

Railway transport: international rail passengers' rights and obligations. 3rd package

2004/0049(COD) - 24/07/2006 - Council position

Out of the 122 amendments adopted by the Parliament in first reading, 63 were fully taken on board by the Council in its Common Position and 9 were partially accepted.

The Common Position establishes rules concerning the following:

- information to be provided by railway undertakings, the conclusion of transport contracts, the issuing of tickets and implementation of a computerised information and reservation system for rail transport;
- liability of railway undertakings and their insurance obligations for passengers and their luggage;
- minimum obligations of railway undertakings to passengers in the event of delay, missed connections and cancellations;
- protection of and assistance to persons with reduced mobility travelling by rail;
- definition and monitoring of service quality standards for international services, the management of risks to the personal security of passengers and the handling of complaints;
- general rules on enforcement.

The **key policy issues** were as follows:

Compatibility with COTIF/CIV: some of the arrangements which the Commission presented in its proposal were prompted by the provisions of the COTIF (the Convention concerning International Carriage by Rail) and its CIV Appendix (Uniform Rules concerning the Contract for International Carriage of Passengers and Luggage by Rail). In order to ensure coherence between Community legislation and the international agreement, the Council decided to incorporate certain COTIF/CIV provisions into the new text. This was done by means of introductory Articles that refer to extracts from the COTIF/CIV contained in Annex I of the Regulation. The provisions in question allow compatibility with the COTIF/CIV and avoid the need to legislate on matters already covered by the COTIF/CIV (rules on transport contracts, liability of railway undertakings in respect of passengers and their luggage, delays, missed connections and cancellations). The Council states that the European Parliament followed a similar approach by adopting amendments which - in full or in part - call for the application of the respective COTIF/CIV provisions. Parliament had also suggested the deletion of a series of CIV-incompatible provisions from the original Commission text.

Scope: the overall scope of Council's Common Position covers international journeys throughout the

Community undertaken on domestic and international services, which are provided by one or more railway undertakings.

1) Limitations: domestic services: the Council decided to limit the scope with regards to delays, missed connections and cancellations (Chapter IV) and service quality standards (Chapter VI, Article 25). In order to avoid an excessive financial burden, the following provisions shall only apply to international

journeys on international services and exclude providers of domestic services:

- for parts of an international journey, the obligations concerning reimbursement and rerouting, compensation of the ticket price, and of assistance in case of delays in arrival or departure;
- all the obligations concerning the setting up and monitoring of, and reporting on, service quality systems and their management.

2) Limitations: temporary exemptions: the Council also decided to limit the scope of its Common Position in so far as it provides for temporary exemptions granted to Member States for certain regional cross-border services and international services where a significant part of the service is being operated outside the Community. Member States applying such provisions will have to notify the Commission,

which will then determine whether an exemption is in accordance with the provisions of the draft Regulation. In providing the possibility of granting such exemptions, the Council intended to leave it to the Member States to address those issues in such exceptional situations, thus avoiding an additional financial burden for the service providers.

3) Enlarged scope: persons with reduced mobility: one of the main goals of the proposal is to make rail travel more accessible to persons with reduced mobility (PRM). Consequently, the Council decided to go further than the Commission had done in its proposal and to make the provisions for PRMs also applicable to domestic journeys on international services.

In its opinion in first reading, the European Parliament had decided to follow a different path and to make the provisions of the draft Regulation applicable to all rail passengers. The Council considers that such an approach is premature and prefers to see its Common Position as complementing the Market Access Directive, which legislates only on the opening of the international rail passenger market.

Computerised Information and Reservation system for Rail Transport (CIRSRT): in order to ensure the provision of information and the issuance of tickets in accordance with the draft Regulation, the Council decided to introduce an obligation for railway undertakings and ticket vendors to make use of a Computerised Information and Reservation system for Rail Transport. The procedures for establishing this system are set out in the Common Position and rely on the Technical Specifications of Interoperability of Directive 2001/16/EC(Chapter II and Annex II, 2.5). By setting up this system the Council moved away from the Commission proposal, which based the access to travel information on the concept of system vendors. The Council considered the involvement of such intermediaries as unnecessary and therefore decided to address the relevant provisions directly to the railway undertakings and ticket vendors.

Delays, missed connections and cancellations: as mentioned above, the Council chose to align the provisions concerning a railway undertaking's liability in case of delays, missed connections and cancellations with the relevant chapter of COTIF/CIV. Moreover, the Council decided to include special provisions for reimbursement and re-routing, the compensation of the ticket price and the obligation to provide assistance to passengers in case of a delay in arrival or departure. As for the compensation of the ticket price, the Common Position is more in line with the European Parliament's position and provides for a simpler and more transparent scheme than that proposed by the Commission. The provision adopted is determined by the length of the delay which functions as the basis for the amount of compensation. In addition, the Council made the form of payment of compensation more flexible (vouchers and/or other services or cash), which also follows a suggestion of the European Parliament.

Special Provisions for Persons with reduced mobility: in order to facilitate travelling by rail, the Common Position establishes special provisions as regards the rights to transport, the assistance to be provided at railway stations and on board trains and the conditions under which such assistance is available, compensation in respect of mobility equipment and information to be given to persons with

reduced mobility. By doing so, the Council seeks to ensure equal access to rail travel at no additional cost for the passengers concerned.

Other issues

Security, Complaints and Quality of Service: the personal security of passengers has recently become a core principle in the field of transport. The Common Position contains provisions obliging the stakeholders to take adequate measures - in agreement with public authorities - to ensure the passengers' personal security at railway stations and on trains and to manage risks. By extending these obligations to station managers, the Council followed a suggestion of the European Parliament. The Common Position also obliges railway undertakings - in cooperation with their ticket vendors - to establish a complaint handling mechanism for the rights and obligations covered in the draft Regulation. Moreover, railway undertakings will have to publish an annual report listing the complaints received and their handling. Concerning the quality of service, the Common Position contains provisions obliging railway undertakings to define service quality standards and to implement a system to maintain service quality. Annex III of the draft Regulation contains a minimum list of items, which have to be covered in these standards. Railway undertakings will also be obliged to publish a report on their service quality performance on an annual basis.

Enforcement: the Common Position stipulates an obligation for Member State to designate a body responsible for the enforcement of the draft Regulation. Moreover, it requires these enforcement bodies to cooperate and to exchange information with a view to promoting coordinated decision-making principles across the Member States.

The Council states that its Common Position has taken full account of the proposal of the Commission and the European Parliament's opinion in first reading. With respect to the amendments proposed by the European Parliament, the Council observes that a considerable number of amendments have - in spirit, partially or in full - already been covered in its Common Position. The decision to avoid "double legislation" and therefore to integrate certain COTIF/CIV provisions clearly underlines the spirit of understanding between the two co-legislators. As regards the main issue of disagreement - the inclusion of domestic rail passenger transport within the scope of the draft Regulation - the Council considers its approach to be a balanced and appropriate response.