be applicable ☒ they shall be liable for and compensate that loss or damage ☒.~~

↓ new

2. The compensation referred to in paragraph 1 shall be equal to the cost of replacement or repair of the equipment or devices lost or damaged.
3. Where necessary, railway undertakings and station managers shall make every reasonable effort rapidly to provide temporary replacements for specific equipment or assistive devices, which shall, where possible, have technical and functional features equivalent to those lost or damaged. The person with disabilities or reduced mobility shall be permitted to keep the temporary replacement equipment or device until the compensation referred to in paragraphs 1 and 2 has been paid.

#### Article 26

### Staff training

Railway undertakings and station managers shall:

- (a) ensure that all personnel, including those employed by any other performing party, providing direct assistance to persons with disabilities and persons with reduced mobility, know how to meet the needs of persons with disabilities and of persons with reduced mobility, including those with mental and intellectual impairments;
- (b) provide training to raise awareness of the needs of persons with disabilities among all personnel working at the station who deal directly with the travelling public;
- (c) ensure that, upon recruitment, all new employees receive disability-related training and that personnel attend regular refresher training courses.

- (d) accept upon request the participation, in the training, of employees with disabilities, passengers with disabilities and with reduced mobility, and/or organisations representing them.

↓ 1371/2007/EC

## CHAPTER VI

# SECURITY, COMPLAINTS AND QUALITY OF SERVICE

### Article ~~26~~27

#### Personal security of passengers

In agreement with public authorities, railway undertakings, infrastructure managers and station managers shall take adequate measures in their respective fields of responsibility and adapt them to the level of security defined by the public authorities to ensure passengers' personal security in railway stations and on trains and to manage risks. They shall cooperate and exchange information on best practices concerning the prevention of acts, which are likely to deteriorate the level of security.

↓ 1371/2007/EC (adapted)  
⇒ new

### Article ~~27~~28

#### Complaints

1. ~~All~~ ~~Railway undertakings~~ ~~,~~ ticket vendors, station managers and infrastructure managers of stations handling more than 10 000 passengers per day on average over a year ~~shall~~ ~~each~~ ~~set up a complaint-handling mechanism for the rights and obligations covered in this Regulation~~ ~~in their respective field of responsibility~~ ~~.~~ ~~The railway undertaking~~ ~~They~~ ~~shall make~~ ~~its~~ ~~their~~ ~~contact details and working language(s) widely known to passengers.~~
2. Passengers may submit a complaint to any railway undertaking ~~,~~ ticket vendor, railway station or infrastructure manager ~~involved.~~ ~~Complaints shall be submitted within six months of the incident that is the subject of the complaint.~~ ~~Within one month~~ ~~of receiving the complaint~~ ~~,~~ the addressee ~~of the complaint~~ shall either give a reasoned reply or, in justified cases, inform the passenger by what date within a period of less than three months from the date ~~of receipt~~ ~~of the complaint~~ a reply can be expected. ~~Railway undertakings, ticket vendors, station managers and infrastructure managers shall keep the incident data necessary to assess the complaint for two years and make them available to national enforcement bodies upon request.~~

↓ new

3. Details of the complaint handling procedure shall be accessible to persons with disabilities and with reduced mobility.

↓ 1371/2007/EC (adapted)

⇒ new

34. The railway undertaking shall publish in the annual report referred to in Article 2928 the number and categories of received complaints, processed complaints, response time and possible improvement actions undertaken.

*Article 2829*

**Service quality standards**

1. Railway undertakings ⇒ and station managers ⇐ shall ~~define~~ ⊗ establish ⊗ service quality standards and implement a quality management system to maintain service quality. The service quality standards shall at least cover the items listed in Annex III.
2. Railway undertakings ⇒ and station managers ⇐ shall monitor their own performance as reflected in the service quality standards. Railway undertakings shall each year publish a report on their service quality performance together with their annual report. ⊗ Railway undertakings shall publish ⊗ ~~the~~ reports on service quality performance ~~shall be published on the Internet~~ ⊗ their ⊗ website ~~of the railway undertakings~~. In addition, these reports shall be made available on the ~~Internet~~ website of the ~~ERA~~ ⊗ European Union Agency for Railways ⊗ .

