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CORRIGENDUM

This document corrects document SWD(2017) 318 final of 27.9.2017

Missing annexes are added
The text shall read as follows:

COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT

Accompanying the document

Proposal for a Regulation from the European Parliament and the Council

on rail passengers' rights and obligations

(recast)

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1 WHAT IS THE PROBLEM AND WHY IS IT A PROBLEM?

1.1 Policy Context and Key Problems at Stake

Policy Context

A Deeper and Fairer Internal Market where consumer interests and social policy are at the core of the single market is one of the ten policy priorities[1] of the Commission. The Commission adopted passenger rights legislation for all modes of transport (air, rail, waterborne and bus and coach) between 2004 and 2011. This legislation ensures minimum protection for passengers in the EU, including persons with reduced mobility, when the journey is not carried out as scheduled and provides for rules on liability in the event of accidents[2]. The Regulations establish ten basic core passenger rights: (1) non-discrimination in access to transport; (2) assistance at no additional cost for persons with disabilities or reduced mobility; (3) information before purchase and at the various stages of travel, notably in case of transport disruption; (4) right to renounce travelling when the trip is not carried out as planned by the carrier; (5) fulfilment of the transport contract in the event of transport disruption; (6) assistance in situations of long delay at departure or at connecting points; (7) financial compensation under certain circumstances; (8) carrier liability towards passengers and their baggage; (9) an effective system of complaint handling; and (10) full application and effective enforcement of EU law.

Regulation (EC) No 1371/2007 on rail passengers' rights and obligations[3] (the Regulation) is part of this comprehensive set of passenger rights legislation. It has been applicable since December 2009 and, as part of the "third railway package" of 2007, it aims to improve the attractiveness of rail passenger transport and its market functioning. It ensures a minimum level of protection for all rail passengers across the EU, including specific rights for persons with disabilities or reduced mobility[4] (PRMs) thus enhancing the social inclusion of PRMs. It also promotes a more level playing field for rail operators in the EU with regard to passenger protection. The Regulation establishes the liability of railway undertakings towards passengers (including PRMs) and their luggage while using rail services. This is the case, in particular, with regard to information, contracting, assistance and financial compensation to passengers in the event of long delay(s) or missed connection(s). It lays down provisions on service quality standards, the handling of complaints and general rules on enforcement. Under the Regulation, Member States have to designate national enforcement bodies (NEBs) who have to ensure that the rights of passengers are respected. Passengers may complain to these bodies about alleged infringements of the Regulation. NEBs have to cooperate and exchange information to coordinate their tasks across the EU. Member States also have

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1 A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change Political Guidelines for the next European Commission, Opening Statement in the European Parliament Plenary Session Strasbourg, 15 July 2014

2 Air transport: Regulation (EC) No. 261/2004 and proposal COM (2013) 130 for its amendment, Regulation (EC) No. 889/2002 and Regulation (EC) No. 1107/2006; Rail transport: Regulation (EC) No. 1371/2007; Sea and inland waterway: Regulation (EU) No. 1177/2010; Bus and Coach transport: Regulation (EU) No. 181/2011.

3 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:315:0014:0041:EN:PDF

4 PRM is considered any person whose mobility when using transport is reduced due to any physical disability (sensory or locomotor, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or age, and whose situation needs appropriate attention and the adaptation to his or her particular needs of the service made available to all passengers.

to set up rules for effective, proportionate and dissuasive penalties for infringements of the Regulation.

The Regulation builds on the existing system of international law 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 1980, as modified by the Protocol for the modification of the Convention concerning International Carriage by Rail of 3 June 1999 (1999 Protocol). COTIF applies in Europe, the Maghreb and the Middle East.

A significant part of these CIV Uniform Rules is reproduced in Annex I to the Regulation. As a consequence, the Regulation extends the scope of this Convention, which makes reference only to international railway services, to domestic rail passengers' transport services. Basically, the general rules and passengers' rights and obligation which are contained in the CIV Uniform Rules (CIV UR) of the COTIF Convention and which form the object of such extension relate to the transport contract, conditions and liability for the transport of luggage and vehicles, liability in case of accidents, cancellations, delays and missed connections and relations between carriers. Annex I applies subject to the rules in main provisions of the Regulation.

The Regulation applies to all rail journeys and services throughout the EU provided by railway undertakings licensed under Directive 95/18/EC[5] (i.e. it does not apply to "light rail" such as trams or metros). Also journeys covered under the new directive on package travel and linked travel arrangements[6] are covered. However, the Regulation allows Member States to grant a number of exemptions from the application of most provisions of the Regulation to certain services[7]. Exemptions include temporary exemptions for long distance domestic services (for a period of up to 15 years, i.e. until 2024), unlimited exemptions for urban, suburban and regional services as well as exemptions for services of which a significant part, including at least one scheduled stop, is operated outside the EU. Member States have taken broad advantage of this possibility to grant exemptions, and currently only five apply the Regulation in full[8]. All other Member States have granted exemptions to a different extent to their domestic services which leads to a patchwork of application across the EU.

The Court of Justice of the European Union has so far been called upon three times to interpret the Regulation[9]. The ruling in Case C-509/11 of 2013, has created a certain confusion among stakeholders since, as a consequence, railway undertakings have to pay compensation to passengers also in the event of "force majeure", i.e. where they were not responsible for delays and could neither foresee nor prevent them. Before the ruling, all stakeholders and notably railway undertakings, Member States and the Commission had understood the Regulation as containing a "force majeure" clause, exempting railway undertakings from having to pay compensation when a delay of more than one hour was

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5 OJ L143, 27.6.1995, p. 70, as replaced by Directive 2012/34/EC establishing a single European railway area L343, 14.12.2012, p.32, as amended by Directive 2016/2370 as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure, OJ L352 p. 1, 23.12.2016

6 L326, 11.12.2015, p.1

7 Article 2 (4), (5) and (6)

8 Belgium, Denmark, Italy, Netherlands and Slovenia

9 Cases C-509/11 (ÖBB), C-136/11 (Westbahn) and C-261/15 (NMBS - SNCB)

caused by a "force majeure" event and could not have been foreseen or prevented. The reference in Article 15 of the Regulation to the liability chapter in the CIV Uniform Rules in Annex I to the Regulation was thus understood to "import" the "force majeure" clause contained in Article 32 of the CIV into the Regulation, so that railway undertakings' liability to pay compensation would equally be covered by that clause. Recital 14 of the Regulation explicitly mentions that compensation for delays (Article 17) "is linked to the liability of a railway undertaking" on the basis of the CIV. This entails that imposing on railway undertakings the obligation to pay compensation (in addition to rerouting or reimbursement and assistance) would only apply in the event that the delay or cancellation cannot be attributed to those "circumstances not connected with the operation of the railway" mentioned in Article 32 of Annex I.

The Court came to the conclusion, that the provisions mentioned by Article 32 of Annex I are not of the same nature as those mentioned in Article 17 of the Regulation and that "nothing in Regulation No 1371/2007 provides that railway undertakings are exempt from the obligation to pay compensation laid down in Article 17(1) of that regulation where the delay is attributable to force majeure". Indeed Article 32 refers to "loss or damage" due to cancellation or delay. This notion differs from the "compensation" for delay offered by the Regulation in chapter IV, which the Court qualified as a "fixed rate standard form of compensation" for a contract not carried out as scheduled. The Court considered therefore that the rights to compensation under the regulation complement and go beyond those in the CIV and were thus deliberately not meant to be covered by the exemption in Article 32.

This distinguishes rail transport from air and waterborne transport, where carriers can be exempted from paying compensation under certain circumstances. In bus and coach transport, there is no obligation for operators to pay compensation in the event of delays at arrival, and carriers can even invoke a "force majeure" clause to be exempt from providing assistance (i.e. no accommodation has to be provided). It should be noted that there is currently no uniform harmonised definition of "force majeure" in the EU, and a variety of definitions exist across the EU (in both EU and national law). For the purpose of this impact assessment, we will therefore look at two different definitions of the concept of "force majeure" and what it encompasses. A detailed description of the issue and the impact of different definitions is presented further in the report (see section on the problem definition, definition of options and analysis of effects below).

Apart from the provisions of the Regulation, the UN Convention on the Rights of Persons with Disabilities[10] (UNCRPD) calls inter alia for the accessibility of transport services for persons with disabilities. Accessibility is at the heart of the UNCRPD to which the EU and the Member States[11] are parties. It requires them to take the necessary measures, including adopting legislation, to ensure accessibility and personal mobility. In line with Article 9 of the UNCRPD, accessibility in the context of transport means the prevention or removal of barriers so that persons with disabilities or reduced mobility may use the service and all related facilities, including information, on an equal basis with other useres, i.e. independently and without having to rely on other persons. Apart from some accessible information, the Regulation does not contain detailed provisions on

[10] https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html

[11] All Member States have signed the Convention and 27 have ratified it. Ireland is preparing for ratification.

accessibility but refers to the technical specifications for interoperability relating to accessibility of the Union's rail system for persons with disabilities and persons with reduced mobility (PRM TSI)[12]. The PRM TSI will ensure progressive accessibility of rail transport infrastructure and vehicles. The Commission has also recently proposed the European Accessibility Act[13] (EAA) which contains accessibility provisions for transport services[14]. The EAA will complement and add to the provisions of the PRM TSI, which itself is currently being revised. The EAA proposal is currently being discussed in the Council and the European Parliament. Its impact on rail transport services will depend on the outcome of these discussions.

In August 2013, the European Commission adopted a Report[15] on the application of the Regulation which included the findings of an ex-post evaluation[16] study. In 2015, the Commission adopted a Report on exemptions[17] which identified the extensive use of exemptions as a major hindrance to the uniform application of the Regulation. To address the shortcomings identified, the European Commission launched an impact assessment process in February 2016[18] the results of which are presented in this report.

The application of the Regulation must be seen in the context of the overall evolution and functioning of the rail passenger market and in view of the policy objective set out in the White Paper of 2011[19] to achieve a greater modal share for rail. This objective is recalled in the recently adopted 4th railway package[20] which mentions the Regulation notably in connection with through ticketing and contingency planning. In 2010, rail accounted for only 7% of inland passenger mobility in the EU. According to the 2016 Consumer Markets Scoreboard, consumers rated rail services poorly[21] (even though the situation has been improving), and there is a wide divergence in how the market performs in different countries.

As regards developments on passenger rights in other transport modes, a proposal for a revision of the Regulation on air passenger rights has been been tabled by the Commission in 2013. Negotiations in the Council are currently halted because of the Gibraltar issue between Spain and the UK. Further to the numerous rulings of the EU Court of Justice on air passenger rights, the Commission proposal aims at ensuring a

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12 Regulation (EU) No 1300/2014 of 18 November 2014 on the technical specifications for interoperability relating to accessibility of the Union's rail system for persons with disabilities and persons with reduced mobility; OJ L 356, 12.12.2014, p. 110

13 COM/2015/0615 final

14 e.g. for websites, ticketing machines and check-in machines, information, mobile-device based services

15 Report from the Commission to the European Parliament and the Council on the Application of Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on Rail Passengers' Rights and Obligations, COM/2013/0587 final

16 Report of the study "Evaluation of Regulation 1371/2007" by Steer Davies Gleave on the application and enforcement in the Member States of the Regulation on rail passengers' rights and obligations; http://ec.europa.eu/transport/themes/passengers/studies/doc/2012-07-evaluation-regulation-1371-2007.pdf

17 COM(2015)117

18 Please refer to Annex 1 for further information

19 COM(2011) 144 of 28/03/2011

20 Directive (EU) 2016/2370, OJ L 352, 23.12.2016, p. 1

21 http://ec.europa.eu/consumers/consumer_evidence/consumer_scoreboards/12_edition/index_en.htm With a Market Performance Indicator of 76.2 (EU28 average, up 5.1 from two years earlier), the train services market ranks 24th among the 29 services markets surveyed. There are large differences in performance scores across countries, ranging from 89.6 in Lithuania to 62.6 in Bulgaria.

fairer balance of interests between passenger rights and the economic burden on air carriers of these rights.

The international rail market constitutes merely 6% of all rail traffic in the EU. The domestic long-distance rail segment represents 48% of all rail traffic in the EU while regional traffic represents 27% and suburban traffic 19%. While there is a certain degree of competition between rail and other transport modes on certain specific routes and over certain distances, notably air transport and bus and coach transport, the data available does not allow the conclusion that the issue of competition of rail with other modes is significant at a global level.[22]

Key problems at stake and their causes

The ex-post evaluation and the Commission's own reports have shown that the Regulation has had an overall positive effect on increasing the protection of rail passengers. Railway undertakings have in general applied the Regulation relatively effectively. There was no systematic non-compliance or major ambiguities with any provision of the Regulation making it impossible for Member States or operators to comply.

However, the evaluation identified two major problem areas related to the application of the current Regulation, which affect the main stakeholders groups and which are analysed in this impact assessment. One problem area relates to passengers (including PRMs) and their rights, the other to the burden on railway undertakings:

1. Firstly, passengers cannot always fully enjoy their rights under the Regulation when using rail services. Most of the issues described under this problem area apply to all passengers. However, a number of issues concern mainly PRM passengers. Where relevant the report will address these elements separately.

2. The second major problem area concerns the burden on railway undertakings due to the inconsistent application of the Regulation. .

These two areas both relate to the current application of the Regulation and will constitute the **first main part** of this impact assessment.

Another important element which will be treated separately in this impact assessment report is linked to the fact that rail operators cannot be exempted from having to pay compensation even where delays were caused by "force majeure" and could not be foreseen or prevented. This problem could in principle be treated together with the issues concerning the burden on railway undertakings. However, the insufficient quantitative evidence as to the economic scale of this problem led us to separate this issue from the other issues in this impact assessment. Because of the high interest of the “force majeure” issue for Member States and stakeholders, the issue will be analysed nevertheless, although separately. Therefore, the report will be based on the following structure:

i) Part I – problems related to the current application of the Regulation and

ii) Part II – problems related to the issue of "force majeure"

[22] See overview in Annex 5, Document A1

(See problem diagram on Figure 1).

Part I – problems linked to the current application of the rail passenger rights legislation

The analysis performed by the Commission in the preparation of this impact assessment identified a number of separate and independent issues. Moreover, a number of problem-drivers identified only have limited effects. Therefore, this impact assessment report applies a hierarchy to the problems (i.e. major and secondary problems) which is justified by their greater or lesser impact on stakeholders. The major problems are therefore related to:

- Issues linked to the scope of the rail passenger rights legislation (Exemptions);
- PRM rights;
- Information provisions;
- Compensation and assistance to passengers in case of missed connections, delays or cancellations (notably the issue of through ticketing);
- Complaint handling and enforcement.

All of these problems mainly affect the rights of passengers using rail services.

There are a number of "secondary" issues with the Regulation, which, although they have a certain impact on stakeholders, are not directly linked to the abovementioned problems. They can be divided according to the main stakeholders affected.

As regards passengers they relate mainly to:

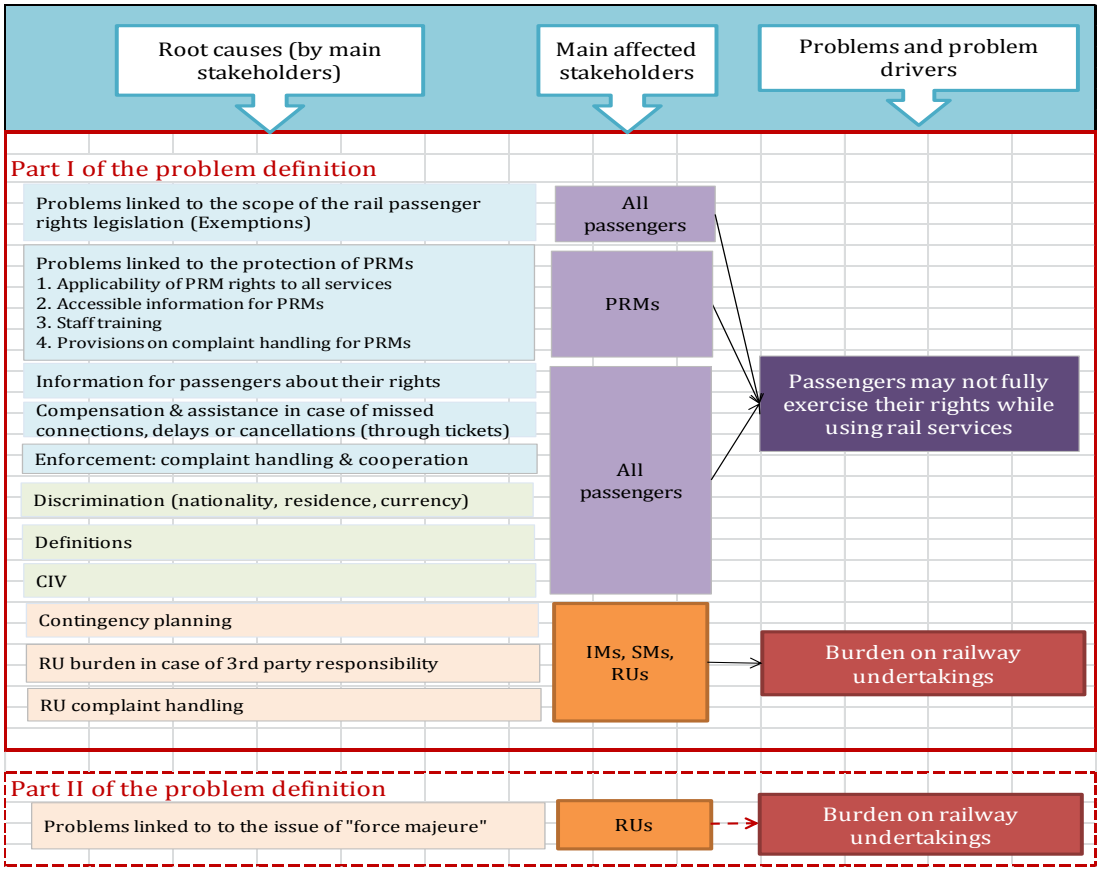
- Discrimination on the basis of nationality, residence or currency;
- Certain unclear definitions (e.g. missed connection, comparable transport conditions);
- Potential inconsistencies of the Regulation and the CIV UR reproduced in Annex I to the Regulation.

Secondary issues relating to the economic and administrative burden on rail companies concern:

- Railway undertakings' sole responsibilities in case of major disruptions;
- Long delay or cancellation caused by a third party;
- The fact that railway undertakings currently have to keep incident data for an unlimited period of time.

Part II – The problems linked to the issue of "force majeure" are dealt with as a separate topic.

Figure 1: Problem definition diagram



Source: compilation by DG MOVE

1.2 Description of the main problems linked to the current application of the rail passenger rights legislation (Part I)

1.2.1 Major issues with the regulation

(Protection of all passengers (including PRMs) – see Figure I)

1.2.1.1 Problems linked to the scope of the rail passenger rights legislation (Exemptions)

The Regulation[23] allows Member States to exempt certain domestic rail services from the full application of its requirements. This possibility was granted, on the one hand, to allow Member States experiencing difficulties to apply the Regulation in full from the entry into force to adapt their domestic services progressively and, on the other hand, to take account of the specific character of urban, suburban and regional passenger services[24]. Only certain articles such as the availability of tickets, the liability of railway undertaking in respect of passengers and their luggage, the provisions on insurance, the responsibilities of railway undertakings and station managers to grant PRMs access to rail transport services and the information about the accessibility of the service to PRMs

[23] Article 2 of the Regulation

[24] See also recitals 25 and 26

and the personal security of passengers[25] cannot be exempted and apply to all services[26]. However, Member States may exempt from all or part of the other provisions:

- **long-distance national services** for a limited period of time (five years, renewable twice, i.e. for a maximum of 15 years, i.e. until 2024)[27];
- **urban, suburban and regional services** for an unlimited period of time[28];
- particular **services or journeys where a significant part of the service or journey is carried out outside the Union** for a maximum period of five years which can be renewed[29]. The Regulation does not specify how often this may be done.

Despite the initial purpose of exemptions to allow a progressive "phasing-in", Member States have made extensive use of exemptions[30] with the negative consequence that rail passengers travelling on domestic services cannot fully benefit from most of the provisions under the Regulation and may be insufficiently protected depending on where they travel. In theory this problem could potentially be mitigated if the Member States which grant exemptions had equivalent or more generous national provisions on compensation or assistance in place. However, as is shown in table A3 of Annex 5, only in the UK do exemptions for the compensation[31] not have a significant impact on passengers' rights, as franchise contractual commitments provide for more generous compensation than that of the Regulation. Therefore, a significant number of passengers' journeys (in terms of passenger km or pkm) are exempted, and thus an important number of passengers do not benefit from the rights under the Regulation.

For instance, for **domestic long distance services**, 11 Member States[32] apply exemptions for compensation, and the same 11 Member States apply exemptions related to one or more articles related to assistance[33]. **For urban, suburban and regional services**, 15 Member States[34] apply exemptions related to compensation, 12[35] apply exemptions to the right to information[36] and 16[37] to the right to meals and refreshments in the event of long delay[38]. For **services with third countries**, 8 Member States[39] apply exemptions related to compensation, 7[40]apply exemptions to the right to information and 8[41] to meals and

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25 Articles 9, 11, 12, 19, 20(1) and 26

26 According to Article 2 of the Regulation

27 According to Article 2(4) of the Regulation

28 According to Article 2(5) of the Regulation

29 According to Article 2(6) of the Regulation

30 See also Table A12 in Annex 5 on exemptions granted by Member States

31 Article 17 of the Regulation

32 BG, HR, CZ, EE, EL, HU, LV, PT, RO, SK, UK

33 Article 18

34 AT, BG, HR, EE, EL, FI, FR, HU, LU, LV, PL, PT, RO, SE, SK, UK

35 BG, FR, HU, HR, EL, HU, LU, LV, PL SE, SK, UK

36 Article 18(1)

37 BG, HR, DE, EE, EL, FI, FR, HU, LU, LV, PL, PT, RO, SE, SK, UK

38 Article 18(2)(a)

39 BG, HR, EE, EL, FI, LV, LT, RO

40 BG, HR, FI, EL, LV, LT, RO

41 BG, HR, FI, EL, HU, LV, LT, RO

refreshments. As a result 21,4% of pkm do not benefit from the provision related to the right to compensation, 17,1% of pkm do not benefit from the requirement to inform passengers in case of disruption and 44,6 % of pkm do not benefit from the right to meals and refreshments. In all these cases Member States do not have equivalent or more generous national provisions in place.

The ex-post evaluation carried out by the external consultant found out that the extensive use of exemptions hindered the overall achievement of the main objective of the Regulation, i.e. the protection of rail passengers. Moreover, the Commission's Application Report (2013) notes that "[t]he application of different regimes for domestic and intra-EU international services is not consistent with the wider policy objective of a single European Railway Area."

Indeed, extensive exemptions in regions where urban, suburban or regional services operate across borders also lead to legal uncertainty and lack of transparency for commuters. This is mainly the case in the border regions of Germany, France, Belgium and Luxemburg. If a train is delayed by more than 60 minutes, passengers always have to check national rules to see whether or not they are entitled to compensation or assistance, depending on the country in which they are travelling. This leads, combined with imperfect knowledge of their rights by passengers and divergences in the provision of information, to a low probability that passengers assert their rights to compensation.

While exemptions for urban, suburban and regional services can be granted, in principle, for an unlimited period of time, renewals for exemptions for long distance domestic services and services with third countries have to be made every 5 years. As regards long distance domestic services, renewals are limited to two (15 years in total from the entry into force of the Regulation). For services with third countries, the Regulation does not specify the number of renewals. Consultations with Member States in the course of this impact assessment reveal that there are no intentions to reduce the current exemption regimes. This conflicts with the objective of the Regulation to provide a high level of passenger protection.

Furthermore as emphasised in the EC Interpretative Guidelines[42]: "temporary exemptions for long-distance services may be introduced with a view to allowing a period of *'phasing-in', in order to help railway undertakings that may have difficulties in* implementing all of the provisions by the date o*f the Regulation's entry into force*." In connection with Recital 25 of the Regulation this indicates that exemptions for long distance services are not meant to be permanent and should only be used to overcome temporary difficulties to apply the Regulation in full. The same applies to services or journeys of which a significant part is carried out outside the EU. As Article 26 indicates a clear maximum period of five years (albeit renewable) granting exemptions should allow Member States to adapt their relations with third countries (e.g. to adjust their bilateral agreements) with the aim to apply the Regulation in full on the part carried out on the EU territory. The Regulation does not mention cross-border intra- EU services explicitly, but it openly refers to the domestic nature of services which can be exempted (apart from those with third countries, but there the Regulation would only apply on the services carried out on the EU territory). Conversely, where Member States exempt

[42] Interpretative Guidelines on Regulation (EC) N° 1371/2007 of the European Parliament and of the Council on rail passengers' rights and obligations; OJ C 220, 4.7.2015, p. 1

cross-border EU services which are suburban or regional services the rights of commuters in cross-border regions are significantly reduced, as is their legal certainty about which rights apply.

1.2.1.2 Problems linked to the protection of passengers with disabilities or reduced mobility

Persons with disabilities or reduced mobility (PRM) have the same rights to use rail transport as other passengers. The Regulation provides for non-discriminatory access conditions for PRM passengers and imposes obligations on railway undertakings and station managers to enable PRM passengers to use rail services. However, various sources, including passenger complaints (see further sub-sections), show that PRMs may not always fully exercise their rights while using rail services. The main problematic areas are described below.

It is important to note though that several assumptions had to be made to assess the scale of these problems. Currently, there is no data available at European level on the amount of rail travel that PRMs undertake. However, according to the World Report on Disability[43] (2012), approximately 16.6% (1 in 6) of the EU population has some form of disability. Also, the impact assessment on PRM-TSI[44] estimates PRMs as 15.7% of the working age population. It results that if the overall travelling patterns of PRMs are similar to those of all citizens, around 67 billion pkm on a yearly basis could be associated to PRMs.

A) Applicability of PRM rights to all services

In addition to the general set of exemptions discussed above concerning all passengers, the Regulation allows Member States to exempt domestic services from the application of a number of provisions intended to PRMs to enable them to use transport as other passengers. This is possible simply because apart from the "right to transport" and certain information requirements, the articles containing these provisions are not among the list of mandatory provisions[45]. The rights enshrined in these articles concern notably the assistance in stations and on-board trains and the compensation for lost or damaged mobility equipment. The duration of these exemptions is linked to the general duration of exemptions granted by Member States and depends on the nature of the service (long distance; urban, suburban or regional; or service with a third country).

In some cases, exemptions do not impact the rights of PRMs as, prima facie, some national legislation appears to meet the standards of the Regulation. Table A3 in Annex 5 shows the proportion of PRM pkm that are exempted for each of the requirements[46], as well as the proportion of services that are exempted and for which there are no equivalent domestic provisions. At present, services carrying between 12.8% and 30.1% of EU pkm are subject to exemptions, and do not meet the requirements related to PRM accessibility,

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43 World Health Organisation (WHO), (2012) World Report on Disability

44 Impact assessment report – PRM TSI: revision and scope extension

45 As per Article 2(3)

46 As defined in Chapter V of the Regulation

assistance and compensation for mobility equipment[47]. By allowing Member States to exempt services from the application of these articles, the Regulation further reduces the rights of PRMs as well as their opportunities to use rail services. This is contrary to the objectives of the UNCRPD[48] as well as to the European Disability Strategy 2010-2020[49].

B) Accessible information for PRMs (travel information and information about their rights as passengers)

As regards travel information, railway undertakings and/or ticket vendors shall inform passengers pre-journey at least about general contract conditions, time schedules and conditions for the fastest trip and lowest fares, accessibility, access conditions and PRM facilities on board, conditions for bicycles, availability of seats, any activities likely to disrupt or delay services, on-board services, procedures for reclaiming lost luggage and for submitting complaints[50]. During the journey information must be provided at least about on-board services, next stations, delays, main connecting services and security and safety issues[51]. When providing this information, the Regulation requires that particular attention be paid "to the needs of people with auditory and/or visual impairments"[52]. While this provision ensures that journey information is accessible to at least a certain proportion of PRMs, other categories of persons with disabilities are not covered (such as persons with cognitive impairments or dementia), and these persons may not be adequately informed, in particular during their journey, at connection points or when the trip is not carried out as planned.

