



Report by 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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Federal Railway Authority

Heinemannstraße 6

53175 Bonn

Germany

www.eisenbahn-bundesamt.de

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Contents

1. Introduction	4
2. Functions and activities of the national enforcement body as an appeal body	5
2.1 General.....	5
2.2 Data relating to the handling of complaints in 2021	6
2.3 Data relating to the handling of complaints in 2022	8
2.4 Handling of complaints – outlook	10
3. Enforcement of passenger rights by supervisory measures.....	11
3.1 General.....	11
3.2 Data on the enforcement of passenger rights in 2021	11
3.2.1 Terminal operators/port authorities	11
3.2.2 Carriers (shipping companies)	13
3.3 Data on the enforcement of passenger rights in 2022	14
3.3.1 Terminal operators/port authorities	14
3.3.2 Carriers (shipping companies)	15
3.4 Enforcement of passenger rights by supervisory measures – looking ahead	16
4. Other activities of the national enforcement body	17
4.1 Public relations work by the national enforcement body	17
4.2 Cooperation between the national enforcement bodies.....	17
5. Conclusion	18



1. Introduction

Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004¹ has been in force since 18 December 2012. Article 26 of Regulation (EU) No 1177/2010 states that the national enforcement bodies shall publish a report on their activity in the previous two calendar years every two years after 1 June 2015.

Section 3(1) of the EU Ship Passenger Rights Act (EU-Fahrgastrechte-Schiffahrt-Gesetz, EU-FahrgRSchG) has designated the Federal Railway Authority (EBA) as the national enforcement body. This entity performs the tasks for the enforcement of Regulation (EU) No 1177/2010, making use of the synergy effects from the lessons learned as the national enforcement body for railway and bus/coach transport. Moreover, the EBA is the body that hears appeals in cases where it has not been possible to resolve complaints between passengers and carriers (section 3(2) of the EU-FahrgRSchG and first sentence of Article 25(3) of Regulation (EU) No 1177/2010).

Germany did not make use of the exemption provided for in Article 2(3) and (4) of Regulation (EU) No 1177/2010.

Passengers may submit their passenger rights complaints not only to the national enforcement body at the EBA but, in accordance with section 6 of the EU FahrgRSchG, also contact dispute resolution bodies recognized by the Federal Ministry for Digital and Transport (BMDV), provided that the concerned company is a member thereof. The German Conciliation Body for Public Transport (Schlichtungstelle für den öffentlichen Personenverkehr e.V., söp) is the dispute resolution body for passengers travelling by sea and inland waterway. If the carrier concerned is not a member of a dispute resolution body, passengers can also address their complaints to the Federal Government's General Conciliation Body (Universalschlichtungsstelle) or to the out-of-court dispute resolution body for consumers and entrepreneurs (Außergerichtliche Streitbeilegungsstelle für Verbraucher und Unternehmer e.V.).

¹ Hereinafter referred to as: Regulation (EU) No 1177/2010



This period under review continued to be influenced by the Covid-19 pandemic, as travelling was temporarily restricted and, moreover, people were initially still reluctant to travel.

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

2.1 General

Regulation (EU) No 1177/2010 concerning the rights of passengers when travelling by sea and inland waterway has been in force since 18 December 2012. The Federal Railway Authority was designated 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 section 2 of the EU Ship Passenger Rights Ordinance (EU-FahrgRSchV), complaints under Article 24(2) of Regulation (EU) No 1177/2010 have first of all to be addressed to the carrier before passengers can consult the national enforcement body as the appeals body. If passengers are of the opinion that their passenger rights guaranteed by law were not observed, they may subsequently request the national enforcement body to review the decision taken by the carrier.

Initially, there were relatively few enquiries/complaints regarding the rights of passengers. By 2018, however, the number of submissions received by the National Enforcement Body for the Rights of Passengers when travelling by Sea and Inland Waterway had already tripled and remained at this level in 2019, whereas in 2020, there was a sharp rise due to the Covid-19 pandemic. In 2021, the number of submissions started to fall again and reached approximately the 2019 level in 2022. As in recent years, the number of submissions under passenger rights law by passengers travelling by sea and inland waterway continues to be significantly lower than the reference values for the rail and road modes.

To ensure that it is possible to compare the number of complaints between the individual transport modes, the Federal Ministry for Digital and Transport (BMDV), 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 EBA as the national enforcement body takes a decision of substance.

In practice, this means that, for example, such submissions where the EBA only refers the passenger to the carrier, to other regulatory authorities, to other national enforcement bodies or to dispute resolution bodies cannot, for statistical purposes, be deemed complaints under passenger rights law. This includes submissions concerning, for instance, service deficiencies or civil claims of travellers, but also passenger rights submissions for which a different enforcement body is responsible and that are thus not reviewed in any more detail by the German enforcement body, despite the fact that the German enforcement body often further accompanies the communication between the passenger and the competent national enforcement body in these cases.

