



# Report of the Federal Railway Authority

**on the Activities to enforce the Rights of Passengers when Travelling by Sea and Inland Waterway in accordance with Article 26 of Regulation (EU) No 1177/2010**



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**Years under review 2015 and 2016**



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## 1. Introduction

Since the publication of the last report on the activities for the enforcement of the rights of passengers travelling by sea and inland waterway in accordance with Article 26 of Regulation (EU) No 1177/2010 (period under review 2013 and 2014) on 1 June 2015, the Federal Railway Authority has remained the competent authority for the implementation of Regulation (EU) No 1177/2010. Moreover, it is the appeal body in cases where no solution with the carrier could be agreed on (Section 3 (2) second sentence of the EU-Fahrgastrechte-Schiffahrt-Gesetz (EU-FahrgRSchG - EU Ship Passenger Rights Act) and Article 25 (3) (2) of Regulation (EU) No 1177/2010).

The Federal Railway Authority performs this function as enforcement body in accordance with Regulation (EU) No 1177/2010, using the synergy effects from the experiences made as enforcement body for the rail and bus and coach transport sectors.

Germany did not make use of the exemption provided for in Article 2 (4) of Regulation (EU) No 1177/2010; the exemption provision in accordance with Article 2 (3) of Regulation (EU) No 1177/2010 expired at the end of December 2014.

Passengers can submit their complaints under passengers' rights legislation not only to the enforcement body at the Federal Railway Authority but can, in accordance with Section 6 of the EU-FahrgRSchG, also contact the dispute settlement authorities recognised by the Federal Ministry of Transport and Digital Infrastructure (BMVI). Up to now, the Schlichtungstelle für den öffentlichen Personenverkehr (söp - dispute settlement authority for public passenger transport) has been recognised as dispute settlement authority for sea and inland waterway transport.



## **2. Functions and activities of the national enforcement body as appeal body**

### **2.1 General**

Since 18 December 2012, Regulation (EU) No 1177/2010 concerning the rights of passengers when travelling by sea and inland waterway has been in force. The Federal Railway Authority was nominated as national enforcement body. As part of this function, the Federal Railway Authority has, among other things, to deal with complaints submitted by passengers.

In accordance with Article 25 (3) (a) of Regulation (EU) No 1177/2010 in conjunction with Section 3 (2) of the EU-FahrRSchG, passengers have first of all to contact the carrier before consulting the enforcement body as appeal body.

As was the case in the period under review 2013/2014, only a few inquiries/complaints concerning passengers' rights were received by the enforcement body for the rights of passengers travelling by sea and inland waterway in the period under review 2015/2016.

In order to compare the number of complaints among the individual transport modes, the Federal Ministry of Transport and Digital Infrastructure (BMVI) which is competent in this respect, defined the term "complaint" in July 2016 as follows. Accordingly, complaint as defined by the relevant EU Passenger Rights Regulation, means only written submissions reporting an infringement of the relevant Regulation and for which the Federal Railway Authority as the national enforcement body takes a decision of substance.

In practice, this means that for example such submissions where the Federal Railway Authority only refers the passenger to the carrier, to other regulatory authorities, other enforcement bodies or to dispute settlement authorities, can for statistical purposes, not be considered as complaints under passengers' rights law. This includes general submissions, for instance concerning service failures or civil claims by passengers.



Other complaints, which are not covered by the narrow definition of the term, will in the future of course also be recorded statistically and dealt with by the Federal Railway Authority. In the following, these complaints are designated as submissions.

The complainants will receive a reply to all submissions which either explains the function of the Federal Railway Authority as an appeal body or which refers them to the carrier or a dispute settlement authority, as the case may be. In the case of complaints covered by the narrow definition of the term, the complainant will receive an explanation of the outcome of the administrative procedure and of the settlement of possible claims.

## **2.2 Data concerning the handling of complaints in 2015**

In 2015, a total of 14 written and 9 oral submissions in connection with the rights of passengers travelling by sea and inland waterway were received by the enforcement body.

6 of the written submissions did not concern passenger rights issues. In 2 cases it was not possible to clarify the underlying circumstances because the complainant failed to cooperate in this matter and in one case an inquiry was made as to the scope of application of the Regulation. In the case of two submissions, the complainants were directly referred to the carrier. These were requests for which the carrier is the first point of contact for complaining in accordance with Article 25 (3) (a) of Regulation (EU) No 1177/2010 in conjunction with Section 3 (2) of the EU-FahrgRSchG.