Moreover, no specific requirements exist regarding the accessibility to PRMs of the information to passengers about their rights and obligations under the Regulation (i.e. the rights to transport, assistance, compensation, complaint handling etc.)[53]. As a result, this information is often not accessible to persons with different kinds of disabilities who may thus not be adequately informed about their rights as passengers when travelling by rail. In the course of the consultations made for this Impact Assessment, the European Disability Forum (EDF) complained for instance about the lack of accessible information about passenger rights.

While general issues regarding passenger awareness (which also affect PRMs) will be discussed below in section 1.2.1.3., with regard to PRMs, there is an additional indicator for awareness, which is the number of requests for assistance[54] which PRMs may make to railway undertakings, station managers, ticket vendors or tour operators at least 48 hours before the journey[55]. Based on the assumption that the travelling patterns of PRMs

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47 Articles 20(2), 21(2), 22, 23, 24(a), 24(b), 24(c), 24(d), 24(e) and 25

48 https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html

49 COM(2010) 636 final

50 Annex II, Part I

51 Annex II, Part II

52 Article 8 (3)

53 Article 29

54 We note that, when using this proxy in the analysis, it is necessary to assume that the travel patterns of PRM passengers are the same as for other passengers. We will keep a note of this assumption wherever it is used in the generation of results.

55 Article 24

are similar to those of all citizens, it was possible to calculate this figure for a number of Member States. The proportion of PRMs making rail journeys range from 0.02% in Slovakia to 0.67% in Spain. The proportions of journeys that include requests for assistance are low (in all cases much less than 1%). These low figures reflect the information provided by a Eurobarometer survey on passenger rights of 2014[56]. According to the survey results, only 3% of citizens in the EU have ever asked for assistance during a journey by train (national or international). Although these figures should be treated with care, as a PRMs decision to request assistance might depend on other factors, it can still provide an indication on the level of passengers' awareness (in particular in combination with information on overall levels of information provided in section 1.2.1.3). This low awareness could also be due to the fact that the information about the right to assistance is not available in accessible formats.

C) Staff training

The Regulation is not fully aligned with the UNCRPD[57] which requires States Parties to take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by facilitating the personal mobility of persons with disabilities.

The Regulation requires railway undertakings and station managers to provide assistance to PRMs, subject to pre-notification of 48 hours, at railway stations and on board trains. If no notification is made, railway undertakings and station managers have to "make reasonable efforts" to provide assistance so that the passenger can take the train.

EDF pointed out that assistance to PRM passengers was not always available in spite of pre-notifications and that it was not always appropriate to the needs of the person. Moreover, according to EDF, assistance is not always available at all times that trains run, as opposed to within a restricted time frame. While there is no specific reference in the Regulation to such a requirement, Article 24(a) states that “assistance shall be provided on condition that [notification is given] at least 48 hours before the assistance is needed". Even if EDF only provided anecdotal evidence, such situations can and will occur more often.

This means that rail travel for PRMs is not always as easy and smooth as it should be. In order to improve the provision of assistance and thus the travel experience of PRM passengers, the Interpretative Guidelines recommend that rail staff receive disability awareness training at regular intervals to provide effective and adequate assistance to PRMs. However, there is no obligation. As a consequence, where rail staff is not thoroughly trained, the assistance provided to PRMs might be inadequate or completely lacking, thus inhibiting a smooth travel experience. Trained staff at stations and on board, as required under passenger rights legislation for all other modes of transport, would be in a good position to provide proper assistance. This would help ensure that PRM passengers have the same opportunities to use rail services as other passengers.

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56 Special Eurobarometer 420 (November 2014), **http://ec.europa.eu/public_opinion/archives/ebs/ebs_420_en.pdf**

57 Articles 9 and 20 of the UNCRPD refer to transport

D) Provisions on complaint handling for PRMs

The evaluation report highlighted that missing rules for complaint handling by actors other than railway undertakings (e.g. station managers) may impede passengers' access to redress. The Regulation[58] requires station managers to provide assistance to PRMs on departure from, transit through or arrival at, a staffed railway station so that the person can board the departing service, or disembark from the arriving service. Despite this requirement, station managers have no obligations (similar to requirements on railway undertakings[59]), to handle complaints or to publish service quality reports. This was not a problem when most rail stations were owned by the railway undertakings, who handled the complaints about infringement of the Regulation by the stations.

However, nowadays, in a lot of Member States railway undertakings are separated from the station manager[60]. As pointed out inter alia by EDF, there is currently no process for PRMs to complain directly to the station manager (such as to airports in the air passenger rights legislation[61]). As railway undertakings do not usually handle complaints about problems at stations, PRM passengers currently have to address their complaints directly to the NEBs, which in turn have to contact the rail stations. Problems, which could be solved relatively easily directly between the stations and the passengers, have to go through an additional administrative layer. This prolongs the solution of problems and increases the work of national administrations.

1.2.1.3 Information for passengers about their rights and passenger awareness

Railway undertakings, station managers and tour operators must inform rail passengers about their rights as passengers under the Regulation notably when the journey is not carried out as planned (rights to information, assistance, compenstion etc.)[62]. Railway undertakings and ticket vendors must provide at least the minimum information specified in Annex II to the Regulation[63]. Pre-journey information relates to general conditions, time schedules, PRM accessibility, conditions for bicycles, complaint procedures etc. Information during the journey must cover at least on-board services, next stations, delays, main connecting services and security and safety issues (see also PRM section 1.2.1.2 on information above) .

However, the level of passenger awareness and information provided is not always sufficient, which was highlighted in a Special Eurobarometer survey on passenger rights of 2014[64]. This Special Eurobarometer survey was conducted in a view to measure awareness of passenger rights in 28 Member States, distinguishing between different transport modes (air, rail, waterborne and long-distance coach). It was conducted at the

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58 Article 22

59 As defined in Article 27

60 ES, HR, IT, LV, LU, AT, PL, PT, SK, SE, UK, see Fifth report on monitoring developments of the rail market, SWD(2016) 427 final, 8.12.2016

61 Regulation (EC) 1107/2006 on the rights of disabled persons and persons with disabilities when travelling by air, OJ L204, p. 1, 26.7.2006

62 Article 29 to the Regulation

63 Article 8 to the Regulation

64 Special Eurobarometer 420 (November 2014), **http://ec.europa.eu/public_opinion/archives/ebs/ebs_420_en.pdf**

EU level. Some 28050 respondents from different social and demographic groups were interviewed face-to-face at home in their mother tongue. The methodology used is that of the Eurobarometer surveys carried out by the Directorate - General for Communication.

According to this survey, 37% of all citizens do not believe that railway undertakings inform passengers well about their rights on international (cross-border) lines. The level of dissatisfaction is even higher (51%), when only passengers who used international rail transport are interviewed. It is also important to note that only 29% of all citizens agreed that railway undertakings inform them adequately about their rights. The fact that 11 % replied they did not know and 37% did not consider this question relevant could also indicate low passenger awareness.

Even though the replies in the open public consultation carried out in the course of the impact assessment represent a small sample size and cannot be taken as providing direct evidence, they support the findings of the Eurobarometer survey. The opinions of passengers and passenger/consumer associations point in the same direction with 79 passengers (61%) and 13 passenger/consumer associations (87%) disagreeing (either slightly or strongly) with the assertion that passengers are well informed about their rights. On the other hand, all eleven railway undertakings and one infrastructure manager participating in the open public consultation responded uniformly by agreeing (slightly or strongly) that passengers are well informed of their rights.

The field research undertaken in the course of the impact assessment also supports the findings that passenger awareness would be insufficient. According to the case studies, the NEBs in Belgium, Finland, France, Latvia, Lithuania and the Netherlands did not believe that passengers were sufficiently aware of their rights under the Regulation. In contrast, the NEBs in Austria and Germany felt that passengers were well aware of their rights. The NEB in Germany (Eisenbahn-Bundesamt - EBA), which noted a steady increase of complaints, claimed that rail passengers' awareness of their rights according to the Regulation was high and growing over time, thanks to several information campaigns. However, according to the Special Eurobarometer survey on passenger rights of 2014, in Austria and Germany the proportion of citizens considering themselves as not well informed about their rights by railway undertakings is above the EU average (44% and 56% respectively)[65]. During the interviews in the case studies, the Austrian NEB explained this dichotomy by the assumption that due to their high level of awareness, passengers in Austria are more demanding on their rights vis-à-vis service providers.

Further indirect insights on the awareness level of rail passengers can be drawn from the assessment of the number and type of complaints in combination with the information from the annual activity reports of the EUROPE DIRECT Contact Centre (EDCC). EDCC is a service managed by the DG for Communication. It informs citizens and businesses on EU related matters, including on passenger rights. According to the cooperation agreements between the DG for Communication and the DG for Mobility and Transport, EDCC serves as first point of call and information for general passenger enquiries. EDCC informs in particular on the relevant rights of passengers to assistance and compensation and on the complaint procedures to follow. Therefore, even if the assessment of the number and type of complaints to EDCC may not provide a full picture

[65] Special Eurobarometer 420 (November 2014), p. 27

about rail passengers' awareness, it still provides some indications on its level, especially when compared to air transport users.

According to the 2015 report[66], from January to December, EDCC replied to 79 enquiries (or 0.18 per billion pkm) on rail passenger rights compared to 5,117 enquiries (or 8.46 per billion pkm) on air passenger rights. This important difference is also reflected in the activity reports for the previous years, i.e. 149 (0.35 per billion pkm) in 2014[67][68] compared to 6,588 (or 10.89 enquiries per billion pkm) and 151 (or 0.35 per billion pkm in 2013) [69] compared to 6,682 (or 11.04 per billion pkm). Indeed, this data should be treated with care, as the low level of complaints could also indicate better application compared to air passenger rights. In combination with the fact that according to the Special Eurobarometer survey on passenger rights only 37% of citizens disagree that air passengers were well-informed by the airline company (compared to 51% in relation to the information provided by the railway undertakings) it could, however also indicate that rail passengers are less aware about their rights than air passengers.

Moreover, some anecdotal evidence from the field and desk research for a number of Member States could also provide some indications about the passengers' awareness level. According to the UK NEB[70], 70-80% of passengers do not claim compensation when they are entitled to it. The Belgian NEB received only 80 passenger complaints in 2012 (both for international and national services)[71] which is a low figure given that around 40 000 international journeys per year are delayed by more than one hour. Indeed, these figures should be treated with care, as a passenger decision to file a complaint might depend on a number of other factors (e.g. the value of compensation might be judged low compared to the effort). However, the Polish NEB advised that the number of complaints increased by 42.7% from 2013 to 2014 following an awareness campaign relating to complaint handling. This could indicate a potential correlation between the awareness level and the number of filed complaints. Finally, in Germany 9.9 % of all complaints to the NEB relate to the provision of information about cancellations, delays, replacement services and changes of platform, and in Romania 21% of the requests were related to information provision including requests for clarifications on passengers' rights and the Regulation. This shows that passengers are clearly interested in receiving more information about their rights.

1.2.1.4 Compensation and assistance to passengers in case of missed connections, delays or cancellations

A) Through tickets

The Regulation provides that railway undertakings and ticket vendors must offer "through tickets" where available[72]. It defines a through ticket as "a ticket or tickets representing a transport contract for successive railway services operated by one or

66 http://ec.europa.eu/dgs/communication/pdf/aar/europe-direct/europe-direct-2015-annual-report_en.pdf

67 http://ec.europa.eu/dgs/communication/pdf/aar/europe-direct/europe-direct-2014-annual-report_en.pdf

68 EU Transport in figures, Statistical Pocketbook 2016

69 http://ec.europa.eu/dgs/communication/pdf/aar/europe-direct/europe-direct-2013-annual-report_en.pdf

70 Office of Rail Regulation (ORR)

71 Direction Entreprises publiques et Politique ferroviaires Annual Report 2012 para 3.2

72 Article 9 of Regulation 1371/2007

several railway undertakings[73]. For example, this could mean a ticket or tickets for a journey from Brussels to Hamburg involving three different railway undertakings (SNCB, Thalys and DB) with three stops (Brussels-Liège, Liège-Cologne, Cologne-Hanover, Hanover-Hamburg).

However, various sources (passenger organisations such as the European Passenger Federation (EPF), citiziens writing to the Commission and to EDCC) complain that the availability of through tickets is currently limited.

The field research carried out in the course of this impact assessment confirmed a limited availability of through tickets. This is because railway undertakings do not, as a rule, establish commercial agreements between each other to offer through tickets as they shun the responsibility to provide assistance and compensation in the event of a delay or missed connection during a combined journey. Moreover, with the liberalisation of the rail market as a result of the 4th railway package, the number of operators will increase, and there is therefore a risk that less and less through tickets will be offered.

For example, French SNCF claimed that through tickets between operators were only available exceptionally, and only where a relevant agreement exists between the railway undertakings concerned. In the Netherlands, through tickets for domestic travel are not offered as such, because passengers use a smart card (OV Chipkaart) to check in and out; for international journeys, Dutch Nederlandse Spoorwegen (NS) offers through tickets for some destinations, depending on the agreements between NS and other operators. Currently, no through tickets are available in Poland, but the Ministry for Infrastructure and Construction has set up a working group on this issue. In Romania, the state railway undertaking (CFR Călători) provides through tickets for its own services, while for international services, it provides tickets only where agreements with other operators are in place. CFR Călători does not sell tickets for services operated by competitors.

The Austrian NEB indicated that obligations under the Regulation had a negative impact on the availability of through tickets and that railway undertakings were reluctant to offer through tickets on international services. In the same vein, Belgian SNCB expressed concerns that too restrictive requirements in connection with compensation payments might be a disincentive for operators to offer through tickets. The boot is on the other foot: Selling tickets only for segments allows railway undertakings to by-pass the obligations related to compensation for delays. This shows that certain costs of the rail market liberalisation are shifted to the consumers, who nowadays enjoy less protection under combined journeys than before the liberalisation.

As a result, compensation is calculated differently in the event of delays when a journey is composed of several legs. According to the desk and field research, the calculation of compensation for a delay in some Member States, like Germany, Italy (since March 2015) and Lithuania, is based on the whole ticket price for the entire journey if the journey is carried out by a single operator or by different operators in a single public transport network association which provides rail services in a specific region (such as a "Verkehrsverbund" in Germany). However this is not always the case; for example in

[73] Article 3(10) of Regulation 1371/2007

Italy before March 2015[74], a number of continuous rail services were not considered as through tickets by railway undertakings (Trenitalia and RFI) but as separate transport contracts – e.g. a regional rail service followed by a medium or long-distance national rail service. In that case, a delay of less than one hour on the first rail service which led to a missed connection for the second service would not entitle a passenger to assistance or compensation, even if he/she arrived with a delay of more than one hour at the final destination, since the two rail services were governed under separate transport contracts.

According to information received, notably from EPF but also from ticket vendors and travel agents, railway undertakings tend to regard separate tickets as separate contracts, even if they are bought at the same time and in a single purchase transaction for one journey. Consequently they deny compensation or assistance for the whole journey and grant it only for the separate segments. Rail companies justify this policy by referring to the General Conditions of Carriage for Rail Passengers (GCC-CIV/PRR)[75] which stipulate that one ticket represents one transport contract and that several tickets represent several contracts unless it is specifically mentioned that they represent a single contract[76.] Although the GCC-CIV/PRR is only a recommendation document, railway undertakings widely use them as a reference document.

In the 4th railway package, the Commission clarified certain aspects related to through tickets and their availability and declared its intention to monitor rail market developments in the Member States in this respect. It will decide, by 2022, on the need for further action. However, currently the enforcement of the relevant provision in the Regulation is ineffective. The effects of the EC Interpretative Guidelines (2015) which recommend that "separate tickets sold under a single contract should be understood as a through ticket" cannot yet be assessed owing to the short time since their introduction and, in any event, they are not binding on the railway undertakings.

The replies to the open public consultation show the controversy of the subject and could reflect the different interests of various stakeholders groups. In particular, 51% of citizens (66) and 60% of passenger/consumer associations (9) responded that the concept of through tickets was unclear, (partly) missing or (partly) obsolete. Also, 50% of public authorities (8)[77] consider that the concept is unclear or (partly) missing. On the other side only 27% (3) of railway undertakings believe that the concept of through tickets was unclear and 64% (7) that do not.

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74 Following several complaints submitted by passengers and passengers' associations, in 2014 the Italian competition authority (AGCM) initiated proceedings against Trenitalia and RFI to establish the existence of infringements with respect to Trenitalia's complaint handling mechanism; and the failure to classify a journey composed of several legs as a "through ticket" – i.e. a single contract of carriage – which was deemed by the AGCM as being designed to limit the passengers' rights protection by limiting passengers' entitlement to compensation for delays and missed connections.

75 **http://www.cit-rail.org/en/passenger-traffic/cit-documentation/**

76 Points 3.4 - 3.6 about the handling of reimbursements and compensations of GCC-CIV/PRR

77 BE, EE, FI, SE, EL, CZ, two authorities from LV (NEB and MoT),

1.2.1.5 Enforcement: NEB complaint handling and cooperation

Member States are in charge of ensuring the correct application of the Regulation. They have to designate national enforcement bodies (NEBs)[78]. However the tasks and enforcement policies of NEBs vary greatly depending on the country; and different interpretations of their role co-exist.

The Regulation requires NEBs to cooperate, to exchange information on their work and decision-making principles to coordinate their enforcement activities across the EU[79]. Despite Commission efforts to bring NEBs together in regular meetings[80] and to reply to and share questions on interpretation, the cooperation level between NEBs is low and, if any, restricted to a few cross-border cases, notably when passengers complain about incidents during cross-border journeys or when travelling in another country than their residence. The ex-post evaluation found that "of the 17 case study States, the NEBs of 7 States had had no contact with other NEBs, and for a further 6 NEBs any contact has been limited"[81].The Polish NEB considered that owing to the frequency of NEB meetings good working relationships could not easily be established. At the NEB meeting of 31 March 2015, NEBs insisted that rules for the cooperation are unclear and the wording of the current Regulation did not allow to fully clarifying this in interpretative guidelines[82].

As a result, passengers who suffer a delay or cancellation during a cross-border journey may not be adequately protected. Despite the fact[83] that passengers can complain to any NEB, NEBs may avoid to assume responsibility to handle a complaint if the incident took place in another or involves more than one Member State. Although at recent meetings with NEBs there was no evidence that such a situation has indeed produced itself, such a scenario was not ruled out, notably at a NEB meeting of 2015 to discuss the Interpretative Guidelines. This may notably occur if the ticket is bought in one Member State, the journey is carried out by a railway undertaking licensed in another Member State and the incident happened in a third one. The process to handle complaints and issues of competence, i.e. which NEB has to handle a complaint, is not entirely clear, although the Commission has tried to clarify this and to propose a procedure in its 2015 Interpretative Guidelines. In the NEB meeting of 6 March 2017 some NEBs mentioned again that the cooperation process was not sufficiently clear to them and that sharing and coordination of enforcement activities was not done sufficiently.

While international journeys represent only 7 % of all rail journeys in the EU, the primary purpose of cooperation between NEBs should be to ensure that cross-border cases are handled in a way allowing passengers' complaints to be adequately dealt with. In addition, cooperation to exchange decision-making principles shall improve consistency of application across Member States so that passengers can expect similar levels of enforcement.

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78 Article 30 of the Regulation

79 Article 31 of the Regulation

80 Seven NEB meeting have been organised by the Commission between 2010 and 2017

81 The 2012 Evaluation Study Report by Steer Davies Gleave found that "of the 17 case study States, the NEBs of 7 States had had no contact with other NEBs, and for a further 6 NEBs any contact has been limited. **http://ec.europa.eu/transport/sites/transport/files/themes/passengers/studies/doc/2012-07-evaluation-regulation-1371-2007.pdf**

82 Minutes of NEB meeting of 31.3.2015

83 Article 30 of the Regulation

Also the process that passengers should follow when lodging complaints under the Regulation is not entirely clear. According to the Italian NEB it is problematic that the Regulation does not specify that passengers should complain to railway undertakings in the first instance, as NEBs then need to contact the railway undertakings to obtain information about the incident. Finally, the Regulation does not make any connection with passengers' rights to alternative dispute resolution (ADR)[84]. The ADR Directive ensures that consumers have access to independent, fast and cost-effective procedures for solving their disputes with businesses out of court. Such out-of-court dispute resolution is most often not granted by NEBs, who concentrate their activities on enforcement.

1.2.2 Secondary issues with the regulation

The following issues qualify as "secondary" problems as their impact on stakeholders is less than for the "major" issues. They relate mainly to clarifications of rules in the Regulation, definitions and procedures.

1.2.2.1 Discrimination on the basis of nationality, residence or currency

(Protection of all passengers (including PRMs) – see Figure I)

Although the Regulation does not contain a clause to prohibit discrimination on the basis of nationality, rail passengers are in principle protected by the Treaty on the Functioning of the European Union[85]. However, there have been instances of discrimination on the basis of residence or currency, which would amount to indirect discrimination on the basis of nationality (e.g. if residents of France are discriminated against, this will disproportionately discriminate against people of French nationality). The European Passenger Federation (EPF) reported for instance that to be able to use a season ticket or a national reduction card on a certain national railway, passengers must have a nominative card which can only be obtained in the neighbouring countries. This represents discrimination on the basis of residence.

In another example, a national railway has not made available certain fares on the internet to passengers who did not indicate the Member State of this railway as their country of residence on its website. EPF mentioned examples for Paris – Geneva TGV fares and also for Paris – Barcelona TGV fares. The latter discrimination issue received some press coverage and was quickly removed. It was also addressed by the European Parliament under a parliamentary written question[86]. In the Commission's contacts with SNCF and RENFE the former suggested that this was a “technical error”, but other similar instances were reported to the Commission through citizens' complaints. This also represents discrimination on the basis of residence.

There have also been instances where passengers were discriminated on the basis of currency. In particular, citizens reported that a railway undertaking offers tickets on its

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84 Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR), OJ L 165, 18.6.2013, p. 63

85 Article 18 of the Treaty on the Functioning of the European Union

86 E-013686-15

website depending on the country customers indicate to be their residence, e.g. if a customer indicates country X, then tickets cannot be bought to "any station of country Y". Customers indicating a continental country of residence cannot buy through tickets beyond the UK Eurostar stations. Eurostar justifies this policy by claiming that some fares are only available in pounds sterling (and only visible when selecting "UK") and others only in euros. However the price differences cannot only be explained by exchange rate fluctuations. These policies could also be understood as indirect discrimination on the basis of nationality. NEBs cannot and do not currently address such policies, and there is no obligation under the Regulation for Member States to mandate them to do so. This means that passengers have to seek redress from national courts in cumbersome, lengthy and costly procedures.

1.2.2.2 Definitions

(Protection of all passengers (including PRMs) – see Figure I)

A) "Missed connection"

The lack of a clear definition of which situations are covered under the concept of "missed connection" adds to the problems related to compensation and assistance, also in connection with the issue of through ticketing, described above. Although the Regulation[87] considers missing a connection as a situation of disruption it is not entirely clear whether 'missed connection' only means a situation where a passenger misses his/her next passenger service in a journey under a transport contract owing to a delay of the previous service or whether other scenarios are covered under this notion (e.g. missed connections under separate contracts). Neither are the obligations of railway undertakings or other actors clearly spelt out in such a situation and passengers may not be adequately protected. The responses to the open public consultation show that 21% (27) of the citizens believe that the concept of missed connections is unclear with 46% (60) having no opinion. On the other hand, 82% (9) of the railway undertakings and 50% (3) of the industry federations responded there was no problem with the clarity of the rules in the Regulation.

B) Re-routing and "comparable transport conditions"

Another element that hinders the effectiveness of passenger protection is linked to re-routing in case of delays, cancellations or missed connections. According to EPF, many railway undertakings[88] limit what they regard as 'comparable transport conditions' for rerouting (as per Article 16(b) and (c) of the Regulation) to their own services and exclude services from other companies or other modes of transport, even if this means extra delays for passengers. According to EPF, some railway undertakings[89] specify that re-routing must be made under exactly the same conditions (type of day, type of train, peak/off-peak services, etc.). This appears to be a too narrow interpretation impacting

[87] Art 15, 18 (4) and in Annex I Art. 11 and Art. 32 of Regulation 1371/2007

[88] without specifying the companies

[89] Including NS and SNCB, however EPF have noted that they would not like this detail to be included in a public facing version of this document

negatively on passengers, notably as the Regulation explicitly speaks about "comparable transport conditions" without, however, defining that term.

1.2.2.3 CIV

(Protection of all passengers (including PRMs) – see Figure I)

A number of issues have also been identified with regard to the relations between the Regulation and the internationally applicable CIV UR of COTIF[90] of which a major extract is part of the Regulation and reproduced in Annex I to the Regulation. Problems have been identified with definitions of terms in the Regulation and the CIV that could be in conflict. Moreover, there is a risk of potential inconsistencies between the Regulation and the CIV in the event the OTIF[91] would decide to amend the CIV, as explained below.

A) Definitions – concept of "carrier"

The definition of "carrier" introduced in the Regulation[92] is potentially in conflict with the term "carrier" as defined in the CIV[93]. Indeed, the Regulation defines "carrier" under the list of definition, but further in the text it does not mention "carrier" any more and puts all obligations on the "railway undertaking". In contrast, the CIV focuses on the term "carrier" which is broader in nature and may include also certain domestic bus operators or international maritime companies in the chain of rail carriage. Unclear and inconsistent provisions could lead to different interpretations of the Regulation, with patchy implementation and variable levels of enforcement. In the open public consultation, the majority (9) of railway undertakings considered the notion of 'carrier' as unclear. The Dutch passenger organisation[94] requests to clarify the relationship between both acts, notably as regards the rules applicable in case of conflicts. The Finnish Competition and Consumer Authority[95] said that the CIV could become an issue if it was used more often. However, the Finish NEB[96] did not identify the CIV as a problem.

B) Changes to the CIV

Including the CIV in Annex I to the Regulation risks posing legal and enforcement problems due to the CIV being an International Convention, which is subject to the rules of the Intergovernmental Organisation for International Carriage by Rail (OTIF). OTIF has repeatedly in 2013 and 2014 advised the Commission that if the CIV Uniform Rules were "to continue to improve passengers' rights and to improve the entire CIV system, it will be necessary, from time to time to make arrangements to maintain their

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90 Uniform Rules concerning the Contract of International Carriage of Passengers by Rail (CIV), which constitute the Appendix A to the Convention concerning International Carriage by Rail (COTIF) of 9 June 1999

91 The Intergouvernmental Organisation for International Carriage by Rail

92 Article 3 of the Regulation

93 Article 3 of the CIV

94 ROVER

95 KKV

96 TraFi

effectiveness"[97]. OTIF had in mind for instance to adapt financial amounts for compensation in the light of inflation. The CIV can be amended swiftly through an OTIF General Assembly decision. Amending the CIV would mean that the extract in Annex I of the Regulation (which explicitly cannot be amended through comitology[98],) would differ from a revised CIV. Rail operators and NEBs would be confronted with two different versions of the same rules. In such a situation, passengers in the EU would thus not benefit from e.g. increased compensation amounts for damages[99].

1.2.2.4 Assistance in case of major disruptions (contingency planning)

(Burden on railway undertakings – see Figure I)

In the event of major transport disruptions (e.g. natural catastrophes, terrorist attacks etc.), Member States' and transport industry responses to ensure assistance and mobility continuity in such situations vary or are inconsistent. According to the desk and field research conducted, the instances of major disruption seem to represent between 0.1% up to around 5% of the incidents or irregularity of rail services. For further details, please consult Tables A3 and A4 of Annex 5. Although these events are by nature exceptional, their impact on railway undertakings as well as on passengers can be significant. In the absence of contingency planning involving all rail transport actors, passengers who are stranded because their rail transport is severely disrupted might, in some Member States, not get timely assistance, notably as regards re-routing, care (including meals and refreshments) or reasonable accommodation if the journey cannot be pursued[100].

In addition, taking into account the international obligations deriving from the UNCRPD, organisations representing persons with disabilities should be closely consulted in the development and implementation of legislation, policies and other decision-making processes concerning issues related to them.

