

The European legislation on Passenger rights

Implementation at National level

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Legal basis

- **Air passenger rights:** Reg. (EC) No 261/2004
- **Rail passenger rights:** Reg. (EC) No 1371/2007
- **Waterborne passenger rights:** Reg. (EU) No 1177/2010
- **Bus and Coach passenger rights:** Reg. (EU) No 181/2011

Overview

Passenger rights are one of the flagship policies that the European Union delivers directly to its citizens

The EU is the only area in the world with a set of provisions designed to ensure a minimum level of protection to passengers' rights in the main modes of transport

Minimum Quality Standards

CORNERSTONES

NON-DISCRIMINATION

ACCURATE,
TIMELY AND
ACCESSIBLE
INFORMATION

IMMEDIATE AND
PROPORTIONATE
ASSISTANCE

CORE PASSENGER RIGHTS

1. Non-discrimination in access;
2. Assistance and accessibility for DPRMs;
3. Information;
4. Renounce travelling in case of disruption;
5. Fulfillment of the transport contract in the event of disruption;
6. Assistance in case of delay or cancellation;
7. Compensation under certain circumstances;
8. Carrier liability towards passengers and luggage;
9. Easy complaint mechanism;
10. Right to full application of EU law (NEBs).

National Exemptions

Despite the common set of passenger rights guaranteed across the modes of transport, Member States are entitled to enjoy exemptions from the general provisions set forth at the EU level

In contrast to the rules enshrined under the Air Transport and Waterborne passenger rights Regulations, the provisions on **Rail and Bus/Coach Transport** allow derogations at the national level

Scope of the analysis

ENFORCEABLE RIGHTS IN THE EVENT OF DISRUPTION

Denied boarding

Long delays

Cancellations

Re-routing

- **RIGHT TO ASSISTANCE**
- **RIGHT TO COMPENSATION**
- **COMPLAINT HANDLING MECHANISM**



RAIL PASSENGER TRANSPORT SERVICES

Rail Passenger Rights

Member States may opt out the DOMESTIC RAIL SERVICES from the application of the majority of the provisions enshrined under Reg. No 1371/2007 until 2024, for a period of five years since its entry into force, renewable twice except for a group of CORE ARTICLES:

- ▶ **9 : availability of through tickets**
- ▶ **11 : liability for passengers and baggage**
- ▶ **12 : insurance**
- ▶ **19 : right to transport for persons with reduced mobility**
- ▶ **20.1 : information for passengers with reduced mobility**
- ▶ **26 : personal security of passengers**

21 NON-CORE ARTICLES grouped in five categories:

- ❖ Transport contract, information and tickets
- ❖ Liability of railway undertakings for passengers and luggage
- ❖ Delays, missed connections cancellations
- ❖ DPRMs
- ❖ Security, complaints and quality of services

Cancellation or delay >60 minutes at the final destination

- ❑ **RIGHT TO ASSISTANCE:** meals and refreshments proportionate to the waiting time, accommodation or alternative means of transport
- ❑ **RIGHT TO COMPENSATION:** 25% or 50% of the ticket price paid according to the duration of the delay (up to 2 hours or more). The right is enforceable only if the passenger choose to fulfil the transport contract continuing the journey or re-routing the travel under comparable conditions
- ❑ **COMPLAINT HANDLING MECHANISM:** generally, 2-step procedure involving firstly the responsible undertaking - right to receive a reasoned reply within 1 month and in any case in a period of less than 3 months – and the relevant NEB at a later stage



BUS AND COACH TRANSPORT SERVICES

Bus and Coach Passenger Rights

- Unlike aviation and rail transport, the bus and coach sectors consist largely of small and medium-sized undertakings which share the road infrastructure with other actors
- MS may grant exemptions from the non-core rights to DOMESTIC REGULAR SERVICES for a period up to 4 years since the entry into force of the Regulation No 181/2011, renewable once and in any case up to March 2021.

CORE PROVISIONS

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SERVICE OF LESS THAN 250 KM

- non-discriminatory tariffs
- access to transport for DPRMS at no additional cost
- minimum rules on the travel information provided to all passengers before and during their journey including information on their rights
- a complaint handling mechanism that carriers must make available to all passengers
- independent NEB in each Member State - mandate to enforce the Regulation and to impose penalties

SERVICE OF 250 KM OR MORE

- compensation and assistance in the case of personal injuries/death or damage/loss to luggage caused by an accident
- information if the service is cancelled or delayed on departure
- right to **reimbursement** of the full ticket price or rerouting in the case of a cancellation or a long delay in departure
- adequate **assistance** in the case of a cancellation or a long delay - only applicable for **journeys >3 hours**
- **compensation of 50 %** of the ticket price for cancellation or long delay – no choice granted between reimbursement/rerouting
- specific assistance at no additional cost for DPRMs both at bus terminals and on board.

Cancellation *or* delay in departure

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UNLIKE OTHER MODES OF TRANSPORT, LONG DELAYS OR THE CANCELLATION OF A JOURNEY AT ARRIVAL DOES NOT TRIGGER COMPENSATION.