One complaint was passed on to the national enforcement body in Greece.

2 submissions comply with the narrow definition of the term “complaint” as mentioned above which applies to all transport modes. These complaints are analysed in greater detail in the following.

In terms of content, these complaints focussed on the one hand on the assistance in the event of cancelled or delayed departures in accordance with Article 17 of Regulation (EU) No 1177/2010, and on the other, to the rights in the event of cancelled or delayed departures in accordance with Article 18 of Regulation (EU) No 1177/2010.



Type and contents of the complaints <sup>1</sup> in 2015					
Regulation (EC) No 1177/2010	Contents	Number of complaints	Offences	Penalties	Remarks
Article 17	Assistance in the event of cancelled or delayed departures	1	0	0	
Article 18	Re-routing and reimbursement of the ticket price in the event of cancelled or delayed departures	1			

In both cases, the Federal Railway Authority asked the carriers for a statement in order to clarify the situation. After reviewing the comments of the carriers, no offences were determined.

### 2.3 Data concerning the handling of complaints in 2016

In 2016, 8 written and 12 oral submissions in connection with the rights of passengers travelling by sea and inland waterway were received by the enforcement body. 2 of the written submissions did not concern passenger rights issues. In one case it was not possible to clarify the underlying circumstances because the complainant failed to co-operate in this matter.

One complaint was passed on to the national enforcement body in France.

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<sup>1</sup> Written communication or communication in text format concerning the infringement of Regulation (EU) No 1177/2010 to the Federal Railway Authority, on which the Authority has made a factual decision.



4 submissions comply with the narrow definition of the term “complaint” as mentioned above which applies to all transport modes. These complaints are analysed in greater detail in the following.

In terms of content, the complaints focussed on the obligation to provide information in accordance with Article 16 of Regulation (EU) No 1177/2010, on the assistance in the event of cancelled or delayed departures in accordance with Article 17 of Regulation (EU) No 1177/2010 as well as on the rights in the event of cancelled or delayed departures in accordance with Article 18 of Regulation (EU) No 1177/2010.

In addition, one complaint in connection with compensation in accordance with Article 19 of Regulation (EU) No 1177/2010 was recorded. In this case, the carrier was exempt from the obligation to pay compensation due to the conditions mentioned in Article 20 (4) of Regulation (EU) No 1177/2010.

<b>Type and contents of the complaints<sup>2</sup> in 2016</b>					
Regulation (EC) No 1177/2010	Contents	Number of complaints	Offences	Penalties	Remarks
Article 16	Information in the event of cancelled or delayed departures	1	0		Delayed departure due to tide
Article 17	Assistance in the event of cancelled or delayed departures	1			
Article 18	Re-routing / reimbursement of the ticket price	1			
Article 19 (1)	Compensation of the ticket price in the event of delay in arrival	1			Exculpation in accordance with Article 20 (4) of Regulation (EU) No 1177/2010

<sup>2</sup> Written communication or communication in text format concerning the infringement of Regulation (EU) No 117/2010 to the Federal Railway Authority on which the Authority has made a factual decision.





After clarification of the facts, no offences were determined. In 2016, too, no penalties were required in in this respect.

## **2.4 Prospects for the handling of complaints**

On the whole, the number of complaints received in the sea and inland waterway sectors continues to be extremely low in the period under review 2015/2016. This is presumably to be attributable to the very fair approaches taken by the carriers for the handling of complaints.

## **3. Enforcement of passengers' rights by supervisory measures**

### **3.1 General**

During the period under review 2015/2016, the Federal Railway Authority as the national enforcement body has also taken supervisory measures in accordance with Article 25 (1) of Regulation (EU) No 1177/2010 in conjunction with Section 4 of the EU-FahrRSchG to ensure compliance with Regulation (EU) No 1177/2010.

In the course of periodic inspections of terminals, the Federal Railway Authority has checked whether promises made with regard to the implementation of passengers' rights are kept. Apart from the ferry port and cruise terminals, the terminals for transport services to and from the North and East Frisian Islands were also included in the examinations.