Under the 4th Railway Package[101], only railway undertakings have to have contingency plans in place, i.e. to provide information and assistance to passengers and to preserve their mobility in the event of a major transport disruption. However, no such obligations exist for other actors such as station and infrastructure managers or national authorities. The burden to provide assistance to passengers in the event of major transport disruption has therefore to be borne by railway undertakings alone. If these are unable to cope, passengers are left to their own resources in especially difficult situations. This would mainly affect vulnerable categories such as PRMs, elderly persons or children. According to the desk and field research, most Member States and some railway undertakings[102] have put in place certain measures to cater for events of service disruption (see Table A4 in Annex 5 for further information). However, the extent to

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97 See i.a. letter of OTIF to Fotis Karamitsos ARES(2013)3289525

98 Article 34 of the Regulation

99 E.g. Article 30 and 45 of CIV

100 Passengers were stranded because of sudden ice: **http://www.faz.net/aktuell/gesellschaft/wintereinbruch-passagiere-muessen-nacht-im-zug-verbringen-13996086.html** or owing to floods: **http://www.sueddeutsche.de/panorama/folgen-der-fluten-wie-das-hochwasser-die-bahn-behindert-1.1697209**

101 Article 13 (3) of Directive (EU) 2016/2370

102 Slovenia, Luxembourg and Greece have not provided information regarding contingency planning. According to the Slovenian railway undertaking, there are no contingency plans in case of terrorist attacks or other security threats at the moment

which the different stakeholders are involved varies considerably from one Member State to another and notably when the station manager and the railway undertaking are separated.

Burden on railway undertakings in case of 3rd party responsibility

(Burden on railway undertakings – see Figure I)

Under the current Regulation, it is the responsibility of railway undertakings to provide assistance and care and pay compensation in the event of long delays, missed connections and cancellations even if it is clear that a third party caused the incident. This would be the case, for instance, if the infrastructure manager did not ensure adequate maintenance of the tracks and their environment and leafs or branches fallen on the tracks caused a delay. For such a situation the Regulation does not contain specific provisions on 3rd party redress. Railway undertakings may thus have more difficulties to obtain redress, depending on the applicable national legislation.

1.2.2.5 Complaint handling by railway undertakings

(Burden on railway undertakings – see Figure I)

The 2013 Eurobarometer on Europeans' satisfaction with rail services[103] identified "a notable increase in the proportion of Europeans who are satisfied with complaint handling mechanisms" compared to previous years. In the open public consultation, slightly more citizens (42 or 32%) believe that the Regulation had a high or very high impact on service quality and complaint handling. Those who think its impact was low or very low (38 or 29%) are fewer. Amongst passenger/consumer organisations, 3 (20%) thought the Regulation's impact was high, whilst 5 (33%) thought it was low or very low.

However, the assessment of the complaint handing mechanism carried out in the course of the ex-post evaluation and impact assessment suggests that there is still room for improvement notably as regards unclear deadlines for complaint handling. All railway undertakings indicated in the field research that in the absence of a time limit for submitting complaints it was difficult for them to establish the details of an incident. Moreover, different deadlines exist under national law, increasing legal uncertainty and administrative burden (although it is difficult to quantify this). This seems unnecessary in view of usual passenger conduct. While currently passengers are free to lodge complaints within the time frames under national law, the information received from railway undertakings, NEBs and EPF indicate that they usually complain within one month after an incident.

1.3 Description of the main problems linked to the issue of "force majeure" (Part II – see Figure I)

Passengers who suffer long delays are entitled to a number of rights, i.e. i) the right to choose between reimbursement of the ticket price or re-routing to their final destination[104]; ii) the right to information and assistance[105] and finally iii) the right to request financial compensation in the form of a proportion of the ticket price (25 % for a

[103] **http://ec.europa.eu/public_opinion/flash/fl_382a_en.pdf**

[104] Article 16 of the Regulation

[105] Article 18 of the Regulation

delay of 60 to 119 minutes and 50 % for a delay of 120 minutes or more)[106]. This latter additional payment is meant to compensate passengers for the inconvenience suffered by the delay. Overall, railway undertakings comply with this requirement and national legislation or carriers' customer policy may provide for even more generous compensation.

In 2013, and contrary to the common understanding until then, the Court of Justice of the European Union ruled[107] that railway undertakings also have to pay compensation in situations where delays were caused by "force majeure".

"Force majeure" is a well-established general legal principle describing events which may affect the performance of a service/contract but are beyond the control of the parties. As the Court already noted in an early Court case[108], it implies that "the non-performance … is due to abnormal and unforeseeable circumstances beyond the control of the person invoking "force majeure" whose consequences could not have been avoided in spite of the exercise of all due care". In these exceptional circumstances, it is recognised that an individual or entity may be able to escape responsibility, on the basis of the general principles of legal fairness and proportionality, and in particular an equitable balancing of the interests of the parties. The concept is found in national and international law and in a wide range of areas of EU law, from agriculture to postal services and the financial sector (e.g. credit transfers and payment services) to package travel and passenger rights in the air, bus and coach and waterborne transport sectors.

Indeed, in the area of EU passenger rights legislation, "force majeure" clauses were expressly included in the legislation in the air, bus and coach and waterborne transport sectors to reflect the "equitable balancing" of the interests of passengers and transport operators. For example, under the legislation on air passenger rights[109], obligations on operating air carriers should be limited or excluded in cases where an event has been caused by "extraordinary circumstances" which could not have been avoided even if all reasonable measures had been taken. A comparable provision exists under the Montreal Convention. Under the Regulation on passenger rights in waterborne transport[110], the carrier is not liable to compensation[111] when it can prove that the cancellation or delay is caused by weather conditions endangering the safe operation of the ship or by extraordinary circumstances hindering the performance of the passenger service which could not have been avoided even if all reasonable measures had been taken. Under the Regulation on passenger rights in bus and coach transport[112], even the obligations of the carrier to assistance[113] in case of cancelled or delayed departures shall not apply when the

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106 Article 17 of the Regulation

107 Case C-509/11

108 C-4/68, Schwarzwaldmilch, **http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:61968CJ0004&from=EN**

109 According to the 14th and 15th[109] recitals of Regulation (EC) 261/2004

110 Article 20 of Regulation (EC) 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 2006/2004

111 Article 19 of Regulation (EC) No 1177/2010

112 Article 23 of Regulation (EC) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004

113 Article 21of Regulation (EC) No 181/2011

carrier proves that the cancellation or delay is caused by severe weather conditions or major natural disasters endangering the safe operation of bus or coach services.

As regards the rail sector, before the EU Court of Justice ruling, it was commonly understood by all stakeholders, rail industry, national authorities and passenger representatives[114] alike, that similar considerations applied to the payment of compensation under the rail passenger rights Regulation via its reference to the CIV rules, which contain a "force majeure" clause for damages[115]. However, in its judgment in Case C-509/11[116] the Court rejected the argument of the Commission and concluded that the reference to CIV could not be understood as "carrying over" a "force majeure" clause into the compensation obligations set out in Article 17 of the Regulation[117].

As a result, railway undertakings currently have to pay compensation in situations where they were not responsible for long delays and which they were not able to prevent. Therefore, the absence of a clause in the Rail Passenger Rights Regulation to exempt railway undertakings in such situations from the payment of the compensation amounts per se to unfair treatment.

There is also a clear problem not only of internal coherence within the Regulation itself but also of legal certainty given the drafting of Article 15 of the Regulation, which expressly refers to the chapter in the CIV, which includes a "force majeure" clause.

The problem of coherence extends also to the Package Travel Directive, which uses the concept of "unavoidable and extraordinary circumstances"[118] and which covers rail journeys as part of a package. The draft UNWTO Convention on the Protection of Tourists and the Rights and Obligations of Tourism Service Providers, which is currently being negotiated, also uses the concept of "unavoidable and extraordinary circumstances"[119].

It has been demonstrated in the area of air passenger rights, that, unless situations of "force majeure" or "extraordinary circumstances" are clearly and narrowly defined, air carriers tend to take broad interpretations of such circumstances in order to reduce the compensation amounts that have to be paid. In the air transport field, this has given rise to a series of cases before the Court of Justice which have underlined the key objectives of passenger rights legislation.

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[114] EPF chairman Trevor Garrod pointed out in 2014 that, in the event of "force majeure", passengers would expect to receive assistance, but not additional financial compensation: **https://www.greens-efa.eu/legacy/fileadmin/dam/Documents/Events/2014_01_09_Passenger_rights_for_all/PR_20140109_Garrod.pdf**

[115] Article 15 of Regulation 1371/2007 refers to the CIV rules (Article 32(2).

[116] Judgment of the Court of 26 September 2013: **http://curia.europa.eu/juris/document/document.jsf;jsessionid=9ea7d2dc30dd7c3c0b567f904baa8ae2878ebc9ba08c.e34KaxiLc3qMb40Rch0SaxuPaNf0?text=&docid=142215&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=412580**

[117] Compensation of the ticket price

[118] See Articles 3(12), 12(2), 13(7) and (8) and 14(3)(c) of Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC, OJ L326, 11.12.15

[119] See Standard 9.8 and Recommended Practice 9.1 of Annex II to the draft.

Despite numerous requests, railway undertakings have not been very forthcoming with data on the cost of the current arrangements. However, field and desk research[120] made evident the important differences in estimates of "force majeure" by railway undertakings. The data represents a very broad range of "force majeure" incidents in the EU, which varies from 'the vast majority' to less than 1.25% of delays with the average of the reported proportions of delays considered to represent 'force majeure' of 22.6%. These discrepancies are largely caused by the different definitions applied by Member States[121]. Therefore, depending on the definition, the proportion of delay minutes which could be considered to fall under this definition varies significantly. This becomes even more evident while considering the potential scale of delays attributed to force majeure in the UK[122] of delays that can be attributed to different causes[123].

Table 1 – Scale of delays attributed to "force majeure" events

Force majeure definition	Causes included	% of delay within 'force majeure' definition
1. Any cause of delay outside of the control of the railway undertaking concerned	TOC-on-TOC[124] All NR-on-TOC[125] , that includes causes linked to External factors, Network management, ,Non-track access, Severe Weather, Autumn & Structures and finally problems on tracks	71.0%
2. Any cause of delay outside of the control of the railway undertaking concerned (but assuming all TOCs count as one organisation)	All NR-on-TOC, that includes causes[126] linked to External factors, Network management, ,Non-track access, Severe Weather, Autumn & Structures and finally problems on tracks	59.8%
3. Any cause of delay which could not reasonably have been foreseen or could not reasonably have been mitigated	External factors; Severe Weather, Autumn & Structures; Non-Track Assets Track	41.4%
4. Any cause of delay which could not reasonably have	External Severe Weather, Autumn & Structures	17.0%

[120] Please consult Tables A5- A9 in Annex 5

[121] The average of the reported proportions of delays considered to represent "force majeure" in Table A5 (Annex 5) is 22.6%, which lies between the estimates generated for definitions 3 and 4 in Table A9 (Annex 5)

[122] UK was the only Member State in the desk and field research that provided such a scale

[123] See Table A9 in Annex 5

[124] TOC = Train operating companies, TOC-on-TOC means incidents that one train operating company causes to another train operating company

[125] NR is the infrastructure manager Network Rail, NR-on-TOC means incidents caused by the infrastructure manager to a train operating company

[126] Definitions in use are provided in Table A8 in Annexe 5

been foreseen		

Source: (UK, 2015-2016)

Therefore, in the context of this impact assessment, the Commission considers several definitions of the "force majeure" concept, which will be further described and assessed when considering the policy options (see Section 4).

Railway undertakings have repeatedly appealed to the Commission to re-introduce the concept of "force majeure" in the Regulation. Similarly, when specifically consulted by the Commission on this issue[127], 13 Member States have said that they were in favour of such a re-introduction. Only 2 Member States were rather against although they said that they could perhaps accept it, and 11 Member States had not made up their mind or did not answer. Most Member States expressing an opinion made it however very clear that the re-introduction of a force majeure clause should be precisely ring-fenced to avoid abuses by railway undertakings. Therefore it is considered opportune that this impact assessment looks into the issue.

1.4 How would the problem evolve, all things being equal? (Baseline)[128]

1.4.1 Part I – problems linked to the current application of the rail passenger rights legislation

The rail passenger demand is expected to grow by an annual average of 1.8% between 2015 and 2035 with much of this growth occurring between 2020 and 2030. This increase will be reflected more heavily in international and domestic long distance services based on the assumption of an increasing availability of high speed services and the implementation of the fourth railway package. The rail sector's share of passenger demand is estimated at 7.6% in 2014 and is expected to rise to 9.2% by 2035 against road transport with a relevant impact on carbon emissions.

If the Regulation remains unchanged and no further action at EU level is taken, most of the issues identified (with the notable exception of some of the problems linked to the scope of the legislation) would not be addressed and passengers will continue to face the problems that are described in section 1.2.

Passengers will benefit from the phasing-out of exemptions under Article 2(4) for domestic services at the latest by 2024 and by any national initiative to reduce the scope of exemptions before that date. However, in the consultations for this impact assessment, Member States revealed that they were not planning to change exemption schemes in the short term[129]. With the further opening of the domestic rail passenger market under the 4th railway package, there is also a risk of further exacerbating the identified problems, even if not all the objectives of domestic liberalisation will be achieved owing to national exemptions under the 4th railway package.

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[127] The Member States reserve their individual positions on that matter

[128] Annex 4, p.p. 60-63

[129] For analytical purposes, it is assumed that they could consider a progressive phasing out over a few years rather than a step-change in a single year (2024),) as they will have to put in place processes before the expiry of exemptions.

The expiration of the exemptions for domestic services is expected to have an impact on social benefits as passengers will be able to enjoy better information on their journey and on passenger rights and assistance when disruptions take place (including PRMs). The expiration of the exemptions would also have a material impact, in particular on the amount of compensation paid for delays according to Article 17 of the Regulation. Thus, the costs for railway undertakings will increase slowly.

Similar results are observed for the assistance in case of delay under Article 18 of the Regulation. The increase in the assistance level in the long-term due to the expiration of the exemptions is not as important as the compensation increase. After expiration, passengers will have the right to assistance in all Member States on all non-exempted services. This again raises the cost for railway undertakings and infrastructure managers which amounts to EUR 1,178,029 million and for infrastructure managers to EUR 687,996 million[130] for a 15-year period.

The Commission proposal for the European Accessibility Act (EAA) aims at improving accessibility in rail transport by complementing the provisions of the PRM TSI. Its impact on rail transport services will depend on its final scope to be determined in the discussions in Council and European Parliament. However, under the baseline, the objective of clarification of passenger rights legislation and improved quality of transport of elderly and PRM passengers will not be achieved. Without strengthened provisions there is a risk that, under the rail market liberalisation of the 4th railway package, PRM passengers are not sufficiently protected. The UNCRPD, the European Disability Strategy and the EAA set out to better integrate PRMs in society. Under the baseline, PRM rights are not aligned with the new requirements under these instruments, notably as regards assistance to ensure personal mobility and accessibility of information.

Direct or indirect discrimination on the basis of nationality, residence or currency will not be addressed by NEBs. The only option for citizens suffering from alleged discrimination would have to refer to Article 18 TFEU in a court procedure.

As regards the consistency with other legal acts, the revisions to the CIV UR by OTIF would not be reflected in the Regulation and its Annex I, which contains an extract of the CIV UR. Annex I cannot be adapted without revision of the Regulation. This means that in case of amendments to the CIV UR, railway undertakings in the EU and NEBs would be confronted with two different legal acts. Updates to the CIV benefitting passengers (e.g. increasing insurance amounts in case of accidents) cannot be reflected in Annex 1. Passengers in the EU would thus have lesser rights than passengers in other OTIF member states.

The Regulation will be included in the Annex of the Consumer Protection Cooperation (CPC) Regulation 2006/2004[131], once the Commission's proposal for the new CPC

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[130] Data based on Cost & Contribution of Rail study (SDG). Data was available for 2013 and the 10 year CAGR has been used to arrive at revenue for 2014. Splits between Railway undertakings and IMs are based on the EU average where the study did not uncover sufficient evidence of the split.

[131] The proposal for a new CPC Regulation of 25 May 2016[131] strengthens powers and cooperation procedures for competent authorities to address infringements to Union consumer law in a cross-border context (see Article 8 of the CPC proposal, which includes, among others, powers to adopt interim measures, powers to sanction, powers to order consumer compensation). These powers would have to be implemented as a minimum by all Member States. The proposal also includes an obligation for the Commission to activate the cooperation procedure at the EU level in case it suspects that widespread infringements concern a large majority of European consumers (in 75% of

Regulation is adopted by the co-legislators. The CPC Regulation provides for a cooperation framework between national competent authorities to stop cross-border infringements to Union consumer laws. The inclusion of the Regulation in the Annex of the CPC Regulation is expected to strengthen enforcement in a cross-border context for the following reasons.

The actions of national enforcers are limited by the national jurisdictional boundaries. To put an end to cross-border infringements, a cooperation mechanism is needed, obliging the competent authority of the jurisdiction where the author of the infringement is established (with its assets) to act against this author, upon request of a competent authority from another Member State's jurisdiction. Where more than two Member States are concerned, an additional mechanism of cooperation and coordination is needed. The CPC Regulation provides the legal basis for both mechanisms. Its revision aims to reinforce the existing procedures and powers in order to adapt the Regulation to the new conditions of the digital market and to ameliorate the mechanisms on the basis of the experience gained during the past 10 years.

Under the baseline, conflicts regarding legal consistency with the Package Travel Directive and its use of the concept of "unavoidable and extraordinary circumstances" will not be addressed.

Regarding contingency planning, different measures by the various stakeholders in different Member States will continue to exist. According to the available information, railway undertakings have ready contingency plans and are required to have them under the 4th railway package. According to the stakeholder consultation, in Austria, Belgium, Finland, France, Germany, Latvia, Lithuania, Netherlands, Romania, UK, Denmark, Ireland and Portugal other stakeholders such as station managers, infrastructure managers, state authorities, police, etc. also have a role in a situation of major disruption, but this is not always the case and not in all Member States (Annex 5, Table A4). This means that in such situations and in the absence of mandatory requirements for other actors, the railway undertaking might be alone to provide assistance to passengers. This might put the railway undertaking in a difficult position or it may not even be able to shoulder the burden e.g. to provide food or overnight accommodation. As a result, stranded passengers might not be adequately taken care of.

Under the baseline scenario, the burden of railway undertakings stemming from unclear deadlines for complaint handling will continue to exist. Railway undertakings will continue to keep data and information for an indefinite period of time subject to varying national rules, leading to an unlevel playing field. Nowadays, thanks to electronic data and storage systems to keep the data should not be a high burden. However, there might be problems when railway undertakings will need to retrieve incident information after long periods of time from their files or from another provider.

Member States or more that are amounting to 75% of the EU population or more). In such cases the Commission will launch a procedure requiring national authorities to coordinate a common position assessing the problematic practices. Overall Member States are and will remain in charge of investigation and enforcement. Under the CPC proposal, in specified cases of Union dimension, Member States' authorities will do so with the assistance of the Commission in a coordinated manner by pooling their resources, expertise and thus saving resources and time.

Finally, Article 38 of the Charter of fundamental rights calls for a high level of consumer protection. Article 26 calls for integration and independence of PRMs. These objectives will be reached only moderately, given that the identified problems will not be addressed.

1.4.2 Part II –problems linked to the issue of "force majeure"

An important component of the compensation costs is linked to "force majeure". Railway undertakings will continue to pay compensation in case of major disruptions caused by "force majeure". An estimate provided by the Community of European Railways (CER) states that for a small-sized company compensation costs due to "force majeure" events may reach up to EUR 1 million, while for a medium- and large-sized rail company, this amount may reach up to EUR10 million per year. According to the little data provided by railway undertakings during the targeted stakeholder consultation, compensation costs due to events of "force majeure" may reach up to EUR 4-5 million per year for a medium- and large-sized company (data source is subject to business secrets). This figure is supported by the estimates suggested by the impact assessment tool. According to the tool, the "force majeure" compensation payments can reach from EUR 10 to 38 million per year depending mainly on the size of the company and the year of operation. On the other hand, passengers will continue to enjoy the right to claim compensation even when delays are caused by "force majeure".

It is important to note the unpredictable nature of "force majeure" events. When compensation is paid in case of "force majeure", greatly different amounts apply from one year to another. This generates risks and volatility in the business model of rail operators, especially the open-access, non-subsidised ones, and affects their ability to invest. Additional analysis is provided in Annex 5.

In order to ensure a common minimum level of treatment among Member States and to limit at maximum the negative impact on passengers the concept of "force majeure" for the purpose of this IA needs to be defined restrictively so that only clearly defined and exceptional situations can qualify.

Under a narrow definition force majeure situations would be limited to heavy floods, earthquakes, volcanic eruptions and very heavy storms (known as 'Acts of God'). This excludes normal seasonal weather such as autumnal storms and snowfall (even heavy) in winter, interruptions caused by normal wear and tear of rolling stock or infrastructure even where maintenance is carried out correctly and at regular intervals, theft of metal or catenary, vandalism, power cuts, demonstrations on rail tracks, labour strikes or suicides which could be considered as being inherent in the operation of the service. It would also exclude terrorist attacks. In addition to invoking "force majeure" railway undertakings would have to demonstrate that they have taken all reasonable measures to avoid delays of more than 1 hour to be exempted from paying compensation.

Considering the data provided by the UK and assuming an equal probability of "force majeure" occurrence across Member States, it can be assumed that less than 17% of all delays of more than 1 hour across the EU are caused by such circumstances. Based on this information, it is assumed that depending on the year in question the level of "force majeure" incidents could reach at most 17% - 20% of all delays exceeding 1 hour.

Moreover, information from 14 Member States[132] made evident that the median value of all services being delayed for more than 1 hour in a regular year accounts for 1% across the EU. This means that around 7,280 thousand pkm across the EU are affected by "force majeure". Yearly, the compensation the railway undertakings in the EU would need to pay due to "force majeure" events which correspond strictly to "Acts of God" could fluctuate from EUR 10 to 54 million which accounts for around 0.31%-1.7% decrease of their compensation costs and 0.26%-1.4% of their operating costs.

Under a broad definition, which corresponds to situations where a railway undertaking proves that a long delay of more than one hour is caused by external factors which would include i.a. severe weather conditions, cable theft or failures, vandalism, fatalities and terrorist attacks, the percentages are changing. The compensation all railway undertakings in the EU would need to pay due to "force majeure" events under such a broad definition could fluctuate from EUR 19 to 95 million which accounts for around 0.59%-2.99% decrease of their compensation costs and 0.49%-2.47% of their operating costs.

The above-mentioned estimates of the total compensation costs related to "force majeure" events and the percentage of the total operating costs that these costs represent suggest that the financial impact of the Court ruling on railway undertakings is definitely low[133]. Thus, there is no economic data that would prove that there is a serious financial problem for the railway undertakings. However, the issue of legal unfairness still persists. In addition, to respond to the repeated requests by all railway undertakings and most of the Member States which expressed an opinion during the consultation by the Commission, the issue of "force majeure" and the potential effects that the re-introduction of a "force majeure" clause could have on the rest of the policy options will be analysed and presented separately after the preferred policy option has been chosen.

2 WHY SHOULD THE EU ACT?

Right to act

Article 91(1) TFEU serves as the legal basis for the adoption of EU legislation related to a common transport policy. This covers provisions to protect the rights of passengers when travelling by rail in the EU. This provision was the legal basis for the Regulation, and will serve as a legal basis for a future revised Regulation.

The EU has also received conferral to promote the interests of consumers and to ensure a high level of consumer protection (Article 169 TFEU).

The EU shares competences with Member States to regulate in the field of common transport pursuant to Article 4(2)(g) TFEU. This means that the EU can only legislate as

[132] Please consult Table A6 in Annex 5

[133] It should however be mentioned that the absence of a "force majeure" clause generates risks and volatility in the business model of rail operators, especially the open-access, non-subsidised ones, and affects their ability to invest. This is due to the unpredictable nature of force majeure events which leads to greatly different amounts being paid from one year to another.

far as the Treaties allow it, and with due consideration to the principles of subsidiarity and proportionality[134].

Subsidiarity

While the greater part of rail passenger transport in the EU still takes place on a national level (381 billion passenger-kilometres), a considerable and overall growing proportion is carried out across borders in the EU (22 billion passenger-kilometres travelled on international journeys)[135]. As the EU intends to stimulate rail services as well as cross-border mobility, notably in agglomerations and regional conurbations there is a need for action at EU level so that citizens travelling on domestic rail services of different EU countries enjoy the same rights[136]. Disparities in the level of protection between Member States due to the current regime of exemptions under the Regulation lead to passengers having different rights and different means of redress when using rail services in different Member States. This applies in particular to PRM passengers whose rights to mobility are enshrined in the UNCRPD[137]. These passengers would be encouraged to travel if they can expect equivalent rights to accessibility and assistance when travelling in different EU countries. National legislation would also not allow tackling cross-border journeys appropriately as a single journey would fall under two or more legal regimes. The most appropriate level to address the problems identified is therefore at EU level in order to ensure a uniform high level of passenger rights across all Member States for national and international journeys alike.

Further to the judgement of the Court of Justice of the European Union in Case C-509/11 of 2013, railway undertakings have to pay compensation to passengers also in situations where delays were caused by "force majeure" and which they could not have foreseen or prevented. In order to ensure legal fairness for rail operators across the EU with regard to other modes of transport and to ensure consistency with other EU legislation such as the Package Travel Directive it seems appropriate for the EU to act. It would also be appropriate at EU level to come up with an EU-wide definition of the nature of "force majeure" in order to clearly delineate these events, limit the impact on passengers and ensure legal certainty for all actors.

The current Regulation leaves much room for interpretation as regards its application and enforcement. Different interpretations and thus divergent application of rules and different practices are obstacles to the Single Market and negatively affect the competition between operators. Moreover, these discrepancies do not allow ensuring the same level of passenger rights across all Member States as originally laid down in the objectives of the Regulation. Attempts already made to align the understanding and application between the Member States through non-legislative actions such as the interpretative guidelines on the Regulation[138] have not yielded sufficient result. Only

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134 Consolidated Version of the Treaty on European Union [2008] OJ C115/13, Art 5 (3) and (4)

135 Eurostat transport statistics 2016 **http://ec.europa.eu/eurostat/statistics-explained/index.php/Passenger_transport_statistics**

136 See for instance the strong commitment for cross-border transport and its potential notably in commuter regions that was given in the Rotterdam declaration at the TEN-T conference in June 2016 **http://www.benelux.int/files/4914/6726/5385/spoorttopverklaring.pdf**

137 **http://www.un.org/disabilities/convention/conventionfull.shtml**

138 Interpretative Guidelines on Regulation (EC) No 1371/2007 of the European Parliament and of the Council on rail passengers' rights and obligations – C220, 4.7.2015, p.1

reinforced common EU rules can create a level playing field for rail transport operators while ensuring a basic set of passengers across all EU Member States.

Consequently, as the objectives cannot be achieved sufficiently by the Member States, it seems that EU action would be appropriate and proportionate to achieve this aim.

3 WHAT SHOULD BE ACHIEVED? (PART I)

3.1 General policy objective

In view of the two main problems areas identified in the problem definition, as described in section 1, there are two general objectives to address the identified problems. This should ensure a fair balance between the interests of passengers and the rail industry. The first policy objective is thus to promote equal and strengthened rights for all rail users including PRM in the EU. The second policy objective is to enhance railway undertakings' competitiveness and to better allow them to invest in the quality and effectiveness of rail passenger services, without negatively impacting the rights of passengers. The two general objectives can be seen as conflicting as benefits for passengers will generate a financial burden for railway undertakings and benefits for railway undertakings risk generating a reduction in passenger rights. This has made it necessary to find a compromise between the two objectives.

The issue of "force majeure", which is linked to the second general policy objective, is dealt with separately following the current analysis under Section 6.

Specific objectives

Two specific objectives (SO) have been identified which are linked to the identified issues discussed in section 1.2.

SO1: improve the application and enforcement of the Regulation, so that all passengers can fully exercise their rights when travelling by rail in the EU

This objective addresses the problems related to the protection of passengers (including PRM).

Issues with a major impact on passengers described in section 1.2.1.:

- Issues regarding exemptions (scope of the Regulation – Section 1.2.1.1) should be addressed to allow a more uniform application of the Regulation in all Member States to increase legal certainty of passenger to their rights under the Regulation, wherever they travel in the EU.

- The protection of PRM passengers (Section 1.2.1.2) should be increased by ensuring improved and independent access to information and complaint handling and better access to transport services through more uniform assistance in all EU Member States.

- The awareness of passengers about their rights should be increased through strengthened dissemination of information (Section 1.2.1.3).

- The rights of passengers to compensation and assistance in case of missed connections, delays or cancellations should be reinforced by strengthening the definition of and provisions on through ticketing (Section 1.2.1.4).