Of course, other complaints not covered by the narrow definition of the term 'complaint' will continue to be handled and recorded for statistical purposes by the EBA. In the following, these complaints are referred to as general enquiries.

The complainants will receive a reply to all submissions and general enquiries, either explaining the function of the Federal Railway Authority as an appeal body and the classification of their submission under passenger rights law and/or referring them, if appropriate, to the carrier or the dispute resolution body. 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 conducted with the obligated party under the Regulation and of the settlement of any claims.

2.2 Data relating to the handling of complaints in 2021

In 2021, the national enforcement body received a total of 57 written submissions relating to the rights of passengers travelling by sea and inland waterway. Moreover, the enforcement body received 9 enquiries by telephone, which will not be described in detail below.

In 7 of these submissions, passengers had directly contacted the national enforcement body rather than the carrier as a first step. The submitters were thus initially referred to the carrier



in accordance with Article 25(3)(a) of Regulation (EU) No 1177/2010 in conjunction with section 3(2) of the EU-FahrgRSchG and section 2 of the EU-FahrRSchV.

For reasons of competence, 37 submissions were transferred to other European national enforcement bodies or the passengers were referred to these bodies. Of these, 10 related to Article 19 of Regulation (EU) No 1177/2010 regarding compensation in the event of delay in arrival and 15 to the entitlement to reimbursement deriving from Article 18(2) and (3) of Regulation (EU) No 1177/2010. Three other complaints concerned the right to be offered a choice under Article 18(1) of Regulation (EU) No 1177/2010. The other written submissions dealt with insufficient provision of meals and refreshments (1 case) or accommodation (2 cases) in accordance with Article 17 of Regulation (EU) No 1177/2010 and missing/delayed responses relating to the handling of complaints (3 cases) in accordance with Article 24 of Regulation (EU) No 1177/2010. 3 enquiries did not directly refer to passenger rights.

11 written submissions related to general enquiries. 3 of these submissions concerned the reimbursement of the ticket price (Article 19 of Regulation (EU) No 1177/2010), 1 submission dealt with re-routing/reimbursement of the ticket price (Article 18 of Regulation (EU) No 1177/2010) and 1 submission concerned problems relating to the transport of disabled persons (Article 9 of Regulation (EU) No 1177/2010). 6 submissions involved issues that were not directly related to passenger rights but addressed questions of service and other aspects associated with the ship's voyage.

2 submissions complied with the cross-modal narrow definition of the term 'complaint' as mentioned above.



Type and contents of the complaints in 2021 ²				
Regulation (EU) No 1177/2010	Contents	Number of complaints	Infringements	Remarks
Article 18	Re-routing and reimbursement of the ticket price in the event of cancelled or delayed departures	1	0 ³	The proceedings were not completed due to a lack of cooperation by the passenger.
Article 19	Compensation by reduction of the ticket price in the event of delay in arrival	1	1 ³	Compensation paid during the administrative proceedings after the facts had been clarified.

In terms of content, one of the complaints referred to the rights in the event of cancelled or delayed departure (Article 18(2) of Regulation No 1177/2010). The proceedings were discontinued due to a lack of cooperation by the passenger.

On the other hand, an infringement was identified in the case of the second complaint regarding compensation in the event of delay in arrival (Article 19 of Regulation No 1177/2010).

However, further measures or penalties to enforce the rights of passengers were not necessary. The shipping company in question settled the outstanding compensation payment after the facts had been clarified.

2.3 Data relating to the handling of complaints in 2022

In 2022, the national enforcement body received 37 written submissions in connection with the rights of passengers travelling by sea and inland waterway. Moreover, the enforcement body received 18 enquiries by telephone, which will not be described in detail below.

² Evaluated on 13 February 2023

³ Related to all complaints complying with the narrow definition of the term 'complaint'



In 3 cases, the passenger had directly contacted the national enforcement body. The submitters were thus initially referred to the carrier in accordance with Article 25(3)(a) of Regulation (EU) No 1177/2010 in conjunction with section 3(2) of the EU-FahrgRSchG and section 2 of the EU-FahrRSchV.

For reasons of competence, 13 submissions were transferred to other European national enforcement bodies or the passengers were referred to them. Of these 13 submissions, 8 related to re-routing and the reimbursement of ticket prices (Article 18 of Regulation (EU) No 1177/2010), 2 to the entitlement to compensation (Article 19 of Regulation (EU) No 1177/2010), 2 to the provision of assistance in the event of cancelled or delayed departure (Article 17 of Regulation (EU) No 1177/2010) and 1 to the way in which complaints had been handled (Article 24 of Regulation (EU) No 1177/2010).