- ❑ **RIGHT TO ASSISTANCE:** meals and refreshments proportionate to the waiting time or accommodation for journeys of more than 3 hours – in case of cancellation or delay of more than 90 minutes in departure
- ❑ **RIGHT TO COMPENSATION:** 50% of ticket price if the carrier fails to offer passenger the choice between re-routing or continuation of the journey for delay of 120 minutes in departure, cancellation or overbooking
- ❑ **COMPLAINT HANDLING MECHANISM:** NO mandatory chronological order under the Regulation, but in most States passengers may submit complaints to the carrier first – NEB only acting as an appeal body if the passenger is not satisfied with the answer

STUDY STATES

The United Kingdom

FULL USE OF THE AVAILABLE DEROGATIONS

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RAILWAYS

a. Compensation

- ▶ PASSENGER CHARTER SCHEME: at least 20% of the ticket for delays over 60 minutes – *force majeure* applicable
- ▶ DELAY/REPAY SCHEME: delays of 30' and amount depending on the length of the delay 50% or 100% - *No force majeure*

Main differences

- length of the delay
- payable amount
- circumstances excluding compensation

b. Complaint handling mechanism – within 28 day of completing the journey

- ▶ I complaint directly to the TOC
- ▶ II complaint appeal the relevant watchdog

Role of **NEBs** –*Transport Focus / London TravelWatch*: make representation in order to mediate with the TOC on behalf of the passenger

BUS/COACH

a. Compensation

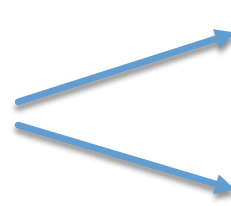
- ▶ CANCELLATION BEFORE THE SERVICE HAS BEGUN: alternative arrangements / reimbursement of the ticket price (50% or 100%)
- ▶ CANCELLATION AFTER THE SERVICE HAS BEGUN: suitable arrangements / substitute coach

Delays are considered out of the carrier control → No statutory right to compensation in the event of delay

b. Complaint handling mechanism

- ▶ I complaint to the carrier or terminal operator – response within 14 working days
- ▶ II complaint appeal to the NEBs – if passenger remains dissatisfied with the outcome
- COMPLAINTS SUBMITTED TO THE NEB BEFORE THE CARRIER ARE FORWARDED TO THE CARRIER

Rail passenger rights



National Rail Conditions of Travel (contractual document)

Passengers' Charter of the TOC (currently 27 separate TOCs in UK)

- The provisions under the enforceable Delay/Repay Scheme are more generous than the rules under the Reg. (EC) No 1371/2007, considering that a broader threshold starting at 15 minutes of delay at the final destination (according to the Delay/Repay15 Scheme) entitles passengers to claim the compensation for damages
- Transport Focus is the official, independent voice of all rail passengers with the function of taking up 2nd tier complaints for passengers who received an unsatisfactory response from the train operator in order to get the best deal for passengers

Bus/Coach passenger rights: The National Enforcement Bodies

- Traffic Commissioners, a tribunal non-departmental public body which issues penalties for infringements for licensed operators of public service vehicles
 - Bus Users (Bus Appeal Body), official ADR body responsible to deal with complaints on scheduled bus and coach services across the UK (UK, Wales and Scotland). The body handles complaints on events occurred within the previous 12 months
 - London TravelWatch, the independent, statutory watchdog for transport users responsible to deal with complaints on all modes of transport in and around London.
 - Department for Infrastructure – Transport and Resources Division, responsible to handle complaints on bus and coach operators and terminals in Northern Ireland

France

FULL USE OF THE AVAILABLE DEROGATIONS

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- ▶ **Code des Transports:** Art. 2151-1/3 and 3115-1/3
- ▶ **Loi Badinter No 85/677** on compensation for victims of road accidents

RAILWAYS

- Competent local authorities may apply the non-core provisions of the Reg. 1371/2007 partially or entirely
- **Compensation for damage** is based on the case-law in accordance with provisions under the Code Civil
- **NEB:** Directorate General for Competition, Consumption and Anti-Fraud is competent to pronounce administrative fines

BUS and COACH

- Application of the core provisions of Reg. 181/2011 concerning regular bus and coach services covered a distance of 250 km or more
- **NEB:** Ministry of Economy and Finance

Sweden

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EU LEGISLATION IN ADDITION TO LAW ON PUBLIC TRANSPORT

Lag 2015:953 on regional public transport passenger rights

- ▶ REGIONAL TRIP: UP TO 150 KM – National legislation applies

Right to compensation

50% for delays of 20 minutes

75% for delays of 40 minutes

100% for delays of 60 minutes

- ▶ JOURNEYS OF 150 KM or MORE – EU Regulations apply

NEBs: the Swedish Consumer Agency and the Transport Agency share responsibility for the enforcement of the EU Passenger rights Regulations.

- Swedish Consumer Agency supervises rules that concern the consumer
- Transport Agency is responsible for overseeing regulations relating to technical systems and transport companies.

Netherlands

- **Right to reimbursement:** the refund depends on the ticket type and the length of the delay
 - Conditions for money-back-at-delay: refund for delays of 30 minutes
 - Intercity direct: refund for delays of 15 minutes

General conditions of carriage of NS Dutch Railways (domestic travel)

Denmark

- **Right to compensation:** the amount varies according to the length of delay
 - 25% for delays of 30 to 59 minutes
 - 50% for delays of 60 to 89 minutes
 - 75% for delays of 90 to 119 minutes
 - 100% for delays of 120 or more
- **Reimbursement:** right to get the costs for a taxi refunded
 - BUS is delayed 20 minutes
 - BUS or TRAIN cancelled and more than 20 minutes to the next departure

Railway Act No 686/2015

Austria

The Agency for Passengers and Passengers' rights (APF) consists in the statutory, independent arbitration body responsible for resolving disputes or complains from carriage of passengers.

Italy

The Transport Regulation Authority (ART) is the independent administrative authority in charge to assess infringements and impose penalties as a result of complaints lodged by passengers, including through associations representing their interests, where expressly delegated to do so.

Finland

The Finnish Competition and Consumer Authority (FGCA) handles complaints on a collective level. The Consumer Dispute Board represents the ADR body for private disputes.

THANK YOU
FOR YOUR
ATTENTION