- The rights of passengers to an effective enforcement of the Regulation should be strengthened through better NEB complaint handling and cooperation (Section 1.2.1.5).

Issues with a lesser impact on passengers described in section 1.2.2 (secondary issues):

Protection of rail passengers

- Passengers should not be discriminated on the basis of their nationality, residence or currency of payment to ensure an equal treatment of passengers irrespective of where they buy or how they pay their tickets (Section 1.2.2.1).

- The clarity of the Regulation should be enhanced by defining certain concepts such as "missed connections" and "comparable transport conditions" in the context of re-routing (Section 1.2.2.2).

- Current and possible future inconsistencies with the CIV should be removed to increase legal certainty (Section 1.2.2.3).

SO2: reduce the burden placed on railway undertakings across the EU (Section 1.2.2 – secondary issues)

- The burden of providing assistance to passengers in the event of major transport disruption (e.g. natural catastrophes but also other events such as terrorist attacks) should be shared between all actors involved, including station and infrastructure managers (Section 1.2.2.4)

- The burden on railway undertakings' liability in situations where a third party has caused a long delay should be reduced by allowing railway undertakings to obtain redress from these third parties (Section 1.2.2.5).

- The administrative burden on railway undertakings stemming from imprecise complaint handling procedures should be reduced (Section 1.2.2.6).

3.2 Interrelation with other EU policies

The policy objectives are consistent with general transport policy objectives, namely with the 2011 Transport White Paper which emphasises the increasing importance of high quality, accessible and reliable rail services for passenger transport and the need for mobility continuity in case of travel disruption. It also calls for a clarification of passenger rights legislation as well as for an improved quality of the transport for elderly people, passengers with disabilities or reduced mobility.

The development and liberalisation of the railway market has been pursued by a number of "packages" of legislation. A fourth railway package was adopted in December 2016. The objective of strengthened passenger rights is to protect passengers in a liberalised market.

Consistency with regard to carrier liability in the event of "force majeure" needs to be ensured with other pieces of EU legislation such as passenger rights legislation in other modes of transport and the Package Travel Directive.

The inclusion of the Regulation in the Annex of the future CPC Regulation, which enshrines the procedures for cross-border investigations, enforcement and coordination

of investigation and enforcement where more than two Member States are concerned,is expected to strengthen cross-border enforcement.

To increase the share of rail passenger transport in comparison to other modes by making it more attractive to citizens will contribute positively, albeit to a limited extent, to lowering CO2 emissions and reducing costs. This is in line with the 2011 Transport White Paper, which also promotes the objective of environmental sustainability by aiming to reduce transport CO2 emissions by 60% by 2050 and the current Commission priority "Energy Union and Climate Change Policy".

Strengthening rights for PRM passengers is in line with the objectives of the UNCRPD to which the EU and its Member States are party and the European Disability Strategy 2010-2020. Directive (EU) 2016/797 on the interoperability of the rail system (recast)[139] also contains references to accessibility.

Since the accession of the EU to OTIF[140] in 2013, the EU and its Member States are party to OTIF. An extract of the Convention on International Carriage by Rail (Uniform Rules CIV of COTIF[141]) is reproduced in Annex I of the Regulation. Its rules are thus extended to domestic rail transport in the EU. As Members of OTIF, the EU and its Member States apply the CIV rules, participate in the General Assemblies and have a vote in case of revisions applied to the CIV.

Charter of fundamental rights

Article 38 of the Charter of fundamental rights calls for Union policies to ensure a high level of consumer protection. The overall high level of consumer protection will be enhanced by the general policy objectives through strengthening the rights of rail passengers in the EU. Article 26 of the Charter calls for the integration of persons with disabilities and requires Member States to take measures to ensure their independence as well as social and occupational integration and participation in the life of the community.

4 WHAT ARE THE VARIOUS OPTIONS TO ACHIEVE THE OBJECTIVES? (PART I)

4.1 Methodology of the policy options construction (PART I)

Based on the support work carried out by external consultants and on the stakeholder consultation the Commission identified a list of policy measures which have the potential to address the issues described. All measures were assessed under four criteria: i) legal feasibility, ii) effectiveness and efficiency, iii) political feasibility and iv) proportionality and scope.

Based on a pre-screened list of the policy measures, presented in Section 4.2, a set of the policy options is to be designed. However, the analysis needs to consider two important particularities of the problem definition structure discussed in section 1.

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139 OJ L 138/44, 26.5.2016

140 Agreement between the European Union and the Intergovernmental Organisation for International Carriage by Rail on the Accession of the European Union to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 , as amended by the Vilnius Protocol of 3 June 1999, OJ L 51, 23.2.2013, p. 8, **http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22013A0223(01)&from=EN**

141 Uniform Rules concerning the Contract of International Carriage of Passengers by Rail (CIV), which constitute the Appendix A to the Convention concerning International Carriage by Rail (COTIF) of 9 June 1999

First of all, due to the absence of hard evidence as well as the political sensitivity of the force majeure issue (Part II of the problem definition), this concept is assessed and presented separately from other problems identified in the course of the impact assessment. The policy options for force majeure issues and their assessment are presented under Section 6.

Secondly, the high number of issues under consideration in this report entails a high number of policy options. Combining the various policy options for each of the issues under consideration into packages of policy options would lead to an unmanageable number of such packages to assess. Although the policy choice with regard to the exemptions may have an impact on the other problems identified, these other problems are not or are only weakly linked to each other. This allows us to discard a highly complex approach in which we would design policy packages. Instead, we have chosen to apply a sequential approach in which we will assess theme by theme. The robustness of the conclusion for each of the themes will every time be tested against the different policy options for the exemptions.

Moreover, various policy options are considered for the problems that were previously defined as "major". As the impact of the "secondary" issues is only marginal on either railway undertakings or passengers, and as policy options are limited for these issues, the impact assessment will only consider one possible option other than the baseline for each of these issues.

4.2 Retained regulatory policy measures

Following the initial assessment the Commission retained the following potential policy measures. The table below provides an overview of the retained possible policy measures and their link to the problem driver.

Table 2: Policy measure (by theme) in relation to the major issues identified in the context of the current application of the Regulation

A/A	Measures	Description	Hard/ Soft measure
Scope of the rail passenger rights legislation (Exemptions)			
1.	Advancing removal of exemptions for long distance domestic services to 2020	Measure would require Member States to remove the exemptions for long distance domestic services 4 years earlier than under the current provisions of the Regulation	H
2.	Limit in time exemptions for services with third countries	Measure would introduce a limit by 2024 to the number of five-year periods for which services with a significant part operated outside the EU could be exempted from the Regulation. In view of the difficulties of negotiations with Russia and the discussion in the framework of the OSJD (Organisation for Co-operation between Railways), a "rendez-vous clause" for countries which have services with Russia could be arranged for. This means that after the expiry of the last five-year period, the situation of these countries would be re-assessed to decide whether or not exemptions may be prolonged for services with	H

		Russia.	
3.	Removal of exemptions for urban, suburban and regional services when they are **cross-border services**	Measure would require Member States to remove the possibility to exempt urban, suburban and regional services **which operate across borders** within the EU from the application of the Regulation by 2020.	H
4.	Remove the possibility to apply exemptions for urban, suburban and regional services	Measure would require Member States to remove the possibility to exempt urban, suburban and regional services by 2020.	H
PRM rights			
PRM rights are applicable on all services			
5.	PRM rights are applicable in all Member States and on all services	This measure would make provisions on PRM rights under Chapter V (notably assistance at railway stations and on board trains and compensation for damaged mobility equipment) [142] mandatory for all services, i.e. these provisions cannot be exempted by Member States for any services	H
Information provisions for PRMs			
6.	Journey information is accessible to all PRMs	Measure would require railway undertakings and station managers to make journey information accessible to persons with all kinds of disabilities, e.g. cognitive disabilities (in addition to deaf and blind people whose needs are currently covered by the Regulation).	H
7.	Information on passenger rights under the Regulation is accessible to all PRMs	Measure would require railway undertakings and station managers to make information on passenger rights accessible to persons with all kinds of disabilities (e.g. deaf and blind people, people with cognitive disabilities etc.). Currently, the Regulation does not have any accessibility requirements for passenger rights information (e.g. information on assistance, reimbursement, rerouting, compensation etc.).	H
Assistance for PRMs at the stations and on board trains			
8.	Best practices exchange on disability awareness training	Measure would require the Commission to set up a platform for the exchange of best practices on disability awareness training between railway undertakings and station managers.	H
9.	Require disability awareness training for rail staff	Measure would require railway undertakings and station managers to provide appropriate levels of training for different categories of staff (depending on their	H

[142] Articles 19-25 of the Regulation

		interaction with travellers) along the lines of staff training required under the Air Passenger Rights legislation[143].	
Complaint handling mechanism for PRMs :			
10.	Complaint handling to Station Managers / Infrastructure Managers	This measure would introduce requirements for Station and Infrastructure Managers of stations of more than 10.000 passengers/day to handle passengers' complaints for services they are responsible for, e.g. information and PRM assistance. Time limits to introduce complaints would be aligned with those applicable to complaints to railway undertakings. Two possible implementation scenarios will be considered: • Measure will be introduced through guidelines • Measure will be introduced through a revision of the Regulation	H/S
Information provisions for all passengers			
11.	Information on rail passenger rights is provided together with ticket	This measure would require railway undertakings to provide basic information about passenger rights, including the right to compensation and assistance, and contact details of NEBs either by printing on the ticket or provided electronically / electronic ticket. In view of space limits this could be done e.g. through a bar code or QR code.	H
12.	Information on passenger rights is provided in stations and on board trains	This measure would require railway undertakings and station managers to place notices in prominent positions at stations which inform passengers of their rights granted by the Regulation.	H
13.	Issue guidance of good practice regarding the provision of passenger rights information	This measure would require the Commission to provide guidance (e.g. in form of a staff working paper) on what constitutes good practice regarding the provision of information about the Regulation by railway undertakings and station Managers. This could complement the interpretative guidance provided in 2015.	S
Compensation and assistance to passengers in case of missed connections, delays or cancellations			
14.	Definition of through ticket and linked obligations	This measure would define that single journeys which are sold in a single purchase, under a single transport contract with multiple tickets have always to be considered as a 'through ticket' by railway undertakings and ticket vendors. As a result, the rights under the Regulation e.g. to assistance, reimbursement, rerouting or compensation apply to the whole journey.	H
15.	Obligation to sell through ticket wherever possible,	This measure makes it clear, as already pointed out in the Interpretative Guidelines, that the possibility to purchase	H

[143] Article 11 of Regulation 1107/2006

	and burden of proof on railway undertakings and ticket vendors if no through-ticket was sold	through tickets has to be offered wherever this is technically possible. The measure would, however not oblige railway undertakings to conclude agreements with each other, as this would interfere in their business conduct and commercial freedom. Railway undertakings and tickets vendors would, in addition, have the burden of proof if no through-ticket was sold, i.e. that the obligations under the Regulation to e.g. assistance, reimbursement, rerouting or compensation do not apply to the whole journey but only to the different segments of the journey.	
Complaint handling and enforcement			
NEB complaint handling and cooperation			
16.	NEB reporting on their activities	This measure would require NEBs to report publicly about their activities including on the complaint handling mechanisms.	H
17.	Detailed instructions on the complaint handling process	This measure would spell out the details of how the complaint handling process has to be set up. This measure will be inspired by the Commission guidelines of 2015[144]. This would require passengers in particular to complain to railway undertakings or station managers in the first instance, and to approach an alternative dispute resolution body (ADR) or a NEB in a second step. The Directive on consumer alternative dispute resolution[145] would be specifically cited with regard to the rights passengers have when seeking alternative redress.	H
18	Duty to NEBs to cooperate on cross border issues	This measure would make mandatory provisions of the Commission guidelines[146] on NEB responsibilities and competencies in cross-border cases. In particular, it would require NEBs to cooperate and to consider appointing a 'lead NEB' in cross-border cases to avoid gaps in complaint handling and ensure that at least one NEB will be responsible to handle the complaint in question.	H

Table 3: Policy measures (by theme) in relation to the secondary issues identified in the context of the current application of the Regulation

A/A	Measures	Description	Hard/ Soft measure

[144] OJ C 220, 4. 7. 2015 (part 8.1)

[145] Directive 2013/11/EU

[146] OJ C 220, 4. 7. 2015 (part 8.2)

Measures regarding the protection of passenger rights			
Discrimination on the basis of nationality, residence or currency			
19.	Non-discrimination clause	This measure involves introducing a general non-discrimination clause into the Regulation. This clause would specifically ban any form of discrimination, including price discrimination, on grounds of nationality, residence or currency of payment.	H
Unclear definitions			
20.	Definition of "missed connection"	This measure would define a "missed connection" as a situation where a passenger misses his/her next passenger service in a journey under a transport contract owing to a delay of the previous service. The concept includes cross-border journeys and services with other modes of transport under a single transport contract.	H
21.	Definition of "comparable transport conditions" in case of re-routing	This measure would define "comparable transport conditions" in the context of rerouting as follows: 'comparable transport conditions' mean that, depending on the circumstances, passengers shall not be downgraded to transport facilities of a lower class. Comparable re-routing shall be offered without additional cost to the passenger, reasonable efforts shall be made to avoid additional connections and the total travel time when using an alternative mode of transport for the part of the journey not completed as planned shall be comparable to the scheduled travel time of the original journey. The needs of persons with disabilities and persons with reduced mobility have to be taken into account.	H
22.	Definition of "carrier"	This measure would align the definition of "carrier" to the definition in the COTIF/CIV rules, which may also encompass other modes of transport.	H
CIV			
23.	Consistency between the Regulation and the COTIF/CIV rules	This measure would adjust the text of the Regulation to ensure the consistency between the Regulation and the COTIF/CIV rules. Two possible implementation scenarios will be considered: • Removal of Annex I from the Regulation, adjust the text of the Regulation accordingly to ensure consistency between the Regulation and the COTIF/CIV rules [147], notably when the CIV is amended; • New provisions to the Regulation allowing the Commission to change Annex I of the Regulation, which contains an extract of the COTIF/CIV rules, through delegated acts to reflect any changes to the CIV without requiring a wholesale revision to the Regulation each time that the CIV is amended.	H

[147] Note that the EU acceded to COTIF further to the Agreement of 23 June 2011, OJ L183, 13.7.2011.

Measures to address the burden on railway undertakings			
Contingency planning			
24.	Service continuity and contingency planning in case of massive disruption	The measure will introduce the formal requirement for actors other than railway undertakings (e.g. Station and Infrastructure Managers, Member States) to have contingency planning in place in the event of massive service disruption (caused by e.g. by natural catastrophes, strikes, terrorist attacks). The modalities of contingency planning as well as the coordination of the different either existing or to be established contingency plans will be left to the discretion of the Member States. For example, Member States in cooperation with national authorities can decide on the detail and coordination of the plans.	H
Burden on railway undertakings in case of 3rd party responsibility			
25.	A right to redress	This measure introduces a provision in the Regulation giving railway undertakings the right to redress to third parties if delays or cancellations were caused by their fault or negligence. The measure would be in line with the relevant provision of Air Passenger Rights legislation[148].	H
Complaint handling for railway undertakings			
26.	Specify deadlines for passenger to introduce complaints	This measure will introduce a time limit of 3 months within which passengers will be able to submit their complaints to a relevant service-provider. This threshold is in line with the relevant provision of the proposal for a revision of the Air Passenger Rights legislation[149].	H

4.3 Other (discarded) potential policy measures

We have analysed other policy measures proposed by the stakeholders during the stakeholder consultation, which were discarded. We have used the following screening criteria to discard them:

- **Legal feasibility**: Measures should respect any obligation arising from the EU Treaties (and relevant international agreements) and ensure respect of fundamental rights. Obligations already incorporated in the current Regulation or other existing primary or secondary EU legislation may also rule out certain measures.
- **Effectiveness and efficiency**: Some measures would achieve a worse cost-benefit balance than some alternatives.
- **Political feasibility**: Measures that would clearly fail to get the necessary political support for legislative adoption and/or implementation could also be discarded.

[148] Article 13 of Regulation 261/2004

[149] COM (2013) 130, 13.3.2013

- **Proportionality and scope:** Measures should only address what is clearly necessary at EU level and not restrict the scope for national decision making over and above what is needed to achieve the objectives satisfactorily.

The results of this screening are summarized in **Table A11 in Annex 5**.

4.4 Policy options addressing the problems linked to the current application of the Regulation (Part I of the problem definition)

As discussed above, a sequential approach (i.e. theme by theme) was chosen to design alternative solutions (policy scenarios) to various problems under Part I of the problem definition. The tables below present different policy scenarios depending on the issues discussed.

Major issues

Table 4: Policy options to address issues linked to the scope of the rail passenger rights legislation

Policy scenario A	Policy scenario B	Policy scenario C
• Advancing removal of exemptions for long distance domestic services to 2020 (PM1); • Limit in time exemptions for services with third countries (PM2)	• Advancing removal of exemptions for long distance domestic services to 2020 (PM1); • Limit in time exemptions for services with third countries (PM2) • Removal of exemptions for urban, suburban and regional services when they are cross-border services (PM3)	• Advancing removal of exemptions for long distance domestic services to 2020 (PM1); • Limit in time exemptions for services with third countries (PM2) • Removal of exemptions for urban, suburban and regional services when they are cross-border services (PM3) • Removal of the exemptions for urban, suburban and regional services (PM4)

Table 5: Policy options to address issues linked to the PRM rights

Applicability of PRMs rights to all services	
Policy scenario A	Policy scenario B
• Guidelines to promote the application of the PRM rights (PM 10 S)	• Regulatory provision on the application of the RPM rights (PM 10 H)
Information provisions for PRMs:	
Policy scenario A	Policy scenario B

• Journey information is accessible to all PRMs (PM5)	• Journey information is accessible to all PRMs (PM5) • Information on passenger rights is accessible to all PRMs (PM6)
Assistance for PRMs on the board of the train	
Policy scenario A	Policy scenario B
• Best practices exchange on disability awareness training (PM7)	• Require disability awareness training for rail staff (PM8)
Complaint handling mechanism for PRMs :	
Policy scenario A	Policy scenario B
• Guidelines on the complaint handling to Station Managers / Infrastructure Managers (PM 9 S)	• Regulatory provision on the complaint handling to Station Managers / Infrastructure Managers (PM 9 H)

Table 6: Policy options to address issues linked to the information provisions for all passengers

Policy scenario A	Policy scenario B
• Issue guidance of good practice regarding the provision of passenger rights information (PM13)	• Information on rail passenger rights is provided together with ticket (PM11) • Information on passenger rights is provided in stations and on board trains (PM12)

Table 7: Policy options to address issues linked to the compensation and assistance to passengers in case of missed connections, delays or cancellations

Policy scenario A	Policy scenario B
• Definition of through ticket and linked obligations (PM13);	• Definition of through ticket and linked obligations (PM13); • Obligation to sell through ticket wherever possible, and burden of proof on railway undertakings and ticket vendors if no through-ticket was sold (PM14)

Table 8: Policy options to address issues linked to the complaint handling and enforcement

Policy scenario A	Policy scenario B
• NEB reporting on their activities (PM15)	• Detailed instructions on the complaint handling process (PM16)

	• Duty to NEBs to cooperate on cross border issues (PM17)

Secondary issues

As described above, for this group of problem the impact assessment will only consider one possible solution (by problem) other than the baseline. A list of policy measure by topic is considered in Tables 2-3 above.

5 WHAT ARE THE IMPACTS OF THE DIFFERENT POLICY OPTIONS AND HOW DO THE OPTIONS COMPARE? (PART I)

5.1 General methodological considerations

Issues linked to the current application of the Regulation (Part I of the problem definition)

The methodology of the impact assessment follows the sequential approach (i.e. theme by theme) described for the design of the policy option under section 4.1.

As the first step, the report will examine various policy solutions (scenarios) with regard to the "major" and "secondary" problems presented under section 4.3.1 and 4.3.2 respectively. The analysis will be done for each problem separately and will include the assessment of main economic and social impacts. For the "secondary" problems, the assessment will consider a choice between a regulatory change and the baseline.

Following this analysis a comparison of scenarios based on three main criteria (i.e. effectiveness, efficiency and coherence) will be carried out per each theme. As a result, a preferred policy scenario per theme will be considered. The final preferred option will be composed of a combination of preferred scenarios per topic analysed.

It is important to note that while there are no notable links and interdependencies between the various problems described, the policy solution under a theme might affect the policy solution under another theme. In particular, it is important to assess how the choice of the exemption regime could potentially affect the conclusions for other issue. Therefore, the sensitivity analysis (depending on the various options for the exemptions) will be carried out for each scenario of each "major" problem.

Issues linked to the economic analysis

The analysis of impacts covers the baseline scenario and all the policy options. The key economic and social benefits and costs are captured quantitatively at a level of detail consistent with the available data. Other impacts are quantified where evidence suggests that there is sufficient material and data available to enable quantification, otherwise they are treated qualitatively. However the analysis did not identify any substantial environmental effects. Passengers' rights are difficult to be quantified. The assessment of the net social value for the whole society is based on conflicting interests between the two main stakeholders: passengers and railway undertakings. The assessment of impacts of each policy option was performed both a) quantitatively for a number of measures and b) qualitatively (Annex 4, p.p.41-59). The criteria used to compare the options

quantitatively are mainly four; they are straightforward and based on the assumption that railway undertakings' aim is profit maximization. So, the Commission looked at the increase/reduction of railway undertakings' costs caused by:

- The compensation paid to passengers owing to delays;
- The assistance provided to passengers in the event of disruptions/delays of transport services;
- Staff training on PRM issues.

As regards passengers the assumption is that they aim at increasing their welfare. The welfare of passengers is assumed to increase/decrease in a direct relationship depending on the following economic criteria (additional criteria could not be quantified and are explained below):

- The compensation they receive owing to delays (increase in compensation equals increase in passenger welfare);
- The assistance they receive when disruptions/delays occur (increase in assistance equals increase in passenger welfare) ;
- Training of staff working on rail passenger services on PRM issues (increase in PRM training equals increase in passenger welfare).

In addition, there are more criteria that could not be quantified but still contribute to passenger welfare such as the increase of accessibility, the improvement of complaint handling mechanisms by NEBs (eg. timeframe to submit a complaint, complaint handling to station/infrastructure managers as well, synergies between NEBs), clarity of the term "through ticket" and obligations linked to it, clarity of the terms "missed connection", "carrier" etc. For the qualitative analysis, opinions of the various stakeholders were considered as the main benchmark.

The above analysis becomes more complex when taken into interdependencies and indirect effects that lead to different directions.

On a short-term analysis, the increase of passenger welfare comes at a cost for railway undertakings. In the long run, this might be slightly different as the increase in passenger welfare is expected to lead to small increase in demand for rail services which might lead that railway undertakings would get part of their "investment" back. On the other hand, excessive costs for railway undertakings might lead to a lack of investment from their part that will generate deterioration of service quality and/or increase of costs of tickets. This can lead to decrease of passenger welfare and consequent decrease in demand.

Based on the above and on a set of basic assumptions, an analytical tool (In Annex 4 the results of every policy scenario are presented in a print-out form) was developed by an external consultant. The tool was fed with evidence and data collected through field and desk research. The results are disaggregated by Member State (MS). The tool assesses the changes in passenger kilometres, passenger journeys, compensation costs, compensation under "force majeure" events, cost of assistance, PRM training costs, railway undertakings' operating costs and infrastructure managers' operating costs. All costs and benefits are added over a 15-year period (2020-2035) and Net Present Values are calculated based on the social discount rate. Every policy measure presented below is compared against the results of the baseline scenario unless stated otherwise. Costs and

benefits are calculated at EU level. Given the assumptions made (see also Annex 4), the results should be seen in orders of magnitude.

5.2 Analysis of policy options

Measures to address major issues

Policy scenarios to address issues linked to the scope of the rail passengers legislation (exemptions for all passengers)

Policy scenario A	Policy scenario B	Policy scenario C
• Advancing removal of exemptions for long distance domestic services to 2020 (PM1); • Limit in time exemptions for services with third countries (PM2)	• Advancing removal of exemptions for long distance domestic services to 2020 (PM1); • Limit in time exemptions for services with third countries (PM2) • Removal of exemptions for urban, suburban and regional services when they are cross-border services (PM3)	• Advancing removal of exemptions for long distance domestic services to 2020 (PM1); • Limit in time exemptions for services with third countries (PM2) • Removal of exemptions for urban, suburban and regional services when they are cross-border services (PM3) • Removal of the exemptions for urban, suburban and regional services (PM4)

Social Impacts

Extensive use of exemptions by all but 5 Member States is a chief reason that passengers may not fully exercise their rights when using rail services. The removal of exemptions will increase the protection of passengers compared to the baseline scenario as the Regulation will be applicable more widely and more uniformly and will therefore increase legal certainty for passengers.

For example, regarding domestic long distance services, currently 4 Member States have completely exempted their services and 10 Member States partially. The rights to compensation and assistance will be available on these services in all Member States instead of 15 (Annex 5 Table A.2). Compared to the baseline scenario, the compensation received by rail passengers is estimated to increase by EUR 1 million (or by 0.03%) between 2020 and 2035. Compared to the baseline scenario, the level of assistance received by passengers is estimated to increase incrementally between 2020 and 2035.

Economic Impacts

Table 9 – Summary of assessment of scenario A

Metric (NPV)	Baseline	POLICY SCENARIO A[150]
		Advancing removal of exemptions for long distance domestic services to 2020 (PM1)
		Limit in time exemptions for services with third countries (PM2)
Compensation Costs (€m)	*3172*	*+1*
Cost of Assistance (€m)	*663*	-
Total Costs (€m)	***3835***	***+1***
		Incremental

Thus, policy scenario A is expected to increase the **overall cost** for railway undertakings by about EUR 1 million for the period of 15 years between 2020 and 2035 in comparison with the baseline scenario (or increase of 0.031% in compensation costs and 0.026% in total costs imputable to the Regulation).

Table 10 – Summary of assessment of scenario B

Metric (NPV)	Baseline	POLICY SCENARIO B[151]
		Advancing removal of exemptions for long distance domestic services to 2020 (PM1)
		Limit in time exemptions for services with third countries (PM2)
		Removal of exemptions for urban, suburban and regional services when they are cross-border services (PM3)
Compensation Costs (€m)	*3172*	*+4*
Cost of Assistance (€m)	*663*	*+1*
Total Costs (€m)	***3835***	***+5***

[150] Annex 4, policy scenario A, p.p. 64-65

[151] Annex 4, policy scenario B, p.p. 65

		Very low

Policy scenario B is expected to increase the **overall cost** for railway undertakings by about EUR 5 million for the period of 15 years between 2020 and 2035 in comparison with the baseline scenario (increase by 0.13% in total costs). This amount is due to the increase of **costs of compensation** resulting from the removal of the exemptions expected to amount to EUR 4 million (increase by 0.12%) between 2020 and 2035 compared to the baseline scenario. The increase of **costs of assistance** resulting from the removal of the exemptions will amount to EUR 1 million (increase by 0.15%) between 2020 and 2035 compared to the baseline scenario.

Table 11 – Summary of assessment of scenario C

Metric (NPV)	*Baseline*	POLICY SCENARIO C[152]
		Advancing removal of exemptions for long distance domestic services to 2020 (PM1)
		Limit in time exemptions for services with third countries (PM2)
		Removal of exemptions for urban, suburban and regional services when they are cross-border services (PM3)
		Removal of the exemptions for urban, suburban and regional services (PM4)
Compensation Costs (€m)	*3172*	*+1,259*
Cost of Assistance (€m)	*663*	*+55*
Total Costs (€m)	***3835***	***+1,314***
		High

Policy scenario C is expected to produce for the EU railway undertakings an **overall cost** increase of about EUR 1,314 million (or 34.26%) for the period of 15 years between 2020 and 2035 in comparison with the baseline scenario. This amount is due to the increase of the **costs of compensation** resulting from the removal of exemptions to urban, suburban and regional services and would amount to EUR 1,259 million (or by 39.69%) between 2020 and 2035 compared to the baseline scenario. The high level of this cost compared with the other the policy scenarios is due to the high number of urban, suburban and regional services and the corresponding number of passengers on these services (accounting for round 90 % of annual rail passengers in the EU) compared with the other services. The removal of exemptions to urban, suburban and regional will increase the **costs of assistance** to EUR 55 million (or by 8.29%) between 2020 and 2035 compared to the baseline scenario.

