Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Having regard to the opinion of the Committee of the Regions[(2)],

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[(3)],

Whereas:

(1) 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.

(2) The Commission's communication 'Consumer Policy Strategy 2002-2006'[(4)] 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.

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

(4) 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.

(5) More detailed requirements regarding the provision of travel information will be set out in the technical specifications for interoperability (TSIs) referred to in Directive 2001/16/EC of the European Parliament and of the Council of 19 March 2001 on the interoperability of the conventional rail system[(5)].

(6) 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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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.

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

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

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

(10) Rail passenger services should benefit citizens in general. Consequently, disabled persons 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 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 and persons with reduced mobility should be enabled to buy tickets on board a train without extra charges.

(11) Railway undertakings and station managers should take into account the needs of disabled persons and persons with reduced mobility, through compliance with the TSI for persons with reduced mobility, so as to ensure that, in accordance with Community public procurement rules, all buildings and rolling stock are made accessible through the progressive elimination of physical obstacles and functional hindrances when acquiring new material or carrying out construction or major renovation work.

(12) 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.

(13) 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.

(14) 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 thereto relating to passengers' rights.

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

(17) 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.

(18) 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.

(19) Railway undertakings should define, manage and monitor service quality standards for rail passenger services.

(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.

(21) This Regulation should be without prejudice to 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[(6)].

(22) 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.

(23) Since the objectives of this Regulation, namely the development of the Community's railways and the introduction of passenger rights, cannot be sufficiently achieved by the Member States, and can therefore be better achieved at Community level, the 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.

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

(25) 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

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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.

(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.

(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[7].

(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,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation establishes rules 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,

(b) the liability of railway undertakings and their insurance obligations for passengers and their luggage,

(c) the obligations of railway undertakings to passengers in cases of delay,

(d) the protection of, and assistance to, disabled persons and persons with reduced mobility travelling by rail,

(e) the definition and monitoring of service quality standards, the management of risks to the personal security of passengers and the handling of complaints, and

(f) general rules on enforcement.

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Article 2

Scope

1 This Regulation shall apply to all rail journeys and services throughout the Community provided by one or more railway undertakings licensed in accordance with Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings[8].

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

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[9]. 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.

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 of Directive 2001/14/EC[10], 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;