The examinations of the shipping companies comprised issues concerning the information of passengers and the obligations in connection with mobility-impaired passengers as well as the practice of complaint handling.

The examination of travel agents and tour operators covered mainly the safeguarding of the rights of disabled persons and persons with reduced mobility in accordance with Chapter II of the Regulation.



### **3.2 Data on the enforcement of passengers' rights in 2015**

In 2015, altogether 148 examinations were performed involving terminal operators, carriers and ticket vendors (tour operators/travel agents). Terminal operators accounted for 29 of these examinations, carriers for 23 and ticket vendors for 96.

If offences were identified, the obligated parties were asked to comply with the law within the framework of administrative procedures. Further penalties beyond the administrative procedures were not necessary.

#### **3.2.1 Terminal operators/port authorities**

In 2015, the enforcement body for passengers' rights carried out 8 examinations at Baltic Sea ferry ports and cruise terminals as well as 21 supervisory measures at terminals for services to and from the islands (North and East Frisian Islands/Elbe crossing). The main focus here was on the obligation under Article 12 (3) of Regulation (EU) No 1177/2010 to establish a point to which disabled persons and persons with reduced mobility can address their requests for assistance. Furthermore, the terminal operators were examined as to their compliance with the obligation to provide information on passenger rights according to Article 23 of Regulation (EU) No 1177/2010. In addition, the obligation from Article 14 of Regulation (EU) No 1177/2010 with regard to the training and instruction of personnel in their dealings with disabled persons was checked by means of a survey; no shortcomings were determined.

In two cases, the willingness to cooperate of the obligated parties had to be brought about by a notice demanding information.

In the course of three examinations, infringements of the provisions from Articles 12 and 23 of Regulation (EU) No 1177/2010 were identified; in each case, no point of contact for disabled and mobility-impaired persons had been established and in two cases no information on passenger rights and on the contact details of the enforcement body had been provided.



Key issues of the examinations of terminal operators / port authorities <sup>3</sup> in 2015					
Regulation (EC) No 1177/2010	Contents	Number of examinations	Offences	Penalties	Remarks
Article 12 (3)	Establishment of a point of contact for disabled persons or persons with reduced mobility	29	3 <sup>4</sup>	0	In three cases, a point of contact was only established after the intervention of the enforcement body
Article 14	Instruction of the personnel when dealing with disabled persons or persons with reduced mobility				
Article 23	Information on passenger rights Indication of the contact details of the enforcement body				In two cases, information in compliance with the Regulation was only provided after the intervention of the enforcement body

### 3.2.2 Carriers (shipping companies)

In 2015, the enforcement body continued the check of ferries in international Baltic Sea transport, examining 22 carriers/shipping companies with regard to their compliance with passengers' rights.

In the period under review, the examinations were also extended to inland waterway vessels and inland cruise vessels.

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<sup>3</sup> Within the framework of supervisory measures involving transport services to and from the islands, the carriers were always the addressees of the procedure in cases where the terminal operators and carriers were not identical

<sup>4</sup> Offences identified were remedied within the context of administrative procedures



In the course of a first contact, first of all 10 shipping companies were asked for information about the manning of their ships in order to determine whether the ships are covered by the scope of application in accordance with Article 2 (2) of Regulation (EU) No 1177/2010 and whether the Federal Railway Authority is, thus, the competent authority for the enforcement of passengers' rights.

As a pilot measure, an inland cruise vessel was checked and a first contact was established with IG River Cruises.

<b>Key issues of the examinations of carriers and shipping companies in 2015</b>					
Regulation (EC) No 1177/2010	Contents	Number of examinations	Offences	Penalties	Remarks
Article 10	Assistance on board ships	23	1	0	Among the carriers, there was a strong willingness to implement the EU Regulation. Only in one case, an infringement of Article 14 and Article 23 of Regulation (EU) No 1177/2010 was determined.
Article 14	Instruction of the personnel when dealing with disabled persons and persons with reduced mobility				
Article 22	Right to travel information				
Article 23	Information on passenger rights Indication of the contact details of the enforcement body				

In the course of the examinations it was determined that the carriers willingly implemented the obligations from Regulation (EU) No 1177/2010. Only in one case, infringements of Articles 14 and 23 of Regulation (EU) No 1177/2010 which had been identified were eliminated within the framework of an administrative procedure.