Likely impacts on public administrations

[152] Annex 4, policy scenario C, p.p. 65-66

Reinforced rights in particular following the removal of the exemption of long distance domestic services will increase the costs of ADRs and NEBs especially in the Member States which had exempted entirely these services from the Regulation and were therefore only marginally concerned.

Likely impacts on third countries, international trade or investment

No specific impacts are expected on third countries. However, a measure to impose a limit to the number of renewal times for exemptions for services of which a significant part is carried out outside the EU will put pressure on Member States to accelerate negotiations of their bilateral agreements with third countries. This might lead to a higher level in passenger protection in third countries as well.

Preferred policy scenario

The removal of exemptions in general addresses the issue of patchy application and ensures coherence in the application of the Regulation across the EU. As a higher number of passengers will benefit from the Regulation, the degree of convergence with the objectives of the Transport White Paper and the Charter of fundamental right is rising. Thus, the policy scenario C is more coherent towards relevant other policy objectives, initiatives and instruments, policy scenario B is in the middle and policy scenario A is less.

The removal of exemptions will allow for a more uniform application of the Regulation in all Member States increasing legal certainty for all passengers. From the passengers' point of view, policy scenario A is the worst, policy scenario B is a middle choice with policy scenario C being the best choice as it addresses all the problems linked to the scope of the rail passenger right legislation and exemptions and satisfy the first general and first specific objectives. On the contrary, policy scenario C is the worst scenario for railway undertakings as it means excessive costs for them. This is attributed to the removal of exemptions to urban, suburban and regional services (Table 11). In view of these costs, railway undertaking might decide to discontinue certain services rather than bearing the cost of applying the Regulation in full. The best economic choice for railway undertakings is policy scenario A with the lowest economic burden which also satisfies the second general and second specific objectives.

Policy scenario B proposes a compromise between the two conflicting general objectives. It does not impose an excessive economic impact on railway undertakings and covers a high percentage of exempted services, while taking into account the specific nature of urban, suburban and regional services. Under policy scenario B, these services cannot be exempted when they are operating across borders.

In combination with the proposed mandatory nature of provisions under Chapter V for PRM passengers, discussed below, this results in a reasonable partial lifting of exemptions for these services.

For the above reasons, policy scenario B is the preferred one as it increases the protection of passengers without imposing a high financial burden on the rail industry.

Policy scenario A	Policy scenario B	Policy scenario C
• Advancing removal of exemptions for	• Advancing removal of exemptions for long	• Advancing removal of exemptions for long

long distance domestic services to 2020 (PM1); • Limit in time exemptions for services with third countries (PM2)	distance domestic services to 2020 (PM1); • Limit in time exemptions for services with third countries (PM2) • Removal of exemptions for urban, suburban and regional services when they are cross-border services (PM3)	distance domestic services to 2020 (PM1); • Limit in time exemptions for services with third countries (PM2) • Removal of exemptions for urban, suburban and regional services when they are cross-border services (PM3) • Removal of the exemptions for urban, suburban and regional services (PM4)

Policy scenarios to address issues linked to PRM rights

Policy scenarios to address issues linked PRM rights are applicable on all services

Applicability of PRMs rights to all services	
Policy scenario A	Policy scenario B
• Guidelines to promote the application of the PRM rights (PM 10 S)	• Regulatory provision on the application of the RPM rights (PM 10 H)

In this paragraph are analysed the impacts of removing the exemptions regarding the articles related to PRMs issues.

Social Impacts

PRMs are a vulnerable group of travellers who need special attention. Making mandatory the provisions under Chapter V related to PRMs on all rail services will allow them to use rail services more confidently. The right to receive appropriate assistance on all services will provide them a smoother travel experience and induce them to travel by rail more often, thus improving their social inclusion. Such a measure is in line with the requirements for Member States under the UNCRPD to ensure personal mobility of persons with disabilities and their full access to transport services.

Economic Impacts

Due to lack of data specifically for PRMs, data for all passengers are used in order to give an estimation of potential costs of policy measures targeting PRMs. The assumptions made are the following:

- exemptions on provisions related to PRMs are part (%) of the general set of exemptions discussed above concerning all passengers (Annex 5 Tables A2 and A3), and

- compensation and assistance costs are related to the number of passengers who are entitled to these (in this case is PRMs).

For analytical reasons, the structure of the exemptions for all passengers is followed. In that case, the provisions for PRMs that can currently be exempted (Chapter V - Articles 19-25) refer to all services (including urban, suburban and regional services). As a result, the scenario for the PRM exemptions follows the policy scenario C when exemptions for all passengers are concerned (Table 11). The assumption is that the costs for railway undertakings for applying the relevant provisions, will be around 9.3% of the costs for all the provisions exempted (Annex 4, p.p. 66-67) (Table 12 below).

Table 12 – Summary comparison of assessment of scenarios

Metric (NPV)	*Baseline*	POLICY SCENARIO
		Regulatory provision on the application of the RPM rights (PM 10 H)
Compensation Costs (€m)	*3172*	*+113,29*
Cost of Assistance (€m)	*663*	*+4,97*
Total Costs (€m)	***3835***	***+118,27***
		low

The above assumptions lead to the conclusion that the costs for railway undertakings are low for regulatory provisions on the application of the PRM rights. The increase in compensation cost is expected to be EUR 113.3 million between 2020 and 2035 compared with the baseline scenario, notably because PRM provisions will then be mandatory on all services, including on urban, suburban and regional services. Still, this is an increase of only 3.56% for compensation costs. In the case that guidelines are chosen to promote the application of the PRM rights, then due to their non-binding character fewer railway undertakings are expected to apply them, leading to an incremental cost increase (much less than 3.56%).

Competitiveness of business

This option is expected to bring a slight indirect effect on the competitiveness of European rail businesses towards the other modes by an incremental increase in its modal share. Increase in passengers' rights notably for PRMs as discussed in social impacts and especially the increase in passenger awareness notably for PRMs is expected to have a slight impact in the passenger demand for rail transportation services.

Preferred policy scenario

Removal of exemptions for PRMs mainly satisfies the first general and second objectives as it will allow for a more uniform application of the Regulation in all Member States increasing legal certainty for PRMs and persons travelling with them. The interpretative guidelines on the Regulation already include some guidance on how to improve rail transport for PRM passengers. However, the non-binding nature of the guidelines limits their impact and scope, e.g. railway undertakings or station managers cannot be required to provide assistance where the relevant services are exempted from the application of

the Regulation. As a result, they avoid the costs linked to assistance and PRMs' benefits under the guidelines are limited. Thus, policy scenario A is expected to better satisfy the second general and second objectives and to a lesser degree the first general and first objectives. For these reasons, policy scenario B is the preferred one as it gives higher benefits to PRMs with a low burden for the railway industry.

Applicability of PRMs rights to all services	
Policy scenario A	Policy scenario B
• Guidelines to promote the application of the PRM rights (PM 10 S)	• Regulatory provision on the application of the RPM rights (PM 10 H)

Policy scenarios to address issues linked information provisions for PRMs

Policy scenario A	Policy scenario B
• Journey information is accessible to all PRMs (PM5)	• Journey information is accessible to all PRMs (PM5) • Information on passenger rights is accessible to all PRMs (PM6)

Social Impacts

An increase of PRMs' awareness of their rights is expected by introducing requirements for basic information about journey and passenger rights to be provided in alternative formats for PRMs. Better information regarding their journey, will encourage PRMs to travel by rail which will improve their social inclusion. On the other hand, PRMs' awareness will increase through more and better information about their rights. As a result, more PRMs will be aware of their rights and able to assert them.

Economic Impacts

The provision of information on passenger rights in accessible formats for PRMs entails some extra operational costs for railway undertakings and station managers related to displaying information on passenger rights (e.g. at ticket counters or ticketing machines, notices in stations and announcements in trains).

In the absence of data about the costs for railway undertakings and station managers for providing journey information and information on passenger rights accessible to all PRMs, an effort is made to estimate the potential compensation they will need to pay to passenger rights for PRMs with all kinds of disabilities. Thus, it is assumed that the compensation cost will be either equal or less than the compensation cost to all passengers (for compensation paid to all passengers due to improved information please see the analysis below on section 5.2.3 information provisions for all passenger). Even in the case that the compensation costs for railway undertakings to PRMs is 100% of their compensation costs for all passengers, the financial burden for railway undertakings is still low in the course of the 15 year period as explained above (Annex 4, p. 68).

Table 13 – Summary of assessment of scenario B

Metric (NPV)	*Baseline*	Policy Scenario B
		Journey information is accessible to all PRMs (PM5)
		Information on passenger rights is accessible to all PRMs (PM6)
Compensation Costs (€m)	*3172*	*+28*
Total Costs (€m)	***3835***	***+28***
		Low

Based on the data estimated by the tool for provision of information for all passengers, it could be argued that an increase of maximum EUR 28 million in compensation costs is expected between 2020 and 2035 compared with the baseline scenario.

Preferred policy scenario

Policy scenario B is the preferred one as it constitutes a complete approach to address the first group of general and specific policy objectives without provoking high costs for the railway undertakings and station managers. In addition, the general information requirements that will be added to the Regulation are in line with the objectives of the White paper, disability legislation and the Charter of Fundamental Rights. For the above reasons, policy scenario B is the preferred one.

Policy scenario A	Policy scenario B
• Journey information is accessible to all PRMs (PM5)	• Journey information is accessible to all PRMs (PM5) • Information on passenger rights is accessible to all PRMs (PM6)

Sensitivity analysis

The removal of exemptions, among other issues, leads also to the fact that railway undertakings will not be exempted anymore from their obligation to inform PRMs of their rights and obligation under this Regulation. Then, better informed PRMs can better exercise their rights in an environment with no services exempted.

On economic terms, checking the preferred policy scenario B for information provisions for PRMs against each of the policy scenarios on exemptions for PRMs would not be expected to create extra costs than the ones already identified under each policy scenarios A, B and C (Annex 4).

The combination of the two preferred policy scenarios (policy scenario B on information and policy scenario B on exemptions) can provide stronger protection of PRMs rights without provoking a very high burden for the rail industry (Annex 4, p.p. 68-69). This supports our choice for policy scenario B as the preferred scenario.

Policy scenarios to address issues linked assistance for PRMs at the stations and on board trains

Policy scenario A	Policy scenario B
• Best practices exchange on disability awareness training (PM7)	• Require disability awareness training for rail staff (PM8)

Social Impacts

The requirement for disability awareness training for staff working in the rail sector will impose obligations on railway undertakings and station managers to provide appropriate levels of training for different categories of staff depending on their interaction with travellers similarly to the requirements under Air passenger rights legislation (Article 11 of Regulation 1107/2006). Trained staff will be better able to provide adequate assistance to PRM passengers and will make them feel more comfortable when travelling by rail. Training on PRM assistance and awareness is a cornerstone for staff who deal with PRMs as they will feel more confident and be more efficient in assisting PRMs with different kinds of disabilities, including "hidden" disabilities (such as dementia, autism etc.). Thus, PRMs will feel more comfortable and confident to travel by rail knowing that staff is well aware about their needs and well trained to respond to them. These will improve their social inclusion and would probably lead to increased demand for rail services by this category of passengers.

Economic Impacts

Policy scenario A generates, if any, marginal extra costs for rail industry. The costs for policy scenario B are presented below (Annex 4, p.p. 69-70).

Table 14 – Summary of assessment of scenario B

Metric (NPV)	*Baseline*	POLICY SCENARIO B
		Require disability awareness training for rail staff (PM8)
Compensation Costs (€m)	*3172*	*0*
PRM training (€m)		*+12*
Total Costs (€m)	***3835***	***+12***
		low

Maintaining all other issues the same as in the baseline scenario, the possibility of increase in disability awareness training for rail staff is examined. Under this scenario, the cost for rail industry to train their staff on PRM issues will provoke an increase of EUR 12 million (0.31% increase in total costs) between 2020 and 2035 compared with the baseline scenario.

Preferred Policy Scenario

The proposal to provide best practices on disability awareness training for railway undertakings and station managers will have an impact only if and when railway undertakings and station managers decide to put into practice these recommendations. However, there is no obligation for them to do so. In fact, the interpretative guidelines already suggest that rail operators need to train their staff in order to provide adequate assistance to passengers with different types of disabilities (par. 5.5). However, these recommendations did not have any measurable impact up-to-date.

On the other hand, introducing obligations for railway undertakings and stations managers to provide disability awareness training does not seem to represent a high financial burden for them with only 0.31% increase in their total costs (notably as a number of railway undertakings already now provide staff training), while the advantages of PRMs' increased confidence in rail travel can be significant. Thus, policy scenario B satisfies both objectives in a more effective way. In addition, such an initiative is in line with the objectives of the White paper, disability legislation and the Charter of Fundamental Rights.

For the above reasons, policy scenario B is the preferred one.

Policy scenario A	Policy scenario B
• Best practices exchange on disability awareness training (PM7)	• Require disability awareness training for rail staff (PM8)

Sensitivity analysis

The removal of exemptions for PRMs, among other issues, also means that railway undertakings and station managers will need to make all reasonable efforts to provide assistance to PRMs whenever and wherever needed. The preferred policy scenario B will help them to realise this goal.

In economic terms, while checking the preferred policy scenario B for disability awareness training against the policy scenario for exemptions (see Table 10), the preferred solution points in the same direction (Annex 4). A combination of these two policy scenarios (policy scenario B on disability awareness training and policy scenario B on exemptions) can provide the assistance PRMs need without provoking a very high burden for the rail industry (Annex 4). This supports our choice for policy scenario B as the preferred scenario.

Policy scenarios to address issues linked complaint handling mechanisms for PRMs

Policy scenario A	Policy scenario B
• Guidelines on the complaint handling to Station Managers / Infrastructure Managers (PM 9 S)	• Regulatory provision on the complaint handling to Station Managers / Infrastructure Managers (PM 9 H)

Social Impacts

Station and infrastructure managers are in charge of providing PRM assistance, but are currently not obliged to receive and handle complaints. The introduction of requirements for station and infrastructure managers of stations of more than 10 000 passengers/day to handle passengers' complaints about lack of or inadequate assistance will improve the response to complaints from PRMs, who currently can only complain to the railway undertaking. Improved complaint handling mechanisms will benefit passengers as they will be encouraged to lodge a complaint and claim redress.

Economic Impacts

There are no financial data on this issue. However, the introduction of the obligation for complaint handling by Station Managers / Infrastructure Managers is expected to increase their costs slightly.

Preferred Scenario

The proposal to provide guidance on complaint handling for station managers and infrastructure managers can have a restricted impact only if and when they decide to put these recommendations into practice. However, there is no obligation to do so and positive impacts on passengers risk to be limited.

On the other hand, regulatory complaint handling provisions for station and infrastructure managers will have a higher impact for a broader group of passengers.

Policy scenario A	Policy scenario B
• Guidelines on the complaint handling to Station Managers / Infrastructure Managers (PM 9 S)	• Regulatory provision on the complaint handling to Station Managers / Infrastructure Managers (PM 9 H)

Overall assessment for PRM preferred policy scenarios

Table 15 – Summary comparison of assessment of scenarios

Metric (NPV)	*Baseline*	Policy Package
		Applicability of PRMs rights to all services Policy scenario B: Regulatory provision on the application of PRM rights (PM10H) *Information provisions for PRMs* Policy scenario B: • Journey information is accessible to all PRMs (PM5) • Information on passenger rights is accessible to all PRMs (PM6) *Assistance for PRMs on the board of the train* Policy scenario B: • Require disability awareness training for rail staff (PM8) *Complaint handling mechanism for PRMs*

		Policy scenario B: • Regulatory provision on complaint handling for Station Managers / Infrastructure Managers (PM 9 H)
Compensation Costs (€m)	*3172*	*+141,29*
Cost of Assistance (€m)	*663*	*+4,97*
PRM training (€m)		*+12*
Total Costs (€m)	***3835***	
		Low

According to the results from the tool for the preferred policy package on PRMs (Annex 4), the estimation of the costs remains the same as under separate policy scenarios and thus strengthens our conclusions.

Policy scenarios to address issues linked information provisions for all passengers

Policy scenario A	Policy scenario B
• Issue guidance of good practice regarding the provision of passenger rights information (PM13)	• Information on rail passenger rights is provided together with ticket (PM11) • Information on passenger rights is provided in stations and on board trains (PM12)

Social Impacts

The social impacts analysed for all passengers apply for PRMs as well. Any adjustment to improve the information of passengers about their rights will increase passengers' awareness and the possibility for passengers to complain if these rights are not respected. Better information increases chances for passengers to assert their rights.

An increase of passengers' awareness of their rights is expected by introducing requirements for basic information about passenger rights to be printed on tickets or provided with electronic tickets, notices to be placed in prominent positions at stations and on-train notices and/or announcements. Thus, more passengers will be better aware of their rights and better able to assert them by lodging complaints.

Specifically, information that is provided to passengers regarding their rights (either printed or electronically) provides a source of knowledge which passengers can use to claim their rights before, during and after the trip. They can trace back their rights at any time. If information is provided only on the ticket, e.g. through a barcode or QR code, there is a risk that passengers do not look at it and ignore its existence. On the other hand,

information that is provided in stations and on board trains will raise passenger awareness during their trip, but cannot be taken home after a journey. A combination of both measures will enable passengers to be aware of their rights during the journey and to consult them later when needed.

Economic Impacts

The provision of information on passenger rights, should entail some extra operational costs for railway undertakings related to displaying information on passenger rights (e.g. at vending desks or ticketing machines, notices at stations and announcements in trains) which are not estimated by the tool (Annex 4, p.p.70-71). However, the inclusion of the obligation for the companies to provide information on passenger rights in stations and on board trains in the policy scenario B is expected to increase the railway undertakings' compensation costs. These costs are estimated and presented below.

Table 16 – Summary of assessment of scenarios

Metric (NPV)	*Baseline*	Policy Scenario B
		Information on rail passenger rights is provided together with ticket (PM11)
		Information on passenger rights is provided in stations and on board trains (PM12)
Compensation Costs (€m)	*3172*	*+28*
Cost of Assistance (€m)	*663*	
Total Costs (€m)	***3835***	***+28***
		Low

An increase of EUR 28 million in compensation costs is expected between 2020 and 2035 compared with the baseline scenario, notably in view of already existing requirements for accessible information under Article 8 (2) of the Regulation. This represents 0.88% increase in compensation costs railway undertakings need to pay and 0.73% in their total costs.

Likely impacts on public administrations

Reinforced rights and a better awareness of passengers of their rights might lead to an increase in complaints lodged with NEBs.

Preferred Scenario

Due to the non-binding nature of the guidelines on good practices regarding the provision of passenger rights information and based on the above analysis and the low cost compared to the benefits for the passengers, the preferred policy scenario is B.

Policy scenario A	Policy scenario B
• Issue guidance of good practice regarding the provision of passenger rights information (PM13)	• Information on rail passenger rights is provided together with ticket (PM11) • Information on passenger rights is provided in stations and on board trains (PM12)

Sensitivity Analysis

The removal of exemptions, among other issues, leads also to the fact that railway undertakings will not be exempted anymore from their obligation to inform passengers of their rights and obligation under this Regulation (Art. 29). As a result, better informed passengers can better exercise their rights in an environment where no services are exempted.

In economic terms while checking the policy scenario for information provisions for all passengers against each of the three policy scenarios for exemptions (policy scenarios A, B and C) the result points to the same direction (Annex 4).

The example below shows the combination of policy scenario B for exemptions for all passengers and policy scenario B on information, which remains the best one as it provides stronger protection of passenger rights without provoking any extra burden for the rail industry (the rest combinations are presented in Annex 4). The costs remain the same as identified under each policy scenario separately. This supports our choice for the policy scenario on information as the preferred scenario.

Table 17 – Summary comparison of assessment of scenarios

Metric (NPV)	*Baseline*	Policy Package
		Exemptions for all passengers • Advancing removal of exemptions for long distance domestic services to 2020 (PM1) • Limit in time exemptions for services with third countries (PM2) • Removal of exemptions for urban, suburban and regional services when they are cross-border services (PM3)
		Information provisions for all passengers • Information on rail passenger rights is provided together with ticket (PM11) • Information on passenger rights is provided in stations and on board trains (PM12)
Compensation Costs (€m)	*3172*	*+32*
Cost of Assistance (€m)	*663*	*+1*

Total Costs (€m)	***3835***	***+33***
		Low

Policy scenarios to address issues linked to the compensation and assistance to passengers in case of missed connections, delays or cancellations

Policy scenario A	Policy scenario B
• Definition of through ticket and linked obligations (PM13);	• Definition of through ticket and linked obligations (PM13); • Obligation for railway undertakings and ticket vendors to sell through ticket wherever possible, and burden of proof on railway undertakings and ticket vendors if no through-ticket was sold (PM14)

Social Impacts

The clarification of the notion of "through ticket" and of the relevant obligations for railway undertakings when they sell journeys under policy measure A will make it clear that journeys sold in a single purchase and under a single transport contract always entitle the passenger to the rights linked to a 'through ticket', unless this is otherwise stated by the railway undertaking or ticket vendor, irrespective of the existence of specific contractual agreements between operators. In the event of delays or missed connections when a journey is composed of several segments, passengers will thus be better protected and able to get compensation or assistance for the whole journey and not only for the separate segments as it is the practice of railway undertakings in many cases nowadays.

On the other hand, the extra obligation for railway undertakings under policy measure B to offer through tickets wherever this is technically possible, will help passengers to obtain a through ticket (i.e. a single contract, which might, however, be composed of several tickets[153]) for their journeys even when different railway undertakings are involved. In addition, the fact that railway undertakings and tickets vendors would have to prove that they informed the passenger in the event that no through-ticket was sold, will motivate them to comply with the rules which will be advantageous for the passengers and provide legal certainty. Passengers would still have the option to combine tickets for different segments of their journey themselves, e.g. to benefit from specific low fares, but would then not benefit from protection under the Regulation on the whole journey, but only on the different segments. As provided in the 4th Railway Package, the Commission will monitor market developments on through-ticketing, report to the EP and the Council and, if appropriate, present further legislative proposals by December 2022.

[153] See CIV Uniform Rules, Article 6(2)

Economic Impacts

The railway undertakings in countries other than Germany, Italy and Lithuania[154], will face some cost increases regarding compensation costs as they will need to compensate passengers or provide assistance in the event of delays or missed connections taking into account the whole journey and not only its individual segments. On the other hand, the obligation for railway undertakings to offer through tickets might, contrary to the broad believe, trigger an increase in the number of tickets they sell for services or routes that otherwise they would not sell in segments. For example, for those routes where the alternatives to a combination of separate rail tickets are journeys by airplane or bus, passengers might prefer to use the alternative mode of transport. If, however, railway undertakings offer through tickets with clear obligations regarding reimbursement, compensation and assistance in the event of delays or missed connections, then passengers might prefer rail over the other modes.

Likely impacts on public administrations

The policy scenarios related to through ticketing would not have an additional impact on NEBs' workload. On the one hand, the number of cases where compensation and assistance will be granted will increase; on the other hand legal clarity will improve, thus simplifying the work of NEBs.

Preferred policy scenario

The combination of the two policy measures is suggested to better serve passengers. According to EPF, passengers are increasingly asking to combine journeys and to obtain "through tickets". They should thus also receive the right to adequate protection for the whole journey. These rights would however not apply if passengers deliberately and independently choose to combine different segments to form a journey (e.g. to benefit from specific low fares).

In the absence of economic data on this issue, we cannot estimate the cost for the railway undertakings.

In addition, the Regulation would thus be aligned with the 4th railway package where the Commission clarifies certain aspects related to through tickets and their availability and declares its intention to monitor rail market developments in the Member States in this respect.

For the above reasons, policy scenario B is the preferred one.

Policy scenario A	Policy scenario B
• Definition of through ticket and linked obligations (PM13);	• Definition of through ticket and linked obligations (PM13); • Obligation to sell through ticket wherever possible, and burden of proof on railway undertakings and ticket vendors if no through-ticket

[154] Germany, Italy and Lithuania already compensate the passengers or provide assistance taking into account the whole journey when journeys were sold under a single contract

	was sold (PM14)

Policy scenarios to address issues linked to the complaint handling and enforcement (NEB complaint handling and cooperation)

Policy scenario A	Policy scenario B
• NEB reporting on their activities (PM15)	• Detailed instructions on the complaint handling process (PM16) • Duty to NEBs to cooperate on cross border issues (PM17)

Social Impacts

Increased synergies between NEBs across modes will strengthen NEBs. This will benefit passengers by encouraging them to lodge complaints and claim redress.

Likely impacts on public administrations

The clarification of the roles and responsibilities of NEBs with regard to complaint handling and cooperation, including on cross-border issues, will directly affect their working modalities. The increased use of passengers of Alternative Dispute Resolution bodies to obtain private redress, should not increase the costs of Member States as it will reduce NEBs' complaint-handling tasks and therefore reduce their costs. NEBs will thus be better able to concentrate on their enforcement activities.

Preferred Scenario

For the above reasons, policy scenario B is the preferred one.

Policy scenario A	Policy scenario B
• NEB reporting on their activities (PM15)	• Detailed instructions on the complaint handling process (PM16) • Duty to NEBs to cooperate on cross border issues (PM17)

Measures to address secondary issues

Measures regarding the protection of passenger rights

Policy scenario to address issues linked to discrimination on the basis of nationality, residence or currency

Policy scenario
• Prevent discrimination on the basis of nationality, residence or currency (PM19)

Social Impacts

While citizens are in principle protected from discrimination on the grounds of nationality by Article 18 TFEU, a specific non-discrimination clause (as included in passenger rights legislation for other modes of transport) will ensure that passengers can notify infringements of this right, e.g. discrimination of on the basis of residence or currency, directly to NEBs without having to resort to court procedures. As a result, fare discrimination will be reduced, thus directly benefitting passengers[155].

Economic Impacts

It is very difficult to estimate the costs resulting for railway undertakings following the introduction of a non-discrimination clause, notably in view of their assertion that already now they do not discriminate between passengers.

Policy scenario to address issues linked to clarification of unclear definitions

Policy scenario
• Definition of "missed connection" (PM20) • Definition of "comparable transport conditions" in case of re-routing (PM21) • Definition of "carrier" (PM22)

Social Impacts

To clarify the term "missed connection" will provide clarity about linked rights to assistance and compensation. These two measures will improve rail passengers' travel experience and secure their rights to onward travel, assistance and compensation under a single journey with multiple tickets. In addition, a more precise definition of "re-routing" and "comparable transport conditions" will render assistance more effective for passengers, notably when re-routing is performed by another operator or alternative means of transport and prevents further delay for passengers by having to wait for re-routing only by own services of the railway undertaking responsible.

Economic Impacts

The clarification of the notion of 'carrier' in line with its definition under the CIV will release railway undertakings from some of their obligations, notably when the operating carrier is another mode of transport (e.g. a bus or a ferry).

[155] The Commission undertook to introduce such a clause in its proposal on geo blocking of 25.5.2016 (Proposal for a Regulation of the European Parliament and of the Council on addressing geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC; COM (2016) 289 final of 25.5.2016). A corresponding recital was added in the Recitals of the proposal ("7 Discrimination can also occur in relation to services in the field of transport, in particular with respect to the sales of tickets for the transport of passengers. However, in that regard Regulation (EC) No 1008/2008 of the European Parliament and of the Council, Regulation (EU) No 1177/2010 of the European Parliament and of the Council and Regulation (EU) No 181/2011 of the European Parliament and of the Council already contain broad prohibitions of discriminations covering all discriminatory practices that the present Regulation seeks to address. Furthermore, it is intended that Regulation (EC) No 1371/2007 of the European Parliament and of the Council will be amended to that effect in near future. Therefore, and in order to ensure consistency with the scope of application of Directive 2006/123/EC, services in the field of transport should remain outside the scope of this Regulation").

Policy scenario to address issues linked to uniform rules concerning the Contract for International Carriage of Passengers and Luggage by Rail (CIV)

Policy scenario
• Consistency between the Regulation and the COTIF/CIV rules (PM23)

Social Impacts

The removal of the CIV from Annex I in the Regulation will ensure consistency between the Regulation and the COTIF/CIV rules. This reinforces the legal certainty for all stakeholders by removing the risk of contradiction between the CIV and the Regulation. An amending provision to the Regulation that allows for changes to the CIV to be reflected without a wholesale revision to the Regulation will lead to a similar result. Updates to the CIV with regard, e.g. to increase amounts for damages in case of death and personal injury (Article 30 of CIV) would directly benefit passengers in the EU.