18 written submissions related to general enquiries. 5 submissions involved claims for compensation due to a delay in arrival (Article 19(1) of Regulation (EU) No 1177/2010). 2 complaints dealt with complaint management (Article 24 of Regulation (EU) No 1177/2010). 11 submissions involved issues that were not directly related to passenger rights but addressed questions of service and other aspects associated with the ship's voyage.

3 submissions comply with the cross-modal narrow definition of the term 'complaint' as mentioned above.

Type and contents of the complaints in 2022⁴				
Regulation (EU) No 1177/2010	Contents	Number of complaints	Infringements	Remarks
Article 18	Choice between re-routing and reimbursement	3	0	

All 3 complaints referred to the choice between re-routing and reimbursement provided for in Article 18 of Regulation (EU) No 1177/2010. 2 of these complaints concerned the right to

⁴ Evaluated on 13 February 2023



reimbursement of the ticket price or the costs of re-routing (Article 18(2) of Regulation (EU) No 1177/2010). 1 complaint concerned the right to choose between re-routing or reimbursement under Article 18(1) of Regulation (EU) No 1177/2010. After clarification of the facts, no infringements were identified. This meant that in 2022, as in previous years, no penalties were required in this respect.

2.4 Handling of complaints – outlook

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 (2021/2022) compared with the rail and road modes. The proportion of submissions for which other European national enforcement bodies are responsible continues to be high (around 60% in 2021 and around 40% in 2022).

In the course of the COVID-19 pandemic, more submissions from passengers were received, which was mainly due to journeys being cancelled and passengers cancelling their own trips. As the impact of the pandemic continues to decline, the volume of travel is expected to increase noticeably again. However, based on the lessons learned from previous years, this will not necessarily lead to an increase in the number of complaints.



3. Enforcement of passenger rights by supervisory measures

3.1 General

During the period under review (2021/2022), the EBA, as the national enforcement body, took supervisory measures in accordance with Article 25(1) of Regulation (EU) No 1177/2010 in conjunction with section 4 of the EU-FahrgRSchG to ensure compliance with Regulation (EU) No 1177/2010.

As part of its supervisory measures, the EBA checks ship terminals, points of sale and compliance with passenger rights on ships. In principle, the inspections take place in both inland waterway transport and maritime transport, for example for regular services from and to the North and East Frisian Islands.

As part of the inspections, information provided to passengers, compliance with obligations in connection with mobility-impaired passengers as well as complaint handling is checked.

3.2 Data on the enforcement of passenger rights in 2021

In 2021, a total of 20 inspections were carried out. Terminal operators accounted for 17 of these inspections, carriers for 3.

3.2.1 Terminal operators/port authorities

In 2021, the national enforcement body carried out 17 inspections at terminal operators.



Key issues of the inspections of terminal operators/port authorities in 2021⁵			
Regulation (EU) No 1177/2010	Contents	Number of inspections	Infringements
Article 12(3)	Establishment of a point of contact for disabled persons or persons with reduced mobility	17	6
Article 13	Quality standards for assistance		
Article 14	Instruction of the personnel in procedures for dealing with disabled persons or persons with reduced mobility		
Article 23	Information on passenger rights, indication of the contact details of the enforcement body		

The inspections took place at maritime ports of the Baltic Sea and the North Sea. Here, the obligations 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 as well as the obligation under Article 14 of Regulation (EU) No 1177/2010 providing for training and instruction of personnel in their dealings with disabled persons were checked. Moreover, it was checked whether the quality standards for assistance for disabled persons and persons with reduced mobility had been made available (Article 13 of Regulation (EU) No 1177/2010). Terminal operators were also supervised with regard to the provision of information on passenger rights (Article 23 of Regulation (EU) No 1177/2010).

A total of 6 infringements were identified during the supervisory measures. The deficiencies were remedied by way of administrative proceedings.

⁵ Evaluated on 23 March 2023



3.2.2 Carriers (shipping companies)

In 2021, the national enforcement body carried out 3 supervisory measures at carriers/shipping companies.

Key issues of the inspections of carriers/shipping companies in 2021⁶			
Regulation (EU) No 1177/2010	Contents	Number of inspections	Infringements
Article 16	Provision of information on cancelled or delayed departure	3	1
Article 22	Provision of information throughout the journey		
Article 23	Provision of information on passenger rights, indication of the contact details of the enforcement body		
Article 24	Complaints		

The shipping companies were inspected mainly with regard to the obligation to provide information to passengers before and during the journey (Article 16 and Article 22 of Regulation (EU) No 1177/2010) and the obligation to provide information on passenger rights and the contact details of the national enforcement body (Article 23 of Regulation (EU) No 1177/2010) as well as the handling of complaints in line with passenger rights (Article 24 of Regulation (EU) No 1177/2010). The deficiencies identified for one company were remedied so that no administrative proceedings had to be carried out.