### 3.2.3 Ticket vendors (tour operators, travel agents)

In 2015, 96 ticket vendors were examined as to their compliance with the obligations from Regulation (EU) No 1177/2010. Here, the focus was on the right to transport in accordance with Article 7 of the Regulation as well as the acceptance and transmission of requests for assistance of disabled and mobility-impaired persons in accordance with Article 11 (3) and Article 12 of Regulation (EU) No 1177/2010. In general, no shortcomings were determined.

<b>Key issues of examinations of ticket vendors, tour operators and travel agents in 2015</b>					
Regulation (EU) No 1177/2010	Contents	Number of examinations	Offences	Penalties	Remarks
Article 7	Right to transport	96	0	0	The requirements of the Regulation were observed, no shortcomings were determined
Article 11 (3)	Confirmation of receipt of request for assistance				
Article 12	Receipt and transmission of requests for assistance				

### 3.3 Data on the enforcement of passengers' rights in 2016

In 2016, the enforcement body carried out a total of 46 examinations of the obligated parties under the Regulation, based on the findings of the year 2015.

The terminal operators accounted for 14 of these examinations, the carriers for 14 and ticket vendors for 21.

Since there were no offences in nearly all cases, administrative measures could be waived.



### 3.3.1 Terminal operators/port authorities

In 2016, the examinations of the previous year were carried on in 14 cases, involving terminals/port authorities. The focus was on the establishment of a point of contact for disabled and mobility-impaired persons. In the majority of cases, the terminal operators showed a strong willingness to cooperate.

Key issues of the examinations of terminal operators / port authorities <sup>5</sup> in 2016					
Regulation (EU) No 1177/2010	Contents	Number of examinations	Offences	Penalties	Remarks
Article 12 (3)	Establishment of a point of contact for disabled persons and persons with reduced mobility	14	0	0	Continuation of the examinations from 2015.  The focus was on the establishment of a point of contact for disabled and mobility-impaired persons  Strong willingness of the terminal operators to cooperate
Article 14	Instruction of the personnel when dealing with disabled persons and persons with reduced mobility				
Article 23	Information on passenger rights Indication of the contact details of the enforcement body				

<sup>5</sup> Within the framework of supervisory measures of transport services to and from the islands, the carriers were always the addressees of the procedure in cases where the terminal operators and carriers were not identical



### 3.3.2 Carriers (shipping companies)

In 2016, the enforcement body carried out 14 supervisory measures to check compliance with passengers' rights by carriers/shipping companies. In this context, 3 ferries in international Baltic Sea transport as well 2 ferries for services to and from the islands were examined. The examination of a river cruise ship carried out as a pilot measure in the preceding year, was extended in 2016 by 4 further examinations of river cruise ships. Only in one case, shortcomings with regard to Article 23 of Regulation (EU) No 1177/2010 were determined which were remedied immediately without an administrative procedure.

<b>Key issues of the examinations of carriers and shipping companies in 2016</b>					
Regulation (EU) No 1177/2010	Contents	Number of examinations	Offences	Penalties	Remarks
Article 10	Assistance on board ships	14	0	0	Among the carriers, there is a strong willingness to implement the EU Regulation
Article 14	Instruction of the personnel when dealing with disabled persons and persons with reduced mobility				
Article 15	Compensation in respect of mobility equipment				
Article 22	Right to travel information				
Article 23	Information on passenger rights Indication of the contact details of the enforcement body				
Article 24	Complaints management				



During the examination of an Elbe ferry, it was found out that the provisions of Article 2 (2) (b) of Regulation (EU) No 1177/2010 did not apply to the ship due to the crew number and that is was, therefore, not covered by the scope of application of the Regulation.

Moreover, in 2016 the enforcement body started with the examination of the obligations under Article 24 of Regulation (EU) No 1177/2010 - setting up and providing a complaint-handling mechanism. According to current knowledge, four examinations of the complaints management of the carriers performed after the review of diverse complaints did not produce any findings. The relevant administrative procedures have, however, not yet been concluded.

### 3.3.3 Ticket vendors (tour operators, travel agents)

Owing to the generally positive results of the previous year, a total of 21 ticket vendors were examined in 2016 with regard to the observance of their obligations under the EU Regulation. In 2016, too, not objections were made.