Economic Impacts

It is very difficult to estimate the costs.

Measures to address the burden on railway undertakings

Apart from the provisions that will increase railway undertakings costs, some are aiming at a reduction of railway undertakings' economic burden.

Policy scenario to address issues linked to contingency planning

Policy scenario
• Introduce obligations on service continuity and contingency planning to actors other than railway undertakings (PM24)

Social Impacts

Obliging actors other than railway undertakings (e.g. station and infrastructure managers, Member States) to have contingency planning in place in the event of massive service disruptions will increase passengers' welfare because of the integrated approach which will take place between the different rail players. In this regard, contingency planning is complementary to the provisions for railway undertakings under the market pillar of the 4th railway package and will ensure adequate care to stranded passengers even in the event of major disruption.

Economic Impacts

Burden sharing with other stakeholders through a clarification of railway undertakings' and third parties' (station and infrastructure managers, Member States etc.) responsibilities and obligations in situations of severe transport disruption through contingency planning will limit the cost for railway undertakings.

Likely impacts on public administrations

The main factor impacting on the Member States' budget is the requirement for national authorities to share the burden with Railway undertakings for the assistance to passengers in case of major disruptions (i.e. ensuring mobility continuity and contingency planning).

Policy scenario to address issues linked to right to redress

Policy scenario
• Right to redress to 3rd parties (PM25)

Economic Impacts

The costs for railway undertakings are expected to decrease as they will obtain the right under the Regulation to claim compensation from third parties when delays and cancellations are caused by their fault or negligence without having to specify this in commercial agreements. On the other hand, stakeholders who are responsible for these delays and cancellations, such as station or infrastructure managers, will need to assume their responsibility which means an increase of their cost.

Policy scenario to address issues linked to complaint handling for railway undertakings

Policy scenario
• Specify deadlines for passenger to introduce complaints (PM26)

Social Impacts

A detailed complaint process with time limits for the introduction of claims will stimulate a faster and better processing of passenger complaints. Improved complaint handling mechanisms will benefit passengers as they will be encouraged to lodge a complaint and claim redress.

Economic Impacts

There are no economic data on this issue. However, the introduction of a time limit for lodging complaints is expected to reduce costs for railway undertakings since they will no longer need to keep incident data for a long period of time, which leads to large data volumes and hence higher costs. In addition, the longer an incident dates back the more difficult it is to verify the history and background of complaints. This becomes even more complicated when railway undertakings from several Member States are involved. The decrease in costs is, however expected to be rather low, as the targeted consultation suggests that, in general, passengers lodge their complaints within three months after the incident.

5.3 The preferred policy option

The combination of policy measures which contribute most to the achievement of the two general policy objectives, namely promoting equal and strengthening rights for all

rail transport users in the EU and fair and equal treatment of rail transport operators across the EU, and has the most positive overall impact.

Major issues

Policy measures addressing issues linked to the scope of the rail passenger rights legislation (exemptions)

• Advancing removal of exemptions for long distance domestic services to 2020 (PM1); • Limit in time exemptions for services with third countries (PM2) • Removal of exemptions for urban, suburban and regional services when they are cross-border services (PM3)

Policy measures addressing issues linked to the PRM rights

Information provisions for PRMs:
• Journey information is accessible to all PRMs (PM5) • Information on passenger rights is accessible to all PRMs (PM6)
Assistance for PRMs on the board of the train
• Require disability awareness training for rail staff (PM8)
Complaint handling mechanism for PRMs :
• Regulatory provision on the complaint handling to Station Managers / Infrastructure Managers (PM 9 H)
Applicability of PRMs rights to all services
• Regulatory provision on the application of the RPM rights (PM 10 H)

Policy measures addressing issues linked to the information provisions for all passengers

• Information on rail passenger rights is provided together with ticket (PM11) • Information on passenger rights is provided in stations and on board trains (PM12)

Policy measures addressing issues linked to the compensation and assistance to passengers in case of missed connections, delays or cancellations

• Definition of through ticket and linked obligations (PM13); • Obligation to sell through ticket wherever possible, and burden of proof on railway undertakings and ticket vendors if no through-ticket was sold (PM14)

Policy measures addressing issues linked to the complaint handling and enforcement

- Detailed instructions on the complaint handling process (PM16)
- Duty to NEBs to cooperate on cross border issues (PM17)

Secondary issues

Policy measures addressing issues linked to discrimination on the basis of nationality, residence or currency

- Prevent discrimination on the basis of nationality, residence or currency (PM19)

Policy measures addressing issues linked to unclear definitions

- Definition of "missed connection" (PM20)
- Definition of "comparable transport conditions" in case of re-routing (PM21)
- Definition of "carrier" (PM22)

Policy measure addressing issues linked to CIV

- Consistency between the Regulation and the COTIF/CIV rules (PM23)

Policy measure addressing issues linked to contingency planning

- Service continuity and contingency planning in case of massive disruption (PM24)

Policy measure addressing issues linked to right to redress

- Right to redress to 3rd parties (PM25)

Policy measure addressing issues linked to complaint handling for railway undertakings

- Specify deadlines for passenger to introduce complaints (PM26)

The above combination of policy measures provides a balanced approach to the divergent policy objectives without imposing a high cost on the railway undertakings. Their total costs will increase by EUR 191.26 million (4.98%) from the baseline scenario (Table 18). This increase is attributed mainly to 5.4% increase (EUR 173.29 million) in compensation costs needed to submit to passengers (including PRMs) due to removal of exemptions mainly the ones attributed to articles regarding PRM issues.

Table 18 – Summary assessment of the preferred option

Metric (NPV)	*Baseline*	Policy option
Compensation Costs (€m)	*3172*	*+173.29*

Cost of Assistance (€m)	*663*	*+5.97*
PRM training (€m)		*+12*
Total Costs (€m)	***3835***	***+191.26***
		Low

It emphasises the protection of passengers, including PRMs, broadens the scope for passengers' rights and increases the rights of PRM passengers without imposing an unproportionately high financial burden on railway underatkings.

This combination of policy measures is also in line with the proportionality principle. As the current Regulation leaves room for interpretation regarding its application and enforcement, the application of rules is divergent in Member States thus hindering the Single Market and negatively affecting the competition between rail operators. These differences also prevent a harmonised level of passenger rights across Member States. Attempts to align the understanding and application between the Member States through guidelines have not yielded sufficient result. Only reinforced common EU rules can ensure a harmonised set of basic passenger rights across all EU Member States while creating a level playing field for rail transport operators.

Due to the variety of the issues discussed and for the convenience of the reader below follows a summary Table with the policy options for which there was an economic analysis. Thus, Table 19 presents the costs and benefits for the main preferred policy options for which economic data could be retrieved.

Table 19 – Summary of costs and benefits of the preferred policy option

<table>
<tr><th>Policy measures</th><th>Costs</th><th>Benefits</th></tr>
<tr><td colspan="3">Policy measures addressing issues linked to the scope of the rail passenger rights legislation (exemptions)</td></tr>
<tr><td>• Advancing removal of exemptions for long distance domestic services to 2020 (PM1);
• Limit in time exemptions for services with third countries (PM2)
• Removal of exemptions for urban, suburban and regional services when they are cross-border services (PM3)</td><td><table><tr><th>Costs (€m)</th><th>Baseline</th><th>Change</th></tr><tr><td>Compensation Costs</td><td>3172</td><td>+4</td></tr><tr><td>Cost of Assistance</td><td>663</td><td>+1</td></tr><tr><td>Total Costs</td><td>3835</td><td>+5</td></tr></table></td><td>✓ Measure will allow for a more uniform application of the Regulation in all Member States increasing legal certainty for all passengers.
✓ As a higher number of passengers will benefit from the Regulation, the degree of convergence with the objectives of the Transport White Paper and the Charter of fundamental right is rising.</td></tr>
<tr><td colspan="3">Policy measures addressing issues linked to the PRM rights</td></tr>
<tr><td colspan="3">Applicability of PRMs rights to all services</td></tr>
<tr><td>• Regulatory provision on the application of the RPM rights (PM 10 H)</td><td><table><tr><th>Costs (€m)</th><th>Baseline</th><th>Change</th></tr><tr><td>Compensation Costs</td><td>3172</td><td>+113,29</td></tr><tr><td>Cost of Assistance</td><td>663</td><td>+4,97</td></tr><tr><td>Total Costs</td><td>3835</td><td>+118,26</td></tr></table></td><td>✓ Measure will allow PRMs using rail services more confidently
✓ The right to receive appropriate assistance on all services will provide them a smoother travel experience and induce them to travel by rail more often, thus improving their social inclusion.
✓ Is in line with the requirements for Member States under the UNCRPD to ensure personal mobility of persons with disabilities and their full access to transport services.</td></tr>
<tr><td colspan="3">Information provisions for PRMs</td></tr>
</table>

<table>
<tr>
<td>

- Journey information is accessible to all PRMs (PM5)

Information on passenger rights is accessible to all PRMs (PM6)

</td>
<td>

Costs (€m)	**Baseline**	**Change**
Compensation Costs	*3172*	*+28*
Total Costs	*3835*	*+28*

</td>
<td>

✓ Increase of PRMs' awareness of their rights
✓ Better information regarding their journey, will encourage PRMs to travel by rail which will improve their social inclusion.
✓ More PRMs will be aware of their rights and able to assert them

</td>
</tr>
<tr>
<td colspan="3">Assistance for PRMs on the board of the train</td>
</tr>
<tr>
<td>Require disability awareness training for rail staff (PM8)</td>
<td>

Costs (€m)	**Baseline**	**Change**
PRM training		*+12*
Total Costs	*3835*	*+12*

</td>
<td>

✓ Measure will impose obligations on railway undertakings and station managers to provide appropriate levels of training for different categories of staff depending on their interaction with travellers
✓ Trained staff will be better able to provide adequate assistance to PRM passengers and will make them feel more comfortable when travelling by rail.
✓ Also the staff who deal with PRMs will feel more confident and be more efficient in assisting PRMs with different kinds of disabilities, including "hidden" disabilities (such as dementia, autism etc.).
✓ PRMs will feel more comfortable and confident to travel by rail knowing that staff is well aware about their needs and well trained to respond to them.
✓ Measure will improve PRMs social inclusion and would probably lead to increased demand for rail services by this category of passengers.

</td>
</tr>
<tr>
<td colspan="3">Policy measures addressing issues linked to the information provisions for all passengers</td>
</tr>
</table>

• Information on rail passenger rights is provided together with ticket (PM11) • Information on passenger rights is provided in stations and on board trains (PM12)	**Costs (€m)** / **Baseline** / **Change** *Compensation Costs* / *3172* / *+28* *Cost of Assistance* / *663* / *Total Costs* / *3835* / *+28*	✓ Measure will increase passengers' awareness and the possibility for passengers to complain if these rights are not respected. ✓ Better informed passengers can better exercise their rights in an environment where no services are exempted

6 PROBLEMS LINKED TO THE ISSUE OF "FORCE MAJEURE" (PART II)

As explained above, the issue of re-introduction of a "force majeure" clause in the Regulation is examined separately from the rest in this section.

6.1 What should be achieved?

General policy objective

The issue of "force majeure" described in section 1.3 relates to the second general policy objective, which is to enhance railway undertakings' competitiveness and to better allow them to invest in the quality and effectiveness of rail passenger services, without negatively impacting the rights of passengers.

Specific objectives

Specific objectives are identified in relation to the identified problems discussed in chapter 1. Tackling the problem of "force majeure" would require including the following as a specific objective of the revision.

SO2 bis: ensure that the principle of legal fairness is respected

The problem of legal unfairness and proportionality owing to the fact that railway undertakings have to pay compensation for delays caused by "force majeure" although they have not caused these delays and could not prevent them is described in section 1.3. This problem can be addressed by allowing railway undertakings to be exempted from having to pay compensation in a number of exceptional and clearly defined situations.

6.2 What are the various options to achieve the objectives?

Retained policy measures addressing the problems linked to "force majeure"

The analysis in part II of the main problems linked to the issue of "force majeure" and the data in the example of UK in Table 1, reveal the potential magnitude of the range of the scale of delays that could be attributed to "force majeure" events. The Commission's experience in the area of air passenger rights has shown that the only way to prevent railway undertakings from taking advantage of these events not to compensate passengers, is to clearly and narrowly define situations of "force majeure". For these reasons, the two policy measures suggested are kept as narrow and clearly defined as possible as described below. Other measures concerning the issue of force majeure were suggested by different stakeholders, but were discarded for reasons explained in Table A11 in Annex 5.

Table 20: Policy measures in relation to force majeure

A/A	Measures	Description	Hard/ Soft measure
1.	Reintroduction of a	The measure will add a "force majeure" clause to the	H

	"force majeure" clause for article 17 (compensation)	Regulation, so that railway undertakings would be exempted from having to pay compensation where long delays were caused by "force majeure" and which they were not able to foresee or prevent, even if all reasonable measure had been taken.	
2.	Definition of force majeure	This measure will provide a definition of force majeure concept. Two possible definitions will be considered: • Narrow definition situations where a railway undertaking proves that a long delay of more than one hour is caused by heavy floods, earthquakes, volcanic eruptions or very heavy storms (known as 'Acts of God)' and which it could not have foreseen or prevented even if all reasonable measures had been taken. • Broad definition corresponding to situations where a railway undertaking proves that a long delay of more than one hour is caused by external factors which would include i. a. severe weather conditions, cable theft or failures, vandalism, fatalities (including suicides), terrorist attacks. Strikes would not be included. See tables A8 and A9 in Annex 5	H

Both measures related to "force majeure" are linked and cannot be introduced separately. In policy scenario A, the definition of force majeure is restricted to only natural catastrophes (so-called "acts of Gods") as described explicitly in section 1.3; the possibility of occurrence of such events is restricted to around 17% (Table 1). In policy scenario B, the definition of "force majeure" is broadened beyond "acts of Gods", and reaches the possibility of occurrence of around 41,4% (Table 1).

Policy option/scenarios addressing the problems linked to the "force majeure"

Policy measures in relation to the reintroduction of the force majeure concept are presented in the table above. On this basis, two policy scenarios are designed. The difference between them lies in the choice made for the second measure, i.e. the broad or narrow definition of the "force majeure":

Policy scenario A	Policy scenario B
• Reintroduction of a "force majeure" clause for article 17 (compensation) • Narrow definition of force majeure	• Reintroduction of a "force majeure" clause for article 17 (compensation) • Broad definition of force majeure

6.3 What are the impacts of the different policy options (scenarios) and how do they compare?

General methodological considerations

The assessment of impacts of the reintroduction of a "force majeure" clause will be performed considering the analysis of the previous section. In particular, this assessment will consider the economic and social impacts of a "force majeure" clause depending on the two definitions described under section 1.4.2, i.e. a narrow definition and a broad definition.

Issues linked to the economic analysis

The analysis of impacts follows the same principles as for the other policy measures (section 5.1) and covers the baseline scenario and the policy measures related to "force majeure".

The difference compared to section 1.5 is that regarding compensation costs, the Commission looked also at the increase/reduction of railway undertakings' costs caused by the compensation paid to passengers for delays caused by "force majeure" events. As regards passengers, their welfare is assumed to increase/decrease in a direct relationship depending on the compensation they receive owing to delays because of "force majeure" events (increase in compensation owing to "force majeure" equals increase in passenger welfare).

Analysis of policy scenarios addressing the problems linked to "force majeure"

Following the ruling C-509/11(2013) of the EU Court of Justice, passengers have the right to compensation irrespective of the cause of a long delay. Although the re-introduction of a "force majeure" clause will not affect railway undertakings' obligations regarding assistance, reimbursement and rerouting, it will reduce their costs regarding compensation and, consequently, the level of passenger protection by reducing the overall compensation that passengers could be entitled to. The degree of reduction of compensation depends on the definition of "force majeure" events. According to railway undertakings, a relief from the financial burden caused by "force majeure" incidents is expected to reinforce their competitiveness and should allow them to invest in the quality and effectiveness of their services. This could include measures from which passengers would also benefit, such as investments in better quality services (e.g. with ticket prices rising more slowly). The scale of the reduced expenses depends on the definition of "force majeure" and could be higher (under policy scenario B) or lower (under policy scenario A).

Policy scenario A

Social Impacts

In the event that a long delay of more than one hour is caused by heavy floods, earthquakes, volcanic eruptions or very heavy storms (so-called 'Acts of God)' and the responsible railway undertaking could not have foreseen or prevented the delay even if it had taken all reasonable measures, the possible overall compensation level over 15 years will be reduced by EUR 562 million. Assuming that the compensation level represents

the level of passenger protection under the Regulation, then it will be reduced by 17.62% in comparison with the baseline scenario.

Economic Impacts

The re-introduction of a force majeure clause with a narrow definition will bring a saving of cost for the railway undertakings by the removal of the burden. The decrease in compensation costs is expected to be EUR 562 million representing 17.62% decrease in comparison with the compensation costs under the baseline scenario and 14.65% in comparison with the overall costs of the regulation under the baseline scenario. This amount of savings would positively affect the business model of Railway undertakings and consequently their level of investment.

Table 21 – Summary of assessment of policy scenario A

Metric (NPV)	*Baseline*	Policy scenario A
		Narrow definition of FM (possibility of occurrence: 17%)
Compensation Costs (€m)	*3172*	
Force Majeure (€m)		*-562*
Total Costs (€m)	***3835***	*-562*
		Medium

Policy scenario B

Social Impacts

In this scenario, a long delay of more than one hour could be caused by external factors which would include inter alia. severe weather conditions, cable theft, vandalism, fatalities (including suicides) or terrorist attacks, and the responsible railway undertaking could not have foreseen or prevented the delay even if it had taken all reasonable measures, the possible overall compensation level of passengers over 15 years will be reduced by EUR 1,299 million. Thus, the inclusion of a "force majeure" clause will reduce the level of passenger protection under the Regulation by reducing the possible overall compensation level by 40.95% in comparison with the baseline scenario.
Economic Impacts

The re-introduction of force majeure clause with a broad definition is expected to bring cost savings for railway undertakings of EUR 1,299 million representing a cost decrease in terms of compensation of up to 40.95% in comparison with the baseline scenario and 33.87% decrease of overall costs of the regulation in comparison with the baseline scenario. The removal of this burden will positively affect the business model of railway undertakings and their level investments.

Table 22 – Summary assessment of policy scenario B

Metric (NPV)	*Baseline*	Policy scenario B

		Broad definition of FM (possibility of occurrence: 41,4%)
Compensation Costs (€m)	*3172*	
Force Majeure (€m)		*-1,299*
Total Costs (€m)	***3835***	*-1,299*
		High

Preferred policy scenario

Table 23 - Policy options to address issues linked to the "force majeure"

Policy scenario A	Policy scenario B
• Reintroduction of a "force majeure" clause for article 17 (compensation) • Narrow definition of force majeure	• Reintroduction of a "force majeure" clause for article 17 (compensation) • Broad definition of force majeure
Costs for rail industry	
Costs (€m) / *Baseline* / Change *Compensation* / *3172* / *Force Majeure* / / *-562* *Total* / *3835* / *-562*	*Costs (€m)* / *Baseline* / Change *Compensation* / *3172* / *Force Majeure* / / *-1,299* *Total* / *3835* / *-1,299*
Social impacts – impacts on passengers	
✓ EUR 562 million reduce of the level of passenger protection under the Regulation by reducing the possible overall compensation level they could possibly receive by 17.17% in comparison with the baseline scenario	✓ EUR 1,299 million reduce of the level of passenger protection under the Regulation by reducing the possible overall compensation level they could possibly receive by 40.95% in comparison with the baseline scenario

The re-introduction of a "force majeure" clause better satisfies the second group of objectives as it would mean a reduction of the burden for railway undertakings. In that respect, policy scenario B better satisfies the second general and second-bis specific objective as it brings a higher financial relief for railway undertakings of EUR 1,299 million compared to the baseline scenario and EUR 737 million compared to policy scenario A. In addition, it would ensure better coherence with passenger rights legislation for other modes and other relevant EU legislation, such as the Package Travel Directive, which contain provisions to exempt carriers from having to pay compensation under certain conditions. Thus, the strictly economic analysis based on the compensation levels coincides with the point of view of railway undertakings. To re-introduce a "force majeure" clause would be the most desirable outcome for railway undertakings and

would respond to their repeated calls to the Commission. Depending on the investments they make with the savings from paying less compensation, it could be argued that, eventually, the effect could also be positive on passengers. When informally consulted by the Commission on this issue, a large majority of the Member States were in favour of a "force majeure" clause, as long as "force majeure" was precisely and narrowly defined.

The re-introduction of a "force majeure" clause satisfies less and could even be opposed to the first group of objectives as it will reduce the level of passenger protection and legal certainty. The re-introduction of a "force majeure" clause would mean that passengers would lose the right to financial compensation in the event of "force majeure" incidents. As stated in the problem definition (section 1.3), the rights of passengers to information, assistance reimbursement or re-routing would not be affected by that measure. Still, there will be a certain reduction in passenger rights, the degree of which will depend on the definition of "force majeure". The reduction in passenger rights would be higher by EUR 737 million if policy scenario B was chosen. Therefore, policy scenario A is the preferred one for passengers.

The reduction in passenger rights due to the reduction of compensation in the event of "force majeure, is expected to be counter-balanced by the increased benefits to passengers notably through the reduction of exemptions and specific measures for PRMs which is expected to reach EUR 191 million. As the rights to assistance, information etc. would not be affected, the high level of consumer protection required by the Charter of Fundamental Rights would be guaranteed. Thus, from a strictly economic analysis based on the compensation levels received, policy scenario A would be the most desirable for passengers and would represent a fair balance between the interests of passengers and the rail industry.

A "force majeure" clause cannot solely be justified by economic reasons and consumers and their reprentatives have been rather reluctant on this issue. However, the opinion of Member States and railway undertakings had to be taken into consideration who have clearly and repeatedly requested its introduction to ensure the principles of lega fairness and proportionality by emphasizing the importance of a ring-fenced approach to avoid abuses by the railway undertakings (as pointed out under points 1.3 and 1.4.2 above).

The introduction of a "force majeure" clause even for a very limited number of events might lead to more legal uncertainty and thus to an increase in disputes between passengers and railway undertakings, resulting in more complaints to NEBs/ADRs. The burden on NEBs who might be called upon for controversial cases is going to rise, especially in policy scenario B.

Sensitivity Analysis

A sensitivity analysis is made to examine the outcome of a decision if the re-introduction of a "force majeure" clause accompanies the preferred policy options. For this reason, the tool is run for:

- Both, policy scenario A on "force majeure" situations with 17% of occurrence and the preferred policy options for the other measures (see section 6.2.2).
- Both, policy scenario B on "force majeure" situations with 41.4% of occurrence and the preferred policy options for the other measures (see section 6.2.2).

In both sensitivity tests there are only incremental changes on the impacts of the final result. Thus, one could argue that the results are the same as when policy scenarios are analysed separately.

Legal basis and nature of the instrument

Article 169(2) TFEU provides that the Union shall contribute to the promotion of consumers' interests and ensure a high level of consumers' protection by adopting measures pursuant to Article 114 TFEU in the context of completion of the Internal Market. Article 91 TFEU enables the European Parliament and the Council to lay down appropriate provisions to implement appropriate provision within the framework of a common transport policy. The nature of the instrument would thus be a revision to the Regulation for which Article 91 was also the legal basis.

Consistency with other EU policies

The preferred option would be fully consistent and compatible with existing EU policies in the transport sector, notably the specific legislation on passenger rights in air, waterborne and bus and coach transport, the 4th railway package and the PRM TSI and TAP TSI. It would also be in line with the Package Travel Directive. It would also be consistent with the UN Convention on the Rights of Persons with Disabilities and EU disability legislation.

7 MONITORING AND EVALUATION

The Commission services will monitor the implementation and effectiveness of this initiative through a set of core progress indicators, listed in the table below. The reporting of the indicators will be annual following the implementation of any changes to legislation required to give effect to the preferred option. It is foreseen that five years after the entry into force of the proposed legislation, the Commission services will carry out an evaluation to verify whether the objectives of the initiative have been reached. Starting year is considered 2020.

This evaluation will be carried out inter alia based on the core progress indicators referred to below.

Table 24 –: Core progress indicators for monitoring purposes

Objectives	Stage in policy cycle	Indicator	Reported yearly by:	Comments
SO1: Improve the application and enforcement of the Regulation, so that all passengers can fully exercise their rights when travelling by rail in the EU				
Issues with a major impact on passengers				
Address issues regarding exemptions				
OO1.1*: Reduce the scope for exempting rail services which currently can benefit from the provisions on exemptions under the Regulation	Implementation	Number of types of service exempted (TSE)	Member States	The number would only be reported following changes in response to legislation (cost should not be significant). The number of services exempted in 2020 should be higher than the ones in the years after 2020. Example for 2021: $\frac{\mathrm{TSE}[2020]}{TSE[2021]} \geq 1$
	Application	Number of services exempted (SE)	Member States	Monitoring of the KPI would require an annual estimation (cost could be significant depending on changes to services over time). The number of services exempted in 2020 should be higher than the ones in the years after 2020. Example for 2021: $\frac{\mathrm{SE}[2020]}{SE[2021]} \geq 1$

Increase the protection of PRM passengers				
OO1.2: Specify higher minimum standards for PRM assistance	Implementation	% of customer-facing staff who have received training in PRM assistance (SPRMT)	RUs	Establishing an objective measure will be challenging if the appropriate level of training is open to interpretation. Nevertheless, data on the proportion of staff who have a disability awareness, at least to some degree, will be a useful measure of compliance (additional cost of recording staff attendance on training courses over and above the cost of the training itself should not be significant). Example for 2021: $\frac{\text{SPRMT}[2020]}{\text{SPRMT}[2021]} \leq 1$
	Application	Number of PRMs seeking assistance (PRMA)	RUs	This information is reported already, although not by all rail undertakings. (additional cost of reporting requests over and above the cost of registering and responding to requests should not be significant). Example for 2021: $\frac{\text{PRMA}[2020]}{\text{PRMA}[2021]} \leq 1$
Increase of passenger awareness about their rights				
OO1.3: Specify channels by which information on passenger rights are to be disseminated	Implementation	% of stations complying with requirement to provide information	RUs	The KPIs will capture the extent to which rail undertakings, ticket vendors and stations comply with the new regulation and, over time, the speed

		% rail undertakings and ticket vendors complying with the requirement to provide information on the ticket		with which they take the necessary action (data should be relatively simple to collect, and the costs of reporting information over and above the costs of compliance should not be significant) $\frac{\text{No. of stations comply}[2020]}{\text{No. of stations }[2020]} \geq 0.9$ $\frac{\text{No. of RUs comply}[2020]}{\text{No. of RUs }[2020]} \geq 0.9$ $\frac{\text{No. of ticket vendors comply}[2020]}{\text{No. of ticket vendors }[2020]} \geq 1$
	Application	% passengers agreeing that they are aware of their rights	RUs	This measure will indicate whether the change in policy is having the desired effect from the passenger's perspective (data collection will be relatively simple where rail undertakings already carry out passenger satisfaction surveys, but if a bespoke survey is required the costs will be higher) $\frac{\text{No. of pax. aware of their rights}[2020]}{\text{No. of pax. }[2020]} \geq 0.2$
Compensation and assistance to passengers				
OO1.4: Ensure that through-tickets are provided to passengers	Implementation	Number of through tickets sold (TTS)	RUs/ticket vendors	The KPIs will capture the extent to which rail undertakings/ticket vendors comply with the new rules on selling through tickets wherever possible

				(the underlying data should be collected in the normal course of operations and the costs of reporting should not be significant). $\frac{\text{No. of TTS}[2020]}{\text{No. of TTS } [2021]} \leq 1$
	Application	Compensation granted to passengers who travel with a through-ticket (CTT)	RUs	This measure would be expected to increase following the increase in the number of through tickets sold (the underlying data should be collected in the normal course of operations and the costs of reporting should not be significant). $\frac{\text{CTT}[2020]}{\text{CTT } [2021]} \leq 1$
Strengthen the rights of passengers to an effective enforcement of the Regulation through better NEB complaint handling and cooperation				
OO1.5: Specify requirements in respect of reporting regarding complaints handling activities	Application	Number of complaints to NEBs (CNEB)	NEBs	NEBs should keep records of the number of complaints received (costs of reporting should not be significant). The ratio of the two KPIs (number of complaints to NEBs/number of complaints to RUs) should provide a proxy for the complaint handling process.
	Application	Number of complaints to RUs (CRU)	RUs	RUs should keep records of the number of complaints received (costs of reporting should not be significant). The ratio of the two KPIs (number of complaints to NEBs/number of complaints to RUs) should provide a proxy for the complaint

				handling process. $\frac{\text{No. of CRU}[2020]}{\text{No. of CRU }[2021]} \leq 1$ $\frac{\text{No. of CNEB}[2020]}{\text{No. of CRU }[2020]} \geq 1$
Issues with a lesser impact on passengers				
Increase of passenger awareness about their rights				
OO1.6: Eliminate observed instances of discrimination in ticket prices by geography and sales channel	Implementation	Incidence of sales channels offering inconsistent prices (CIP)	NEBs	This would need to be calculated on the basis of a sample (same sample every year) of inspections of different sales channels (cost should be material). $\frac{\text{No. of CIP}[2020]}{\text{No. of CIP }[2021]} \geq 1$
	Application	Number of complaints about discrimination in pricing and other terms (CDP)	NEBs	NEBs should keep records of the number of complaints received (costs of reporting should not be significant). $\frac{\text{No. of CDP}[2020]}{\text{No. of CDP }[2021]} \geq 1$

SO2: Reduce the burden on railway undertakings across the EU				
The burden of providing assistance to passengers in the event major disruption should be shared between all actors involved				
OO2: Ensure that all relevant stakeholders apart from RUs have contingency planning in place	Implementation	Number of infrastructure managers involved in contingency planning (IMCP)	Infrastructure managers	Infrastructure managers should keep records of the contingency planning they have in place (costs of reporting should not be significant). $\frac{\text{No. of IMCP}[2020]}{\text{No. of IMCP }[2021]} \leq 1$
	Implementation	Number of station managers involved in contingency planning (SMCP)	Station managers	Station managers should keep records of the contingency planning they have in place (costs of reporting should not be significant). $\frac{\text{No. of SMCP}[2020]}{\text{No. of SMCP }[2021]} \leq 1$

SO2bis: Ensure that the principle of legal fairness is respected				
OO2bis: Ensure that rail services are not unduly disadvantaged as a result of compensating passengers for force majeure event which could not been foreseen or prevented even if all reasonable measures had been taken	Implementation	Number of force majeure incidents that would otherwise have generated claims for compensation (FMI)	RUs	The information required to determine this KPI is relatively simple to obtain provided the RUs regularly analyses performance data to determine underlying causes (as part of a process of continuous improvement). However, a review of service quality reports on the ERADIS database suggests that such information is not routinely

				collected in Member States. Thus the costs of putting in place a monitoring framework could be substantial. $\frac{\text{No. of FMI}[2020]}{\text{No. of FMI }[2021]} \leq 1$
	Application	Compensation payments per passenger-km (CP, pax-km)	RUs	This measure could be expected to fall following the provision of relief in the event of force majeure. At the same time, it normalises for increases in payments arising from increases in the volume of travel (the underlying data should be collected in the normal course of operations and the costs of reporting should not be significant) $\frac{\text{CP/pax} - \text{km}[2020]}{\text{CP/pax} - \text{km}[2021]} \geq 1$

*** OO: Operational objective**

ANNEX 1: PROCEDURAL INFORMATION CONCERNING THE PROCESS TO PREPARE THE IMPACT ASSESSMENT REPORT AND THE RELATED INITIATIVE

Lead DG: Directorate General Mobility and Transport.

