

03.11.17

Decisionof the Bundesrat

Proposal for a Regulation of the European Parliament and of the Council on rail passengers' rights and obligations (recast)**COM(2017) 548 final**

At its 961st session on 3 November 2017 the Bundesrat adopted the following position pursuant to Sections 3 and 5 of the Act on Cooperation between the Federation and the Länder in European Union Affairs (EUZBLG):

The draft Regulation in general

1. The Bundesrat welcomes the fact that the Commission draft seeks to strengthen passenger protection and rights in EU Member States by improving information and clarifying complaint processing deadlines and procedures.

It also acknowledges that the draft aims to correct existing deficiencies, close clear regulatory gaps and create an appropriate balance between strengthening passenger rights and reducing pressure on railway companies.

2. The Bundesrat welcomes the early and intensive use of expertise and the discussion of the various development scenarios, and supports in principle the Commission's intended balancing of interests.

3. The Bundesrat agrees with the Commission that persons with reduced mobility should be given a mandatory right both to assistance on all transport services and to full compensation in case of loss or damage to mobility equipment.

The draft Regulation in detail

4. The Bundesrat sees the strengthening of rail transport as a major step towards emission-free mobility. Linking rail transport with other modes is therefore of special importance. The Bundesrat supports the improvement of the conditions for bicycle carriage envisaged in Article 6. At the same time, it asks the Federal Government to examine whether additional mandatory rules and standards regarding bicycle carriage or facilities in railway stations and stops aimed at linking modes of transport are required in the draft, and if so to introduce these during the ongoing legislative procedure.
5. The Bundesrat also asks the Federal Government to ascertain whether all passengers, of reduced mobility or not, could be given the right laid out in Article 10(5) to buy rail tickets on the train at no extra cost. If it is not possible to buy a ticket at the station of departure because there is no ticket office or functioning, accessible ticket machine, we feel it is unfair to burden the passenger with additional costs. It is immaterial in this case whether or not the passenger in question is of reduced mobility.
6. The Bundesrat also asks the Federal Government to insist, during the ongoing negotiations, that passenger rights be safeguarded as far as possible also for journeys consisting of individual portions (journey chain). Failing this, passenger rights could become meaningless if the passenger, due to a delay in the preceding portion of the journey, misses the connection and is very late reaching his or her destination. For this reason the obligation on undertakings to provide through-ticketing should be increased. At the same time the

option in Article 10(6), allowing undertakings to explicitly exclude passenger rights in writing in the case of delays in a journey chain, should at least be limited to those journeys for which the individual portions are carried out by different, non-linked railway undertakings.

7. The Bundesrat points out that the tried and trusted system of compensation for delays and cancellations must not be watered down, leading to a decrease in the level of consumer protection. Particularly in Article 17, the new paragraph 8 provides for a new exception to the current situation regarding cases of ‘force majeure’, contrary to the judgments of the ECJ (cf. judgment of 26 September 2013, Case C-509/11). While the Bundesrat understands the need to harmonise the exceptions for other modes of transport, it calls for ‘force majeure’ to be defined as restrictively as possible.

The Bundesrat therefore proposes that the unclear legal terminology in this paragraph describing cases of force majeure be further specified and made more restrictive. The exclusion of the right to compensation for delays could in this regard be linked to extremely bad weather conditions or major, exceptional natural disasters.

8. The Bundesrat also suggests that, as a matter of principle, all railway undertakings, ticket vendors, station managers and station infrastructure managers be obliged to set up a complaints handling procedure and complaints board. In the case of less-frequented stations (handling fewer than 10 000 passengers per day), this obligation can also be met through mutual cooperation, for example by setting up one or more central complaints boards.
9. The Bundesrat also welcomes the new legal rules in Article 32 ff. on the designation and tasks of the national enforcement bodies.

Direct transmission of the opinion

10. The Bundesrat shall transmit this opinion directly to the Commission.