## CHAPTER VII

### INFORMATION AND ENFORCEMENT

*Article 2930*

**Information to passengers about their rights**

1. When selling tickets for journeys by rail, railway undertakings, station managers ⇒ , ticket vendors ⇐ and tour operators shall inform passengers of their rights and obligations under this Regulation. In order to comply with this information requirement, ~~railway undertakings, station managers and tour operators~~ ⊗ they ⊗ may use a summary of the provisions of this Regulation prepared by the Commission in all official languages of the ~~European Union institutions~~ and made available to them. ⇒ In addition, they shall provide a notice on the ticket, in either paper or electronic format or by any other means, including in accessible formats for persons with disabilities and persons with reduced mobility in accordance with the requirements laid down in Directive XXX. That notice shall specify where such information can be obtained in the event of cancellation, missed connection or long delay. ⇐

2. Railway undertakings and station managers shall inform passengers in an appropriate manner, ~~⇒~~ including in accessible formats in accordance with the accessibility requirements in Directive XXX, ~~⇐~~ at the station and on the train, ~~⇒~~ of their rights and obligations under this Regulation, and ~~⇐~~ of the contact details of the body or bodies designated by Member States pursuant to Article ~~30~~31.

#### *Article ~~30~~31*

#### **⊗ Designation of national ~~E~~enforcement ⊗ bodies ⊗**

~~1.~~ Each Member State shall designate a body or bodies responsible for the enforcement of this Regulation. Each body shall take the measures necessary to ensure that the rights of passengers are respected.

Each body shall be independent in its organisation, funding decisions, legal structure and decision-making of any infrastructure manager, charging body, allocation body or railway undertaking.

Member States shall inform the Commission of the body or bodies designated in accordance with this ~~paragraph~~Article and of its or their respective responsibilities.

~~2. Each passenger may complain to the appropriate body designated under paragraph 1, or to any other appropriate body designated by a Member State, about an alleged infringement of this Regulation.~~

↓ new

#### *Article 32*

#### **Enforcement tasks**

1. The national enforcement bodies shall closely monitor compliance with this Regulation and take the measures necessary to ensure that the rights of passengers are upheld. For this purpose, railway undertakings, station managers and infrastructure managers shall provide the bodies with relevant documents and information at their request. In carrying out their functions, the bodies shall take account of the information submitted to them by the body designated under Article 33 to handle complaints, if this is a different body. They may also decide on enforcement actions based on individual complaints transmitted by such a body.
2. The national enforcement bodies shall publish statistics on their activity, including on sanctions applied, every year, at the latest at the end of April of the following calendar year.
3. Railway undertakings shall give their contact details to the national enforcement body or bodies of the Member States in which they operate.

#### *Article 33*

#### **Complaint-handling by national enforcement bodies**

1. Without prejudice to the rights of consumers to seek alternative redress pursuant to Directive 2013/11/EU of the European Parliament and of the Council<sup>20</sup>, after having complained unsuccessfully to the railway undertaking, ticket vendor, station or infrastructure manager pursuant to Article 28, the passenger may complain to an enforcement body. Enforcement bodies shall inform complainants about their right to complain to alternative dispute resolution bodies to seek individual redress.
2. Any passenger may complain to the national enforcement body, or any other body designated by a Member State for that purpose, about an alleged infringement of this Regulation.
3. The body shall acknowledge receipt of the complaint within two weeks of receiving it. The complaint-handling procedure shall take a maximum of three months. For complex cases, the body may, at its discretion, extend this period to six months. In such a case, it shall inform the passenger of the reasons for the extension and of the expected time needed to conclude the procedure. Only cases that involve legal proceedings may take longer than six months. Where the body is also an alternative dispute resolution body within the meaning of Directive 2013/11/EU, the time limits laid down in that Directive shall prevail.  
The complaint-handling procedure shall be made accessible to persons with disabilities and to persons with reduced mobility.
4. Passenger complaints about an incident involving a railway undertaking shall be handled by the national enforcement body of the Member State that granted that undertaking's licence.
5. Where a complaint relates to alleged violations by station or infrastructure managers, the national enforcement body shall be that of the Member State on whose territory the incident occurred.
6. In the framework of cooperation pursuant to Article 34 national enforcement bodies may derogate from paragraphs 4 or 5 where for justified reasons, in particular language or residence, this is in the passenger's interest.

