



EUROPEAN COMMISSION

*Brussels, 23.01.2018
C(2018) 33 final*

*Mr Michael MÜLLER
President of the Bundesrat
Leipziger Straße 3 - 4
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Dear President,

The Commission would like to thank the Bundesrat for its Opinion on the proposal for a Regulation of the European Parliament and of the Council on rail passengers' rights and obligations (recast) {COM(2017) 548 final}.

By proposing these measures, the Commission wishes to contribute to creating a deeper and fairer Internal Market in which the protection of consumer interests and social rights are key elements. The proposal for a revision of rail passenger rights aims at improving the protection of rail passengers in the Union and at facilitating their access to these rights while striking the right balance with regard to the economic situation of the rail sector as a sustainable mode of transport in a competitive environment.

The current Regulation¹ has had an overall positive effect on increasing the protection of rail passengers. However, two major problem areas were identified in its application. These relate first to the effective realisation of the rights of passengers, including persons with disabilities or reduced mobility, and second to possible burdens on railway undertakings. As regards the former, passengers cannot always fully exercise their rights under the Regulation when they use rail services. This is notably due to the fragmentation of the regulatory framework owing to extensive exemptions granted by Member States for domestic services. Moreover, the rights of persons with disabilities or reduced mobility as laid down in the Regulation were not fully compliant with the United Nations' Convention on the Rights of Persons with Disabilities. The latter problem area concerns possible burdens on railway undertakings due to inconsistent application of the Regulation, as well as the risk of a less favourable treatment of rail service providers in comparison to other modes of transport.

¹ 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).

The Commission welcomes the Bundesrat's broad support for the aims of the proposal. It notes its concerns on the issue of the availability of through-tickets and re-routing in the event of a missed connection caused by a delay of a service, as well as concerns regarding a so-called "force majeure" clause, which may under certain specific circumstances exempt railway undertakings from having to pay compensation for delays.

The Commission takes the concerns of the Bundesrat very seriously. In this context it wishes to point out that the proposal strengthens the obligation on railway undertakings to cooperate in order to make through tickets available for purchase. The right of passengers to receive clear information on what type of ticket (through-ticket or separate contracts) they are purchasing is also strengthened. This allows passengers to make an informed decision prior to purchase. The reduction of passenger rights through the introduction of the so-called "force majeure" clause has already been limited by the incorporation of a narrow definition in the legislative proposal of the situations which can count as "force majeure", i.e. only where delays were caused by severe weather conditions or major natural disasters endangering the safe operation of the rail service. Moreover, the existence of such a situation alone is not sufficient to exempt carriers from the obligation to pay compensation, as the carrier must also prove that he has taken all reasonable measures to prevent the delay.

The Commission also notes the request of the Bundesrat to the German government to examine the rules which apply to the carriage of bicycles on board trains as well as the possibility for all passengers (in addition to persons with disabilities or reduced mobility) to purchase tickets on board trains free of additional charge, if a ticket counter or functioning ticket machine is not available in stations.

The Commission finally notes the Bundesrat's suggestion to introduce complaint handling schemes for all railway undertakings, ticket vendors, station managers and infrastructure managers and to enhance cooperation between these actors, including through central complaint bodies.

The Commission is pleased that the Bundesrat welcomes the new rules for persons with disabilities or reduced mobility and on the designation and tasks of national enforcement bodies.

The Bundesrat's Opinion has been made available to the Commission's representatives in the ongoing negotiations with the co-legislators and will inform these discussions.

The points made above are based on the initial proposal presented by the Commission which is currently in the legislative process involving both the European Parliament and the Council. A number of meetings in the Council working party have already taken place under the Estonian Presidency and it is hoped that good further progress will be made on this file with the co-legislators.

The Commission hopes that these clarifications address the issues raised by the Bundesrat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Violeta Bulc
Member of the Commission*