



**European Parliament
Members of TRAN and IMCO committee
By e-mail**

Gent, 10.06.2018

Subject: PROPOSED RECAST OF REGULATION (EC) 1371/2007 ON RAIL
PASSENGERS' RIGHTS & OBLIGATIONS

Please reply to: Josef Schneider, josef.schneider@epf.eu

Dear Members of Parliament,

We wrote on 18/03/18 to express the concern of the European Passengers' Federation and its member associations in more than twenty European states about key aspects of the Draft Report (2017/0237 (COD)) submitted by your Rapporteur on the proposal for a regulation on rail passengers' rights and obligations (recast). When we examine any proposal, we ask ourselves whether it will benefit, or detract from, the interests of passengers. Our work with TRAN over the years encouraged us to believe that the Committee would take a similar approach, championing the interests of citizens rather than of powerful commercial lobbies.

We detailed our analysis of your Rapporteur's Draft Report in an appendix. We concluded that the amendments it proposes would detract significantly from the interests of passengers and, in their consequential impact, potentially damage the wider economy. European passenger rights' acquis across the modes reflects the important notion that 'since the passenger is the weaker party to the transport contract, passengers' rights in this respect should be safeguarded'.

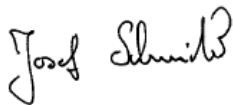
Lately, we have been concerned by the rear-guard attempts by some sectoral interests to secure a let out from their obligation under the existing regulation to provide ticket price compensation in the event of force majeure. The argument on the legal basis for this obligation has been well-rehearsed in the European Court of Justice – see, for example, the judgement of 26 September 2013 in C-509/11 in a case involving ÖBB.

The proposed force majeure clause would impose disproportionately high costs and financial risks upon passengers. This would undermine consumer confidence in the fairness of the regulatory system. Independent evidence suggests that it does not appear to represent a significant cost to railway undertakings. The impact assessment conducted by the European Commission did not establish that the total cost to the sector of force majeure in the period 2000-2015 was €562 million across the Union – equivalent to significantly less than an annual average €2 million for each Member State. No allowance was made for good-will or the value of compensation in stimulating the competitiveness of the rail system.

The railway sector makes the argument that, if they are to be competitive, railways should operate on an equal footing with other modes. We sympathise with this high-level aspiration. But it must be tempered by realism, particularly in the field of passengers' rights. We might wish for rail passengers to receive a level of compensation equivalent to that required by the Air Passenger Rights' Regulation, 261/2004 - 250€ or more for a delay in excess of 180 minutes, in addition to reimbursement of the fare - but we doubt the financial ability of the rail sector to sustain this. Indeed, as we have previously pointed out, according to the European Environment Agency, the EU rail sector is in receipt of more than 70€ billion of public funding annually. With this level of dependence on public monies, railway undertakings have a moral obligation to make good when things go wrong. Force majeure – particularly when caused by meteorological phenomena – frequently reflects inadequate infrastructure spending. Fallen trees are often the result of poor vegetation management, flooding of cuttings the result of inadequate drainage maintenance, etc.

The rail sector generally scores poorly in terms of consumer satisfaction – as is reflected both in the Commission's own Consumer Markets Scoreboard (where train services lurk with banks, second-hand car sales and real estate agents) and in successive special Eurobarometer surveys commissioned by DG MOVE. We trust that members of TRAN will ask themselves how they can best get the railway sector to raise its game in improving service quality and, in so doing promote the interests of citizens and passengers. We ask you to resist moves to provide the sector with a force majeure let-out clause.

Yours sincerely,



Josef Schneider, chairman

¹ See, for example, Recital 3 to Regulation 1371/2007

² *Size, structure and distribution of transport subsidies in Europe*, European Environment Agency Technical Report 3/2007