↓ 1371/2007/EC (adapted)  
⇒ new

*Article ~~31~~ 34*

**⊗ Exchange of information and cross-border ⊗ ~~€~~ cooperation between ⊗ national ⊗ enforcement bodies**

↓ new

1. Where different bodies are designated under Articles 31 and 33, reporting mechanisms shall be set up to ensure the exchange of information between them, in

<sup>20</sup> Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (OJ L 165, 18.6.2013, p. 14).

accordance with Regulation (EU) 2016/679, in order to help the national enforcement body to carry out its tasks of supervision and enforcement, and so that the complaint-handling body designated under Article 33 can collect the information necessary to examine individual complaints.

↓ 1371/2007/EC (adapted)  
⇒ new

2. ~~☒~~ National ~~☒~~ enforcement bodies ~~as referred to in Article 30~~ shall exchange information on their work and decision-making principles and practice for the purpose of ~~☒~~ coordination ~~☒~~ ~~coordinating their decision-making principles across the Community~~. The Commission shall support them in this task.

⇒ 3. The national enforcement bodies shall follow the procedure set out in Annex IV. ⇐

↓ 1371/2007/EC (adapted)  
⇒ new

## CHAPTER VIII

### FINAL PROVISIONS

*Article ~~32~~ 35*

#### Penalties

1. Member States shall lay down the rules on penalties applicable to infringements of ~~the provisions of~~ this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify ~~those rules and measures to~~ the Commission ~~☒~~ of those rules and measures ~~☒~~ ~~by 3 June 2010~~ and shall notify it without delay of any subsequent amendment affecting them.

⇒ 2. In the framework of cooperation referred to in Article 34 the national enforcement body which is competent for the purposes of Article 33(4) or (5) shall, upon request of the national enforcement body handling the complaint, investigate the infringement of this Regulation identified by that body and, if necessary, impose sanctions. ⇐

*Article 33*

#### Annexes

~~Measures designed to amend non-essential elements of this Regulation by adapting the Annexes thereto, except Annex I, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 35(2).~~

## Article ~~34~~ 36

### ~~Amending provisions~~ ☒ Delegation of powers ☒

~~1. Measures designed to amend non-essential elements of this Regulation by supplementing it and necessary for the implementation of Articles 2, 10 and 12 shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 35(2).~~

~~2. Measures designed to amend non-essential elements of this Regulation by adjusting the financial amounts referred to therein, other than in Annex I, in light of inflation shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 35(2).~~

⇒ The Commission is empowered to adopt delegated acts in accordance with Article 37 in order to: ⇐

⇒ (i) adjust the financial amounts referred to in Article 13 in light of inflation; ⇐

⇒ (ii) amend Annexes I, II and III in order to take account of amendments to the CIV Uniform Rules and technological developments in this area. ⇐

⇓ new

## Article 37

### Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 36 shall be conferred on the Commission for a period of five years from [*date of entry into force of this Regulation*]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following its publication in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>21</sup>.

<sup>21</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

↓ 1371/2007/EC (adapted)  
⇒ new

#### ~~Article 35~~

#### ~~Committee procedure~~

- ~~1. The Commission shall be assisted by the Committee instituted by Article 11a of Directive 91/440/EEC.~~
- ~~2. Where reference is made to this paragraph, Articles 5a(1) to (4), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.~~

#### ~~Article 36~~ 38

#### **Report**

The Commission shall report to the European Parliament and the Council on the implementation and the results of this Regulation ~~by 3 December 2012, and in particular on the service quality standards~~ ⇒ [five years after the adoption of this Regulation] ⇐ .

The report shall be based on information to be provided pursuant to this Regulation ~~and to Article 10b of Directive 91/440/EEC~~. The report shall be accompanied where necessary by appropriate proposals.

↓ new

#### ~~Article 39~~

#### **Repeal**

Regulation (EC) 1371/2007 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex V.



Article ~~37~~ 40

**Entry into force**

This Regulation shall enter into force  on the twentieth day following that  ~~24 months~~  
~~after the date~~ of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*