<b>Key issues of the examinations of ticket vendors, tour operators and travel agents in 2016</b>					
Regulation (EU) No 1177/2010	Contents	Number of examinations	Offences	Penalties	Remarks
Article 7	Right to transport	21	0	0	The obligations from the Regulation were generally complied with
Article 11	Confirmation of receipt of request for assistance				
Article 12	Receipt and transmission of requests for assistance				





### **3.4 Prospects for the enforcement of passengers' rights by supervisory measures**

For the examination of the terminals for transport services to and from the islands, the focus will remain on ensuring the basic requirements from Articles 12 (3), 14 and 23 of Regulation (EU) No 1177/2010. Especially the functionality of the points of contact for disabled and mobility-impaired persons will be increasingly examined. Within the context of periodic inspections, the ferry ports and cruise terminals will repeatedly be examined to ensure sustainability.

In the future, the number of examinations of ferries as well as of ticket vendors will be reduced due to the generally good results of the previous examinations. The Berufsgenossenschaft Verkehrswirtschaft Post-Logistik Telekommunikation (Berufsgenossenschaft for the transport industry) will, as the competent agency, review the training courses concerning the treatment of mobility-impaired passengers within the framework of the ISP Code. At the same time, the obligation to provide information in accordance with Article 23 of Regulation (EU) No 1177/2010 is also to be examined.

The IG River Cruise informed the shipping companies to a large extent on the key issues of former examinations. Owing to the results of the examinations achieved up to now and the support provided by IG River Cruise, more far-reaching examinations can be performed sporadically.

The examinations to verify compliance with Article 24 (1) of Regulation (EU) No 1177/2010 are to be continued in some rare cases with special accents. They are also intended to serve the purpose of detecting the sectors with possible shortcomings with regard to passengers' rights in order to define further subjects to be examined.

After the agreement on quality standards with the Association of German Shipowners (VDR) as defined by Article 13 of Regulation (EU) No 1177/2010, these standards will now have to be fleshed out. The task of the enforcement body will also be to monitor this procedure.



## 4. Quality standards and guidelines

The Association of German Shipowners (VDR) has, in co-operation with its members and the Federal Ministry of Transport and Digital Infrastructure (BMVI), elaborated co-ordinated “Quality standards for assistance to be provided by the carrier to disabled and mobility-impaired passengers in ports and on board ships” as defined by Article 13 of Regulation (EU) No 1177/2010.

Furthermore, in accordance with Article 14 of Regulation (EU) No 1177/2010, “Guidelines for the training and instruction with regard to the treatment of disabled and mobility-impaired passengers” as well as the “Documentation of the training and instruction concerning the treatment of disabled and mobility-impaired passengers” were elaborated.

These documents are made available by VDR to its members. Thus, the Member State Germany has complied with its obligations in accordance with Articles 13 and 14.



## **5. Other activities of the enforcement body**

### **5.1 Public relations work of the enforcement body**

During the period under review, apart from the information on passengers' rights on the website of the Federal Railway Authority and its flyer in this respect issued for the rights of passengers in rail, waterway and bus and coach transport, the enforcement body made use of the press, radio and television to inform the passengers on their rights.

At the annual open day of the Federal Ministries, the enforcement body for passengers' rights regularly offers a point of contact for the citizens to provide information on these rights. In the period under review, such events were held from 29 to 30 August 2015 and from 27 to 28 August 2016.

### **5.2 Co-operation of the enforcement bodies**

Besides the exchange of information among the national enforcement bodies (NEB) in sea and inland waterway transport under the auspices of the European Commission in Brussels, individual complaint cases will be transmitted to other enforcement bodies if these cases are outside the field of competence of the Federal Railway Authority.



## 6. Conclusion

In comparison with the rail and bus transport modes, the number of complaints due to suspected infringements of Regulation (EU) No 1177/2010 in sea and waterway transport continues to be very low. This is presumably attributable to the extremely fair handling of complaints by the carriers.

The strong willingness to cooperate of the obligated parties in accordance with Regulation (EU) No 1177/2010 is equally reflected by the generally positive results of the examinations carried out by the enforcement body.

The activities of the enforcement body will also in the future be targeted on the strengthening of passengers' rights in sea and inland waterway transport and will, thus, decisively boost the aspect of consumer protection.