⁶ Evaluated on 23 March 2023



3.3 Data on the enforcement of passenger rights in 2022

In 2022, a total of 19 inspections were carried out. Terminal operators accounted for 16 of these inspections, and one carrier for the other 3.

3.3.1 Terminal operators/port authorities

In 2022, 16 supervisory measures were carried out at terminals used by cruise ships, ships operating to and from the North Sea islands and ships operating in international Baltic Sea transport.

Key issues of the inspections of terminal operators/port authorities in 2022⁷			
Regulation (EU) No 1177/2010	Contents	Number of inspections	Infringements
Article 12(3)	Establishment of a point of contact for disabled persons or persons with reduced mobility	16	0
Article 14	Instruction of the personnel in procedures for dealing with disabled persons or persons with reduced mobility		
Article 23	Provision of information on passenger rights, indication of the contact details of the enforcement body		

This involved checking compliance with 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

⁷ Evaluated on 23 March 2023



can address their requests for assistance. Another focus of the inspections was on the training of personnel in dealing with disabled persons or persons with reduced mobility (Article 14 of Regulation (EU) No 1177/2010). Furthermore, the terminal operators were supervised as to their compliance with the obligation to provide information on passenger rights under Article 23 of Regulation (EU) No 1177/2010. Since no infringements were identified, there was no need to take any administrative measures.

3.3.2 Carriers (shipping companies)

In 2022, the national enforcement body carried out 3 supervisory measures at carriers/shipping companies operating in the sea and inland waterway sectors. In this context, one carrier was checked regarding the handling of complaints and the processing of traveller data in conformity with the law (Article 24 of Regulation (EU) No 1177/2010). Two inland waterway carriers were surveyed on the training of personnel in dealing with disabled persons or persons with reduced mobility (Article 14 of Regulation (EU) No 1177/2010). No infringements were identified so that no measures had to be taken.

Key issues of the inspections of carriers/shipping companies in 2022⁸			
Regulation (EU) No 1177/2010	Contents	Number of inspections	Infringements
Article 14	Instruction of the personnel in procedures for dealing with disabled persons or persons with reduced mobility	3	0
Article 24	Complaints		

⁸ Evaluated on 23 March 2023



3.4 Enforcement of passenger rights by supervisory measures – looking ahead

Recent shipping incidents are taken as an occasion to inspect the respective shipping companies with regard to the implementation of and compliance with passenger rights. This also includes requesting and reviewing complaint files. These supervisory measures also serve to identify the sectors with possible shortcomings in the field of passenger rights in order to define further key areas on which the inspections will focus.

Another focus of the inspections is on the provision of online information by the shipping companies. Among other things, it is checked here whether minimum information on passenger rights is published and how passengers with reduced mobility are informed about accessibility.

Moreover, the terminals are continuously inspected to ensure that the level achieved is maintained, for example as regards the establishment and labelling of the *points of contact*.



4. Other activities of the national enforcement body

4.1 Public relations work by the national enforcement body

In addition to providing information on passenger rights on the Federal Railway Authority's website, the national enforcement body, in the period under review, also made use of flyers on passenger rights in rail, maritime and inland waterway and bus and coach transport in order to inform passengers about their rights.

At the annual open day of the Federal Ministries in Berlin, the national enforcement body regularly offers a point of contact to provide members of the public with information on passenger rights. After this event had to be cancelled both in 2020 and 2021 due to the Covid-19 pandemic, it took place again in the period under review from 20 to 21 August 2022.

4.2 Cooperation between the national enforcement bodies

Alongside the exchange of information between the national enforcement bodies (NEBs) in maritime and inland waterway transport under the auspices of the European Commission in Brussels, individual complaints are transferred to other national enforcement bodies if these cases are outside the remit of the Federal Railway Authority. On an ad hoc basis, the German national enforcement body avails itself of the opportunity for an exchange of views on overarching issues with the enforcement bodies of other EU Member States.



5. Conclusion

In comparison with the rail and bus and coach transport modes, the number of complaints due to suspected infringements of Regulation (EU) No 1177/2010 in maritime and inland waterway transport continues to be very low.

Even though carriers and port/terminal operators are mostly very cooperative and passenger-focused, it has become apparent that a national contact point for the rights of passengers travelling by sea and inland waterways makes sense to ensure the uniform implementation of passenger rights in accordance with Regulation (EU) No 1177/2010.

It has proved helpful to be able to use the lessons learned from the enforcement of passenger rights for the rail and road modes. Since the administrative governance for the handling of complaints as well as for the implementation of supervisory measures is uniform across all modes of transport, the national enforcement body can make use of the synergies.