Agenda Planning Reference AP N°	Short title	Foreseen adoption
2016/MOVE/006	Review of the Rail Passenger Rights Regulation	First half of 2017

Organisation and timing

The work on the Impact Assessment started in September 2015 when an Inter Service Steering Group (ISSG) was set up. The ISSG includes the following DGs and Services: Secretariat General, Legal Service, DGs GROW, EMPL, JUST, ECFIN, NEAR, EEAS.

Five meetings were organised between September 2016 and April 2017. Further consultations with the ISSG were carried out by e-mail.

The ISSG approved the **Inception Impact Assessment** that was published in November 2015 and discussed the main milestones in the process, such as various consultation activities with stakeholders, the task specifications to launch a contract to obtain external expertise, key deliverables from impact assessment support study, final draft of the impact assessment report before the submission to the Regulatory Scrutiny Board, revised draft report further to the negative opinion of the Board.

Consultation of the RSB

Further to the meeting with the RSB on 15 February 2017, the Board has given a negative opinion on 17 February 2017. The report was revised to address the comments of the Board.

Amendments made following the negative opinion of Regulatory Scrutiny Board (RSB) of 17 February 2017

RSB Comment	Amendment to IAR
I. Problems, objectives and policy choices – intervention logic	
(B) Main considerations	
1. Lack of clarity regarding the issue of force majeure, including legal aspects, economic data and competition effects on the rail sector as compared to other transport modes.	The impact assessment report has been entirely restructured in order to provide better clarity to the reader and allow for easy navigation through the text. The problems related to this Regulation have been divided in two parts and have been analysed separately. Part I of the problem definition therefore deals with the main issues related to the scope and application of the Regulation

	(issues such as exemptions, PRM issues, information, through-ticketing, enforcement etc.). In view of the political significance of the force majeure issue but given the absence of economic data which would prove that there is currently a major financial or competition problem for railway undertakings, this issue is analysed and presented separately from the other problems identified in the course of the impact assessment. Thus, the "force majeure" concept belongs to part II of the problem definition and has been analysed separately to provide clarity in every aspects of the analysis such as legal aspects, economic data etc.
2. Insufficient explanation of the structure and content of the policy options; absence of indication of stakeholders' views and a limited range of ad hoc options.	As mentioned above, the structure of the impact assessment report has been adapted to ensure more clarity and better understanding. As apart from the issue of exemptions there a no clear links with the problems, an "en cascade" approach has been chosen, where the options for the different issues are assessed against the different options for exemptions. Explanations on the content of policy options and stakeholders' views have been added.
3. Inconsistent analysis of policy impacts and unclear impact comparison, especially regarding cost.	With the new structure, policy impacts are analysed separately for every issue/problem which makes the comparison clearer, more straightforward and easier to follow.
4. Incomplete monitoring arrangements.	The last part of the report "Monitoring and Evaluation" has been redrafted. Table 21 has been completed with new operational objectives, and new KPIs have been added.
(C) Further considerations and adjustment requirements	
(1) Force majeure	
5. The report needs to clarify whether the present initiative simply aims at legally clarifying the general understanding or rather at modifying the application of the force majeure clause beyond the original intention of the legislator and in light of the CJEU rulings.	Par. 1.2.3.1 "*Compensation to passengers in case of major disruption*" (p. 14) has been redrafted on the whole to par. 1.3 " *Description of the main problems linked to the issue of "force majeure" (Part II)*" to make clear that the common understanding of all stakeholders was, until the CJEU ruling of 26.09.2013, that the force majeure was indeed present in the Regulation and to justify the re-introduction of a "force majeure" clause under a new regulatory framework.
6. In addition to the legal	The report has been re-drafted in order to document:

evidence, the report needs to document the existence and the magnitude of the problem under different definitions of force majeure.	(1) the existence of a problem under different definitions of force majeure. In par. 1.3 "*Description of the main problems linked to the issue of "force majeure" (Part II")*, Table 1 shows the different possible definitions and occurrence of a force majeure event. (2) the magnitude of the problem under different definitions of force majeure. In par. 1.4.2 " Part II –problems linked to the issue of "force majeure", the two definitions more relevant to this exercise are presented and analysed showing the magnitude of the problem. The report recognises that the scarce economic data available does not show that there is a significant financial or competition problem for railway undertakings. It therefore *mainly* justifies its preoccupation with this issue *by* the repeated calls from Member States and railway undertakings to address the issue of "force majeure".
7. The report should provide quantitative data on observed and potential damage compensation claims in cases of force majeure. It should show how this would ultimately affect rail companies and rail passengers. This includes presenting and analysing data on the (likelihood of) occurrence of force majeure events and on rail sector costs related to events such as floods, earthquakes, etc.	In section 5.4 *Part II – problems linked to the issue of "force majeure"*, the issue of "force majeure" is analysed as separate problem. Two different policy measures are proposed, described and analysed. In section 5.4.3.2 *Analysis of policy scenarios addressing the problems linked to "force majeure"*, the two policy scenarios are analysed in order to show the effect on passengers and the economic effect on railway undertakings under the different definitions. The two policy measures are strongly dependent on the likelihood of a "force majeure" event to happen: • 17% likelihood of occurrence for the narrow definition of FM • 41.4% likelihood of occurrence for the broad definition of FM
8. The report should assess whether the issue of competition with other modes of transportation is relevant.	The impact assessment has shown that there is a limited competition between rail and other transport modes notably in some routes.
9. It should clarify different Member States' demand for the measure.	A paragraph has been added in the last part of section 1.3 *Description of the main problems linked to the issue of "force majeure" (Part II),* where Member States' demand for re-

	introduction of a "force majeure" clause is clearly stated.
10. The report should address the feasibility of the proposed definition, given difficulties encountered in air transport.	In section 1.3 *Description of the main problems linked to the issue of "force majeure" (Part II)*, the experience from the air passenger rights file is presented in order to support the proposal of the Commission for a narrow and clear definition.
11. The report should be clear how these changes affect standards of passenger protection, which is the focus of Regulation 1371/2007. The analysis should also assess the impact on legal certainty, in particular with regard to legal disputes and their costs.	As mentioned above, a restrictive and clear definition of "force majeure" will limit to a minimum legal disputes and thus costs linked to them..
(2) Policy options and stakeholder views	
12. The report should give more detailed information on the content and the practical implementation of the various policy measures and better explain the differences with the baseline (e.g. what are the rights today, under EU and national law)	Under the new structure, various policy measures are assessed separately and analysed against the baseline scenario revealing the differences with the baseline (and among them where possible).
13. For PRM, it should clarify the concrete measures covered in each policy option and how they will be implemented; for example, the meaning of "accessibility" and the possibilities to improve it.	PRM issues and relevant policy options are better defined and analysed under a separate scheme. Already in Figure 1: *Problem definition diagram*, PRM issues are distinguished. Further, in section 1.2.1.2 *Problems linked to the protection of passengers with disabilities or reduced mobility*, the problems related to PRMs are presented.
14. The report should also discuss various possibilities to define force majeure (and assess their impact). Reference to authoritative definitions of the force majeure should guide the definitions proposed. The report should provide reasons for choosing a particular definition, including information on the	The various definitions of force majeure are now explicitly presented. Also the reasons behind these definitions are clearly explained and motivated. In addition Member States' position has been clarified through a targeted consultation which confirmed Member States' demand for the re-introduction of a force majeure clause. Other stakeholders' opinions are given, experience by air passengers' right file has been taken into account.

support by Member States.	
15. It should more clearly explain the implications of removing exemptions in member states and their implications of passenger rights. A summary table would be a useful device for this purpose.	The effect of removing exemptions has been presented in section 5.2.1. The effect of removing exemptions has again been assessed against the options for all other measures. A summary table has been added in Table A12: *Exemptions, Annex 5*
16. The report should explain the underlying logic of the policy options i.e. the reasons for including policy measures in some options and not in others: they currently appear to be somewhat artificial and cumulative. *It should explore whether alternative policy options or other possible combinations of measures would merit further consideration (e.g. for informing passengers about their rights; or for "connections" and "through tickets"). For example, the difference between options 3 and 4 appears rather limited, and the report should make them more evident. The presentation of the options should explain the choice of an all-or-nothing approach for the exemptions. The report should demonstrate in how far the options are feasible, given the related costs, in particular for rail operators.*	The construction of the policy options has been completely revised in order to reflect the limited links and relationships between them. The new methodology is presented in section 4.1 *Methodology of the policy options construction (PART I)*. It is important to highlight that the high number of issues under consideration in this report entails a high number of policy options. Combining the various policy options for each of the issues under consideration into packages of policy options would lead to an unmanageable number of such packages to assess. Although the policy choice with regard to the exemptions may have an impact on the other problems identified, these other problems are not or are only weakly linked to each other. This allowed us to discard a highly complex approach in which we would design policy packages. Instead, we have chosen to apply a sequential approach in which we assessed theme by theme. The robustness of the conclusion for each of the themes was every time tested against the different policy options for the exemptions.
17. The report should more systematically and more clearly present stakeholders' views on the various policy options.	The report has been redrafted to better present stakeholders' views on the main policy options. For example, as already highlighted in point 9, the presentation of demand from the side of Member States for the re-introduction of a "force majeure" clause has been added in the last part of section 1.3 *Description of the main*

	problems linked to the issue of "force majeure" (Part II). In addition, EDF opinion has been added in relation to different issues for PRMs in section 1.2.1.2 *Problems linked to the protection of passengers with disabilities or reduced mobility* eg. on staff training, provisions on complaint handling for PRMs etc.
(3) The impact analysis and option comparison	
18. The impact analysis should consistently compare the policy options with the baseline. It also needs to clarify (in the main text) the main assumptions and underlying methods for estimating impacts (e.g. do force majeure estimates refer to an average or a worst-case scenario?).	The whole section of impact analysis has been re-drafted to become simpler and more transparent. The main assumptions and underlying methods for estimating impacts are more straightforward. Every policy scenario is analysed in a separate section against the baseline and, at the end, the policy scenarios under the same issue are analysed in comparison to each other.
19. The report should pay particular attention to the accuracy and clear explanation of cost calculations, methodology, ratings and comparison. It should substantiate the conclusions on impacts with evidence. In this light, it should clarify the choice of the preferred option. It should include a summary table on the cost and benefits of the options.	Under the new structure of the report and the separate analysis of each policy option, particular attention has been paid to the accuracy and clear explanation of the cost calculations and comparisons. In the analysis of every policy measure, a table has been added with the results of the tool presenting in numbers the anticipated economic impacts. In addition, in Annex 4, the results of the economic analysis are presented in a print screen format taken directly from the excel file of the tool. Finally, a summary Table 18 was included on the costs and benefits of the main options that were economically analysed.
(4) Monitoring	
20. The report should complete the monitoring and evaluation arrangements. It should define operational objectives for all the objectives of this initiative. In particular, those should include indicators on costs and on force majeure cases to monitor the suitability of the preferred option. The report needs to set	The last part of the report "Monitoring and Evaluation" has been redrafted. Table 21 has been completed with new operational objectives, and new KPIs have been added.

time-bound targets to measure success or failure of the initiative.	

Evidence used in the impact assessment

The whole report and the options considered in the IA report were designed by taking into account the following documents and evidence:

1. Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations, OJ L 315, 3.12.2007, p. 14; **http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32007R1371&from=EN**
2. Report from the Commission to the European Parliament and the Council on the Application of Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on Rail Passengers' Rights and Obligations, COM/2013/0587 final; **http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013DC0587&rid=1**
3. Report of the study "Evaluation of Regulation 1371/2007" by Steer Davies Gleave on the application and enforcement in the Member States of the Regulation on rail passengers' rights and obligations; **http://ec.europa.eu/transport/themes/passengers/studies/doc/2012-07-evaluation-regulation-1371-2007.pdf**
4. White Paper - Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system, COM/2011/144 final; **http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011DC0144&qid=1425911670667&from=EN**
5. Commission Staff Working Document: Continuity of passenger mobility following disruption of the transport system; SWD (2014)155 final, **http://ec.europa.eu/transport/themes/passengers/doc/swd(2014)155.pdf**
6. Communication from the Commission to the European Parliament and the Council: A European vision for Passengers: Communication on Passenger Rights in all transport modes, COM/2011/0898 final; **http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011DC0898&from=EN**
7. Special Eurobarometer 420 of November 2014, **http://ec.europa.eu/public_opinion/archives/ebs/ebs_420_en.pdf**
8. Special Eurobarometer 228 February-March 2005, **http://ec.europa.eu/public_opinion/archives/ebs/ebs_228_sum_en.pdf**
9. Special Eurobarometer 319 November 2009 **http://ec.europa.eu/public_opinion/archives/ebs/ebs_317_en.pdf**
10. Flash Eurobarometer 382a December 2013

http://ec.europa.eu/public_opinion/flash/fl_382a_en.pdf

11. Report from the Commission to the European Parliament and the Council on the Exemptions granted by Member States under Regulation (EC) No 1371/2007 on Rail Passengers' Rights and Obligations, COM/2015/117 final; **http://ec.europa.eu/transport/themes/passengers/news/doc/2015-03-13-pax-rights-rail-exemptions/com(2015)0117_en.pdf**
12. CER, rail sector's report on the implementation of Regulation 1371/2007 of October 2012 **http://www.cer.be/fileadmin/user_upload/media/2358_FINAL_CER_Brochure_PassengersRR_DEF.pdf**
13. Interpretative guidelines on Regulation 1371/2007 of 3.7.2015, C(2015)4089 **http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2015:220:TOC**.
14. **Open Public Consultation** carried out between 9/2/2016 and 5/5/2016 in the framework of the impact assessment
15. Case studies, targeted consultations and methodological tool prepared by an external contractor (Steer Davies Gleave)

External expertise

The Commission sought external expertise in the economic field through a contract for a support study with Steer Davies Gleave. The quality of the contractor's work was substandard so that only the information provided in the case studies and targeted stakeholder consultation as well as the methodological tool for the IA could be used for the IA report.

ANNEXE 2: STAKEHOLDER CONSULTATION SYNOPSIS REPORT

Introduction

In the context of the preparation of the Impact Assessment, stakeholders were consulted on the problem definition and respective drivers, the issue of subsidiarity and the EU dimension of the problem, the proposed options and the likely impacts of each option. Both qualitative (opinions, views, suggestions) and quantitative (data, statistics) information was sought from stakeholders. Stakeholders were engaged through the combination of consultation methods to obtain input into the Impact Assessment, including a 12-week Open Public Consultation and targeted consultations through interviews of most relevant stakeholders, carried out by the external consultant.

The consultation targeted industry federations, organisations representing PRMs, organisations representing passengers and consumers, infrastructure managers, public authorities, RUs, ticket vendors and others.

The participation of different stakeholder categories was overall balanced with stakeholders from the industry and stakeholders representing passengers/consumers and PRMs as well as public authorities responding to the consultation. This included stakeholders affected by the policy, those who have to implement it and those with a stated interest in the policy.

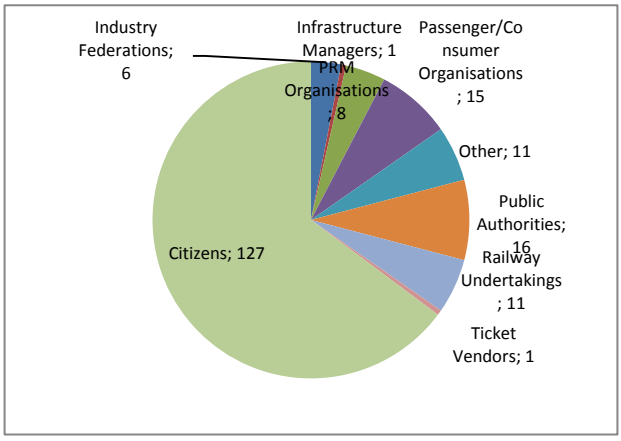
The stakeholders' views do not represent the official position of the Commission and its services and thus does not bind the Commission. The input gathered corresponds to the objective of the consultation in both assessing the performance of the regulatory framework to date and also providing insights about possible challenges.

Methodology

Open Public Consultation

The Open Public Consultation (OPC) was conducted between 09 February and 05 May 2016 on the 'Your voice in Europe' website. The aim of the OPC was to obtain stakeholders' opinions on the key elements of the impact assessment: the problem identified during the ex-post evaluation, the possible solutions to these problems (i.e. policy options and policy measure) and their likely impacts. While the questionnaire for the 12-week public consultation was prepared by DG MOVE, together with the members of the steering group, the external consultant collected and summarised the submissions. The questionnaire had 31 questions, divided in three parts.

Figure 2 Overview of Participants to the OPC



The consultation gathered a total of 190 online replies, including 127 citizens and 63 replies from stakeholders operating in all Member States. The division by different types of respondents (i.e. citizens, Passenger/Consumer Associations; PRM Organisations; Public Authorities; Industry Federations; Railway Undertaking; Infrastructure Managers; Ticket Vendor; and

respondents categorized as "Other") is reflected in 2 .

For some stakeholder categories, such as ticket vendors, station managers and industry federations, the sample size was low, with less than six respondents per category as seen in Figure 2. However, it is important to note that industry federations represent a number of member companies. Other stakeholder categories, such as passenger/consumer associations (15 respondents), public authorities (16 organisations) and railway undertakings (11 respondents) were better represented in the OPC.

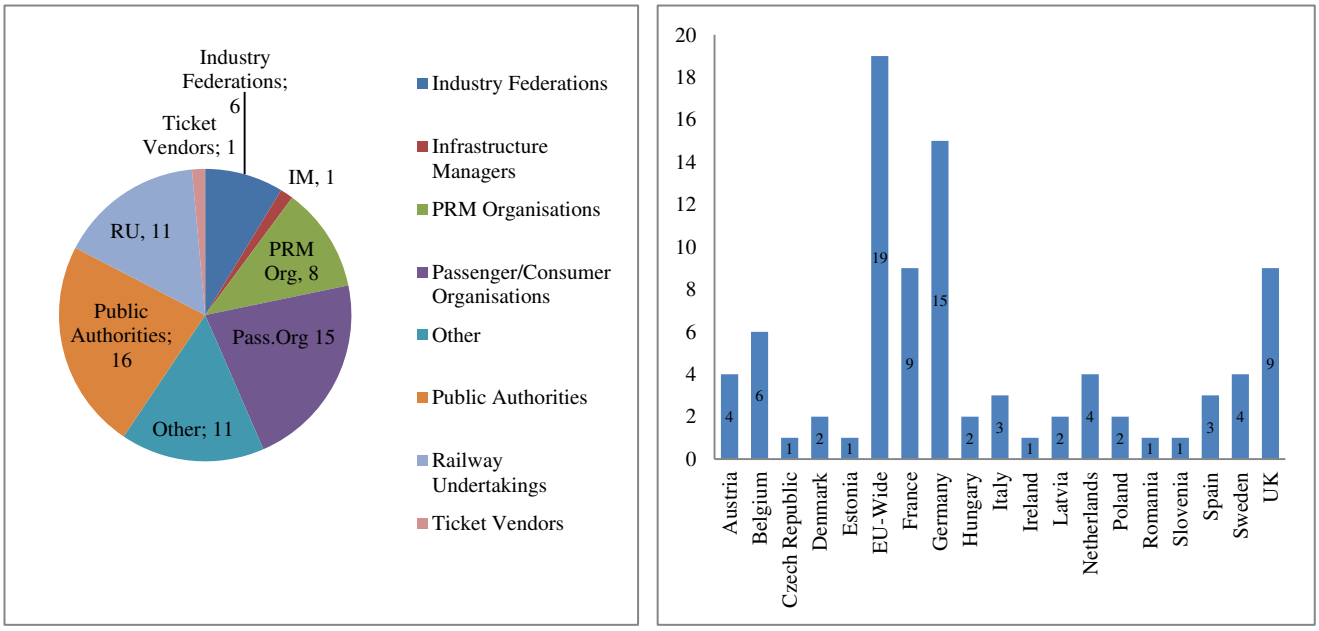


Figure 3 Organisations according to best describing activity (left) and main country of operations (right) as declared by participants

Targeted consultations

Targeted consultations took place in the frame of the external study performed by the external consultant. These were done through a series of face-to-face (or phone) interviews. Interview guides, tailored to the different stakeholder groups, were prepared by the external consultants. 26 Member States were divided into two main categories, those in which a full case study approach was taken and those on which overview case studies were carried out.

The question lists used for the case studies were agreed with the Commission. Five distinct questionnaires were prepared for Railway undertakings, including specific financial questions pertinent to the Regulation; National Enforcement Bodies, including a complete understanding of their position with regards to the Regulation; Infrastructure managers/station managers, including specific financial questions pertinent to the Regulation; Railway undertaking associations, with a broader approach to financial queries; and, Consumer associations and PRM organisations, with a focus on provision of information and assistance.

The final case study reports are also based upon desk research and stakeholder questionnaires, and represent the findings with relation to rail passengers' rights and obligations. The structure of the case study reports is identical for both full and overview case study countries and was agreed by the Commission.

The **full case** studies provided an in depth understanding of the situation in thirteen Member States[156], with a broad range of stakeholders being interviewed, including face-to-face interviews with National Enforcement Bodies and railway undertaking and telephone interviews with railway undertaking associations, infrastructure managers, station managers, consumer associations and PRM organisations in these member states via telephone interview.

In the course of the full case studies, 74 stakeholders were contacted, whereby 44 stakeholders were interviewed (60% response rate) and 6 declined to participate (most of them consumer/passengers or PRM organisations). Additionally, 39 stakeholder written submissions were received.

In the thirteen[157] **"overview" case study states**, telephone interviews with National Enforcement Bodies and railway undertakings were held mainly for the purpose of data collection, which allowed for confirming the nature of problems identified in our case study work. 29 stakeholders were consulted for the overview case studies

Feedback on the Inception Impact Assessment

The Inception Impact Assessment was published on the Europa webpage and thus open for the feedback of stakeholder. On 17 January 2016 Verkehrsclub Deutschland, Landesverband Bayern e. V. (VCD Bayern) submitted its feedback on the initiative.

Analysis of Results of the Stakeholder Consultation (OPC and Targeted Consulation)

1 Awareness and information about passenger rights.

Passenger/consumer associations

The European Disability Forum (EDF) and the passenger and consumer association in The Netherlands (ROVER) expressed the view that passengers are not very aware of their rights and the relationship between the Regulation and the CIV is unclear. This opinion was also shared by passenger and consumer associations in the OPC, where 13 (87%) of passenger and consumer associations did not feel well informed about their rights (strongly and somewhat disagreed with the statement in Question 2). Further, more respondents (9, or 60% of passenger and consumer associations) disagreed (either strongly or somewhat) that passengers were well informed about disruptions.

PRM Organisations

In the OPC, Questions 1, 2 and 3 asked the respondents their opinion on how well informed passengers are about various aspects of the Regulation, including transparency of information, provisions of the Regulation and whether the Regulation has improved the protection of rail passenger rights. Although PRM organisations were familiar with provisions of the Regulation (5, or 71%), they did not feel particularly well informed about their rights (5, or 63%) (strongly and somewhat disagree). In addition, results from Question 31a and 31b in the OPC suggested 4 (50%) of PRM organisations favoured a revision of the Regulation at EU

[156] The full case studies were carried out in the following Member States: Austria; Belgium; Bulgaria; Finland; France; Germany; Italy; Latvia; Lithuania; The Netherlands; Poland; Romania; and UK.

[157] Croatia; Czech Republic; Denmark; Estonia; Greece; Hungary; Ireland; Luxembourg; Portugal; Slovakia; Slovenia; Spain; Sweden

level (through new national legislation) to address information provided to passengers. It was also suggested by 5 (63%) of PRM organisations that new national legislation is required to address the liability of railway undertakings to compensate passengers for delays caused by unforeseen and unavoidable events (force majeure).

Railway Undertakings

Railway undertakings in the OPC agreed that passengers are well informed about disruptions and other aspects of their journey. In detail, 10 (91%) of railway undertakings "somewhat agree" or "fully agree" with the statement that passengers are well informed in the event of disruptions (such as long delays, cancellations). The railway undertakings that agreed with this statement were from western European Member States, with the exception of PKP Intercity S.A. in Poland. As Respondents in Latvia, Ireland also stated that passengers are not much aware of their rights. In contrast, the Finish RU and the German RU stated that passengers are quite aware of their rights.

Public Authorities

Responses to the open public consultation are in line with the targeted consultations. (RU), Hungary (NEB), Ireland (NEB), Luxembourg (NEB) and the Finnish NEBs stated that passengers are not very much aware of the Regulation. For instance, Hungarian NEB expressed that passengers are often not aware of the rules of compensation for delay; and the rules of reimbursement of unused tickets. Moreover, they do not receive enough information during the journey.

On the other hand only the German and the Swedish NEB stated that passengers are quite aware of the main principles of the Regulation.

2 Exemptions

Passenger/Consumer Organisations

Passengers and consumer associations also mostly agreed that exemptions should be limited in time and removed for both the part carried out on EU territory and for urban, suburban and regional services. In detail, 7, or 47% of passenger and consumer associations, thought services should be removed for the part carried out on EU territory.

PRM Organisations

PRM organisations in the targeted consultation advocate for a removal of the exemptions to the Regulation. In the OPC, questions 7a, 7b and 8 examined exemptions given to domestic long distance services, services for which a significant proportion is operated outside of the EU, and urban, suburban and regional services. PRM organisations either expressed no opinion or agreed that exemptions should be limited in time and removed for both the part carried out on EU territory and for urban, suburban and regional services. In detail 3, or 38% of PRM organisations selected "fully agree" and thought services should be removed for the part carried out on EU territory, and 4 (50%) selected "no opinion/not sure". AGE Platform Europe (EU-wide) fully agreed that exemptions should be limited in time and scope, and suggested the exemptions do not allow passengers to travel easily considering there may be different rules for each network and types of network. Seamless travel is essential for PRMs and from a PRM passenger's perspective, all urban, suburban and regional services have to be accessible to enable travel.

Industry Federations

Industry federations from the targeted consultation favoured exemptions and support the flexibility offered by them. Industry federations suggested that exemptions allow public authorities to define services and impose public service obligations on operators within the framework of the local transport policy. This is similar to the key findings of the OPC, where industry federations disagreed that the current exemptions should be limited in time and removed for the part carried out on EU territory, and expressed a preference for maintaining exemptions for urban, suburban and regional services. In detail, 4 (67%) of industry federations thought the current exemptions for long distance national services should stay the same. Similarly, 5 (83%) industry federations also suggested that a phasing out and/or removal of exemptions would significantly increase the economic burden on railway undertakings (Question 10).

Railway Undertakings

The subject of exemptions was addressed in the OPC. Railway undertakings (and other industry respondents, such as industry federations and infrastructure managers) disagreed that the current exemptions should be limited in time and removed for the part carried out on EU territory. 6 (55%) of railway undertakings also thought the current exemptions for long distance national services should stay the same. In the targeted consultation, railway undertakings in Finland, Latvia and Lithuania expressed strong resistance to any proposal to remove the possibility to exempt services that have a significant portion outside of the EU. These member states have such services, between Finland and Russia, and between Latvia/ Lithuania and Russia/Belarus.

In the OPC, 8 (73%) of operators thought the phasing out and/or removal of exemptions would increase the economic burden on railway undertakings (responses were "Yes, significantly" and "Yes, to a limited extent"). Comments from railway undertakings which thought this would significantly increase the economic burden on railway undertakings suggested that each additional charge puts more stress on the system and can lead to the closure of lines and services (NMBS/SNCB, Belgium). NS Reizigers BV (Germany, The Netherlands and the UK) noted that public authorities play a key role in organising suburban transport services, as they have a good understanding of the needs of the regional and local population. Further, public authorities play a key role in determining the level of financing and quality requirements, which greatly differ across Europe. In this context, many Member States still under-compensate the public service operations they require. The financial pressure created by the economic crisis has further reduced the available resources of public budgets. If the Regulation was applied in its entirety to this kind of services, operators would face increasing costs.

Ticket Vendors

Overall, Trainline considers the impact of the Regulation to be low, given the wide exemptions and the high uptake by Member States in applying the exemptions. In order to support the growth of rail travel and to achieve the single European rail area (SERA), passenger rights and associated protection schemes should be made more consistent across Member States.

3 Force Majeure

PRM Organisations

It was also suggested by 5 (63%) of PRM organisations that new national legislation is required to address the liability of railway undertakings to compensate passengers for delays caused by unforeseen and unavoidable events (force majeure).

Industry Federations

Industry federations in the targeted consultation expressed the view that a force majeure clause should be included, bringing rail into line with other transport modes, to ensure legal clarity and consistency for both passengers and carriers. Within the OPC, force majeure was addressed in Question 18, and respondents were asked if they considered that railway undertakings should have to pay compensation to passengers even in cases where delays were caused by events beyond the control of railway undertakings and which they were not able to prevent. Rail industry respondents believed that rail undertakings should not have to pay compensation in these cases (for example 6, or 100% of industry federations and 11, or 100% of railway undertakings).

Railway Undertakings

Force majeure was considered in Question 18 and 11 (100%) of Railway Undertakings responded "No, railway undertakings should not have to pay compensation in cases where delays were caused by events beyond their control and which they were not able to prevent". 6 (100%) of industry federations also shared this view. RUs in some MS such as in Belgium, France, Germany, Czech Republic, Spain, Sweden, Finland and Lithuania were of the opinion that the current obligation regarding force majeure is inequitable compared with other modes.

Infrastructure Manager

In several Member States, such as Latvia and Lithuania, the infrastructure manager has agreements in place regarding contingency planning. In the OPC (Question 15) the infrastructure manager (1, 100%) thought the Commission should develop guidelines on contingency planning for rail transport operators in case of major rail transport disruption.

In Romania, the targeted consultation revealed the current interpretation of force majeure also conflicts with the actual definition of such situations in the Standard Access Contract that operators sign with the infrastructure manager. Clarification is required regarding this.

Public Authorities

Respondents from several MS –largely NEBs- disagreed and find that the introduction of a force majeure clause is not convenient, in line with the predominant opinion of citizen respondents and passenger/consumers and PRM associations in the OPC.

4 Assistance to PRMs

PRM Organisations

PRM organisations in the targeted consultation expressed the view that persons with disabilities and reduced mobility are often unaware of their rights, there is insufficient provision of information, and rights for PRMs within the Regulation are outdated. This opinion was also shared by passenger and consumer associations. Indirect price discrimination with regards to discounts offered to disabled persons and PRMs was also identified as a key problem in the targeted consultation. Other problems relate to individual enforcement, especially PRM accessibility, and these should be addressed in the revision of the Regulation.

PRM accessibility was also identified as a key issue by PRM organisations in the targeted consultation. In many cases, disabled passengers and PRMs experience discrimination through the lack of accessibility and rolling stock and infrastructure remain inaccessible in a number of countries. PRM organisations also suggested that booking PRM assistance by phone is often charged to the passenger, exceeding the cost of a call from a regular land line phone and in some cases assistance can be refused at a later date, or is not available during all operating hours. In the OPC, Questions 22 and 23 assessed the level of services offered to persons with disabilities or with reduced mobility when travelling, including the accessibility of stations, platforms, rolling stock and other facilities, assistance and financial compensation in case of loss or damage to mobility equipment. Half of the PRM organisations questioned (from Spain, Belgium, Germany and EU-wide) considered assistance to be "bad" (4, 50%) and all PRM organisations (8, 100%) suggested assistance provided to persons with disabilities or with reduced mobility at stations, including to embark and disembark, needs to be reinforced. The geographical distribution of PRM organisations in the OPC was limited to western European Member States: The Netherlands, Spain, France, Belgium and Germany, with 4 organisations also selecting EU-wide.

PRM organisations also identified large variations in the provision of PRM staff training across Member States in the targeted consultation. There is currently no specified level of training that must be provided to staff with regards to accessibility of services for disabled persons and PRMs. In Italy, Anglat expressed the view that the Regulation should include an article on 'staff training', to oblige IMs and RUs to provide the staff that interfaces or provide assistance to PRM with proper training, in collaboration with the national associations of PRMs. Responses from PRM organisations in Question 24 (7, or 88% responded "yes") further suggest there is a need to enshrine provisions for minimum compulsory awareness and assistance training for staff in the legal framework.

Infrastructure Managers

Assistance provided to PRMs is perceived by infrastructure managers to be improving, however in some cases (such as in Italy), a more equitable division of costs between the infrastructure manager and the railway undertaking is required.

Railway Undertakings

Among the targeted consultation respondents, the main issues regarding PRMs seem to be related with definitions (as expressed by RUs SCNF and SCNB) as inconcistencies in the definitions may lead to a situation described by the Finnish and the French RU regarding the misuse of services offered to PRM as "free portering".

5 Tasks of the NEBs and Enforcement

Passengers/Consumer Associations

In the OPC (Question 12) focused on the complaint handling process and respondents were asked whether actors other than railway undertakings (e.g. station managers) should also have a role in dealing with complaint handling. Citizens (55%) and passenger and consumer associations (47%) answered more affirmatively to the question than rail industry respondents.

PRM organisations

The majority of PRM organisations contacted in the targeted consultation expressed the view that the provision of complaint handling mechanism information is inadequate and there should be provisions within the complaints process for different channels of communication. Further, there should be no time limit for complaints.

Public Authorities

Question 11 in the OPC investigated the role and tasks of NEBs. 10 (63%) of Public Authorities (defined here as either a Member State representative, Ministry, Agency or National Enforcement Body) either "somewhat agree" or "fully agree" that the role and tasks of the NEB is clear and 3 (19%) from Austria, Belgium and Sweden responded that they "Somewhat disagree" with this statement. Slightly more respondents (6, or 38%) stated that they either "somewhat agree" or "fully agree" with the following statement: The role of the NEBs needs to be strengthened through new obligations (such as reporting, deadlines for complaint handling). 5 (31%) of respondents either "strongly disagree" or "somewhat disagree" with this statement. The geographical distribution of Public Authority respondents was spread across Member States.

Industry federations

As part of the targeted consultation, industry federations from Austria (WKO) and France (UTP) expressed the view that a deadline of 3 months for complaints would be appropriate. Proposed revisions to the Regulation include a provision that requires NEBs to respond to passenger complaints within a set time period and passengers to first submit complaints to the operator. Industry federation respondents agreed that the role and tasks of NEBs is clear (5, 83%). Additionally, 4 (67%) of industry federation respondents disagreed with the proposition that the role of the NEBs needs to be strengthened through new obligations (4, 67%).

Infrastructure managers

The targeted stakeholder consultation revealed a preference for a time limit to submit complaints, with three months being the most regularly suggested limit. In the OPC, only one infrastructure manager took part in the consultation. Results from Question 12, which focused on the complaint handling process, revealed the infrastructure manager (1, 100%) did not think actors other than railway undertakings should have a role in dealing with complaint handling.

6 Definitions and other issues

Passenger and Consumer Associations

Passenger and consumer association feedback from the targeted consultation from Italy (Altroconsumo) suggests clarification is required regarding through tickets. Currently, the Regulation does not specify that multiple connecting tickets for one journey should be one through ticket or one contract of carriage. In the OPC, Question 28 asked respondents to consider whether the concept of through tickets in the Regulation is unclear/missing/or obsolete which might cause problems to the stakeholders involved. 9 (60%) of passenger/consumer associations stated that the concept of through tickets was unclear, partly obsolete or partly missing.

Industry Federations

In terms of through tickets, industry federations in the targeted consultation expressed the view that the recent European Commission's Interpretative Guidelines on the Regulation sufficiently clarify the term. ATOC (UK) also stated that if passengers book separate legs as separate journeys in order to pay a lower fare (rather than purchase a through ticket) it is reasonable for operators not to pay compensation. Within the OPC, 3 (50%) of industry federations considered the concept of through tickets in the Regulation to be clear in the context of assistance and compensation.

Railway Undertakings

Question 28 in the OPC asked respondents to consider whether certain terms or rules in the Regulation are unclear/missing/or obsolete which might cause problems to the stakeholders involved. Responses from RUs suggest the notions of "carrier" and "missed connection" are unclear (8, or 73% responded that "yes, this is (partly) missing" and "yes, this is unclear"). In contrast, 7 (64%) of railway undertakings responded "no" to the statement and considered the notion of "through tickets" to be clear.

Similarly, in Belgium, SNCB expressed the concern that if the requirements related to through tickets are tightened too much, there is a risk that operators will reduce the offer available to customers because this is a commercial product and there are severe commercial pressures upon operators.

Further, respondents were asked whether the concept of "carrier" was unclear. the majority of citizens have no opinion on whether certain terms or rules in the Regulation are unclear in the Regulation which might cause problems to the stakeholders involved in relation to the notion of "carrier". Amongst citizens, 31 (15%) think that the concept of carrier is unclear, 17 (13%) responded that there was no problem, and 82 (63%) did not have an opinion. The majority of railway undertakings responded that the notion of "carrier" in the regulation was unclear (8, or 73%). Accordingly, SCNF responded that the definition of "carrier" is inconsistent in the Regulation and in the CIV rules to which the Regulation refers to. The Regulation never uses the term "carrier" (apart in the definition in Art. 3) and puts all the obligations on the "railway undertaking". The CIV nearly ignores the term "undertaking" and only focuses on the term "carrier", which may include domestic bus operators or international maritime companies in the chain of carriage.

In this same line, the Lithuanian RU, LG concluded that the unclear link between the Regulation and the CIV Uniform Rules (CIV UR) in Annex I constitutes a negative aspect of the Regulation and raises problems in the practical implementation of the Regulation.

Public Authorities

For instance, the Belgian NEB stated that the 2015 Interpretative Guideline from the Commission has made the obligation to offer through ticket less clear: a through journey can be segmented into multiple contracts. In this line, the Italian NEB ART wishes for a review of the Regulation that specifies the rules on through tickets which are unclear. The Austrian NEB indicated that the coming into force of the Regulation had a negative impact on the availability of through tickets and suggested that railway undertakings are more reluctant to offer through tickets which enable them to dis-apply the provisions of the Regulation for international services.

Industry Federations

In the UK,ATOC note that, in the UK, many passengers create 'virtual' through tickets by booking separate legs as separate journeys – a practice referred to in the UK as 'split ticketing'. In all cases, a through ticket would be available for such journeys with the full protection of compensation for delays to end to end journeys. ATOC note that if passengers engage in 'split ticketing' in order to pay a lower fare, it is reasonable for operators to treat their journeys as separate journeys, and not to pay compensation as if the journey is being taken on a through ticket.

7 Contingency Planning

PRM Organisation

Question 13 in the OPC considered whether passengers in all EU countries are sufficiently protected and assisted in case of major disruptions. Some PRM organisations (3, 38%) from France, Belgium and EU-wide believed that passengers are not protected in the EU (and selected "no, nowhere"). In contrast, 1 (13%) EU-wide organisation selected "yes, in some EU countries" and 2 (25%) organisations from Spain selected "yes, in my country". It is important to note that the PRM Organisations that responded to the OPC represent western European Member States and the stakeholders have a split opinion on whether passengers are sufficiently protected by the Regulation.

Industry Federations

ATOC (UK) expressed the view that legislation in the area of contingency planning could create a lack of flexibility and prevent the industry from being as responsive as it needs to be. This is similar to the key findings of the OPC (Question 15) where responses from industry federations (5, or 83%) were strongly opposed to including contingency planning in the framework of rail passenger rights.

Railway Undertakings

9, or 82% of Railway Undertakings responded to Question 15 in the OPC "No, a requirement for contingency planning should not be part of the framework". This suggests the majority of rail transport operators do not think there should be a requirement for contingency planning for operators in the case of major rail transport disruption. The comments from the Railway Undertakings indicated a preference for Member States coordinating the different contingency plans on a national level and as such, there is no requirement to include this in the Regulation (NMBS/SNCB, Belgium). Eurostar considers there is no need for a regulatory framework for contingency planning as contingency scenarios are already in place and these are regularly tested with partners, and regular progress has been made in terms of their processes and the training of staff. The railway undertakings that participated in the OPC were mostly from western European Member States, with the exception of MÁV (Hungary) and (PKP Intercity S.A.) Poland. In addition to contingency planning, force majeure was considered in Question 18 and 11 (100%) of Railway Undertakings responded "No, railway undertakings should not have to pay compensation in cases where delays were caused by events beyond their control and which they were not able to prevent". 6 (100%) of industry federations also shared this view.

Infrastructure Managers

In several Member States, such as Latvia and Lithuania, the infrastructure manager has agreements in place regarding contingency planning. In the OPC (Question 15) the

infrastructure manager (1, 100%) thought the Commission should develop guidelines on contingency planning for rail transport operators in case of major rail transport disruption.

Analysis of Results of the Stakeholder Feedback

Feedback on the Inception Impact Assessment from a nongovernmental organisation in Germany the Verkehrsclub Deutschland, Landesverband Bayern e. V. (VCD Bayern) was received on the 17 of January. The organisation represents their members' interests in questions related to Transport Policy. The feedback was received during initial phase of the impact assessment, which allowed the Commission taking it into the consideration.

The feedback referred to three main points: lack of transparency for citizens travelling across the EU on their legal rights as a result from the disparate application of Exemptions among member states; the current unequal treatment of Rail in relation to other modes of transport in the application of passenger rights, which is not acceptable in the interests of equal treatment and distorts competition; PRM an urgent need to strengthen access to public transport. On the basis of these comments, the VCD Bayern expressed their agreement with the Option number 4, seeing that it would strengthen the rights of the passengers, including better protection for PRMs, the elimination of exemptions, improvement of information for passengers about their rights, strengthening of the NEBs enforcement capabilities. Moreover, as a sort of balance to the strengthened passenger rights, the VCD Bayern proposes that the introduction of the Force Majeure clause would "even out" the burden on the industry sector and respond to the principle of equality from the transport companies point of view, it is understandable that they are not obliged to pay in cases where they are not responsible for accidents adverse weather conditions. Also, for the sake of clarity, they deem necessary that the term Force Majeure be defined more accurately.

Appendix 1 Results of the Open Public Consultation

Industry stakeholders (such as railway undertakings, industry federations and infrastructure managers) indicated a preference for maintaining the current Regulation or easing the burden on railway undertakings, whereas stakeholders representing rail passengers (such as PRM organisations and passenger and consumer associations) indicated a preference for increased protection for consumers and removal of exemptions.

1 Awareness and information about passenger rights

Regarding the question, whether passengers are familiar with the provisions of the Regulation. The responses to the OPC show that, amongst citizens, there is a split opinion with 60 (47%) responding that they were familiar with the Regulation, and 66 (52%) responding that they were not familiar with the Regulation. Amongst PRM organisations, although there is only a small response sample, 5 (71%) were familiar with the regulation and 1 respondent (14%) was not familiar. The responses from the other organisations suggest the provisions of the regulation are well known. In particular, all of the industry federations (6), public authorities (16), railway undertakings (11), infrastructure managers (1) and ticket vendors (1) who responded were either well or very well familiar with the provisions of the Regulation. 14 (93%) of passenger/ consumer organisations were familiar with the Regulation

When asked about transparency of information of ticket prices responses show that amongst citizens there is a roughly even split opinion with 60 (46%) respondents agreeing that they receive correct, complete and transparent information about the full ticket price in the event of delays and cancellations, compared to 56 (43%) disagreeing. Among passenger/consumer associations, 8 (53%) stakeholders agreed; however, amongst railway undertakings and infrastructure managers, all respondents either fully or somewhat agreed that passengers receive transparent information about ticket prices. Regarding passengers' awareness of details of the journey (schedule, on-board facilities including for disabled passengers) regarding assistance in the event of delays and cancellations. 64% of citizens, totalling 83m agree either fully or somewhat with the assertion that passengers are aware of journey details and on-board facilities in the event of delays and cancellations. Similarly, 11 (73%) of passenger/consumer associations agree that passengers are aware of journey details. For PRM organisations, although there are very few of these respondents, there is an even split opinion where 3 (38%) respondents agree and 3 (38%) respondents disagree with the assertion that passengers are aware of journey details in the event of delays and cancellations.

About whether passengers are well informed in the event of disruptions (such as long delays and cancellations), amongst citizens, more respondents (76, or 58%) disagree (either strongly or somewhat) that passengers are well informed about disruptions than agree (34, or 26%). This is similar for PRM organisations, where more respondents (6, or 74%) disagree than agree (1, or 13%). However, amongst railway undertakings 10 (91%) of respondents agreed that passengers are well informed in the event of disruptions, with the remaining respondent (9%) having no opinion.

When asked whether passengers received adequate assistance in the event of disruptions, amongst citizens, 71 (55%) disagree (either somewhat or strongly) with the assertion that passengers receive assistance in the event of disruptions, compared to 27 (21%) who agreed passengers received adequate assistance. Similarly, PRM organisations (4, or 50%) also disagree with the assertion that passengers receive assistance in the event of disruptions. The

majority of other organisation, such as railway undertakings and infrastructure managers agree that passengers receive adequate assistance in the event of disruptions.

On the question whether passengers with a travel pass or season ticket are adequately compensated when they encounter recurrent delays or cancellations. The responses show that, amongst citizens and consumer associations, more respondents (70, or 54% and 7, or 47% respectively) disagreed with the assertion that passengers with a travel pass or season ticket received adequate compensation. Responses from other organisations suggest there is a range of opinions, with several respondents having no opinion.

Finally, when asked whether passengers were well informed about where they can complain if their rights are not respected, and also in case of cross-border journeys. The responses to the open consultation show that, amongst citizens, more respondents disagreed with the assertion that passengers were well informed about where they can complain (73, or 56%). Consumer associations (11, or 73%) and PRM organisations (6, 75%) were also of a similar opinion. Industry federations and railway operators mostly agreed that passengers were well informed about where they can complain.

2 Impact of the current Regulation

The OPC asked respondents whether they thought the Regulation had improved the protection of rail passengers. For all organisations, the majority of respondents agreed, either substantially or to a limited extent, that the Regulation had improved the protection of rail passengers. Amongst citizens, most respondents (92, or 71%) agreed the Regulation improved protection, with only 19 (15%) disagreeing and 19 (15%) having no opinion.

When asked what the impact of the Regulation was on information provided by railway companies or their agents to passengers, responses show that for railway undertakings (8, or 73%) and public authorities (16, or 75%) the Regulation has had a high or very high impact. Amongst citizens, there is split opinion with 46 (35%) responding that the Regulation has had a high or very high impact, and 42 (32%) that is has had a low or very low impact.

On the question what the impact of the Regulation was on the conclusion of transport contracts, amongst citizens there is a split opinion, with nearly as many respondents (21%, or 27) thinking the Regulation had a high or very high impact on the conclusion of transport contracts as 29 thought it had had a low or very low impact (22%). The majority of railway undertakings 8 (73%) thought the Regulation had a high or very high impact on the conclusion of transport contracts.

Regarding the impact of the Regulation on ticketing, in terms of availability, choice and sales channels, responses show a mixed response amongst organisations. Amongst citizens, nearly as many respondents 31 (24%) thought the Regulation had a high or very high impact on ticket availability, choice and sales channel as 43 thought it had had a low or very low impact (33%). PRM organisation (5, or 63%) and railway undertakings (7 or 64%) mostly agreed that the Regulation had a high or very high impact on ticketing.

When asked what the impact of the Regulation was on liability of railway undertakings in the event of accidents and their obligations towards passengers and their luggage. These responses show a mixed response amongst citizens, where 45 (35%) thought the Regulation had a high or very high impact, while 33 (25%) thought it had had a low or very low impact and 40% thought it had no impact or had no opinion. Conversely, 8 (73%) railway undertakings thought the Regulation had a high or very high impact.

On the question about the impact of the Regulation was on the obligations of railway undertakings to passengers in the event of delays, cancellations or missed connections (in terms of providing information, assistance and compensation), responses show that the majority of organisations thought the Regulation had a high or very high impact: citizens (55, or 42%); consumer associations (7, 47%); railway undertakings (9, 81%) and PRM organisations (5, 63%).

About the impact of the Regulation was on travel opportunities for persons with disabilities or with reduced mobility (in terms of prohibition of discrimination and assistance). The responses to the OPC show that, amongst PRM organisations, the majority of responses (6, or 75%) suggest the regulation has had a high or very high impact on travel opportunities for persons with disabilities or with reduced mobility. Similarly, there was a positive response overall from railway undertakings and public authorities (73% or 8 and 11 69% respectively). Amongst citizens, the response is more divided, with 47 (36%) having no option, 43 (33%) with a high impact and 28 (22%) with a low impact. Regarding, the impact of the Regulation on accessibility of railway stations and rolling stock for persons with disabilities or with reduced mobility. The responses to the open consultation show that, amongst citizens, there is a split opinion with 42 (32%) responding that the Regulation has had a high or very high impact and 38 (29%) that is has had a low or very low impact. Amongst PRM organisations, 6 respondents (75%) suggest the regulation has had a high or very high impact, 1 respondent (13%) that it has had a low impact, and 1 respondent (13%) had no opinion. Whilst there is a positive overall response from PRM organisations, this only reflects a small response sample.

Asked about the impact they felt the Regulation was on service quality and complaint handling respondents had a split opinion, with nearly as many citizens (33% or 43) thinking the Regulation had had a high or very high impact on service quality and complaint handling as thought it had had a low or very low impact (40% or 38). This reflects the mixed picture Eurobarometer found in terms of how satisfied passengers were with complaint handling mechanisms.

On the perception of the impact of the Regulation on personal security of passengers in railway stations and on-board trains, amongst citizens, 45 (35%) of respondents indicated that the Regulation has had no impact on the personal security of passengers, 43 (33%) thought it has had a low or very low impact and 17 (13%) a high or very high impact. Industry federations (4, or 67%) and railway undertakings (9, or 82%) also suggest the regulation has had a low or very low impact.

When asked about the impact they felt the Regulation was on mobility continuity in the event of major disruption. The responses to the OPC show that amongst citizens, there is a split opinion with 39 (30%) responding that the Regulation has had a high or very high impact, 48 (37%) that is has had a low or very low impact and 24 (18%) citing no impact. Although the sample size is much smaller, railway undertakings (8, or 73%) and infrastructure managers (1, 100%) suggest the Regulation has had a high impact on mobility continuity in the event of major disruption.

Regarding the impact of the Regulation on enforcement by national authorities, responses show that amongst citizens, there is again a split opinion with 32 (25%) responding that the Regulation has had a high or very high impact, 42 (32%) that is has had a low or very low impact and 20 (15%) citing no impact. Other organisations, such as industry federations (83%), public authorities (69%) and railway undertakings (91%) suggest there is a high impact on enforcement by national authorities.

3 Exemptions

3.1 Exemptions given to domestic long distance services to full application of the regulation

Regarding exemptions given to domestic long distance services, participants of the OPC were first asked whether these exemptions are necessary to safeguard certain services. Their responses show that amongst citizens, more respondents (66, or 51%) disagree that exemptions for long distance domestic services are necessary to safeguard certain services than agree 26 (20%). Amongst public authorities 5 (31%) respondents agreed that exemptions for long distance domestic services are necessary to safeguard certain services and 6 respondents (38%) had no opinion. This is similar to railway undertakings, where 5 (45%) agreed and 5 (45%) had no opinion. When asked whether such exemptions facilitate the operation of rail services for new entrants, responses show that amongst citizens, more respondents (65, or 50%) disagree that exemptions for long distance domestic services facilitate the operation of rail services for new entrants than agree 22 (17%). Industry federations, public authorities and railway undertakings are mostly neutral (33%, 25%, 36% respectively) or have no opinion (33%, 50%, 27%).

When asked whether exemptions given to domestic long distance services lead to legal uncertainty for railway undertakings. The responses show that, amongst citizens, more respondents (42, or 32%) disagree that exemptions for long distance domestic services cause legal uncertainty for railway undertakings than agree (36, or 28%). However, amongst railway undertakings (7, or 64%) respondents strongly disagreed that exemptions led to legal uncertainty for railway undertakings, with the remaining 4 (36%) of respondents having no opinion.

Regarding exemptions for long distance national services generated legal uncertainty for passengers. Among citizens, 76 (58%) either fully or somewhat agreed that exemptions for long distance services cause legal uncertainty for passengers, while 21 (16%) fully or somewhat disagreeing with this. Among respondents from passenger/consumer associations, 8 (53%) fully or somewhat agreed that exemptions for long distance services cause legal uncertainty for passengers, with only 2 (13%) fully or somewhat disagreeing with this.

About whether exemptions for long distance national services should stay the same until 2024, responses show that, amongst citizens, more respondents (71, or 55%) disagree that exemptions for long distance domestic services should stay the same until 2024 than agree (18, or 14%). Similarly, 10 (67%) passenger and consumer associations also disagree that exemptions should stay the same, whereas railway undertakings (6, or 55%) and industry federations (4, 67%) fully agree that exemptions should stay the same until 2024.

On whether exemptions given to domestic long distance services should be removed before 2024, responses show that, amongst citizens, more respondents (72, or 55%) agree that exemptions for long distance domestic services should be removed before 2024 than disagree (20, or 15%). Railway undertakings (5, or 45%) and industry federations (3, or 50%) disagree that exemptions given to domestic long distance services should be removed before 2024.

3.2 Exemptions given to services for which a significant proportion is operated outside of the EU.

On the question on whether these exemptions are necessary to safeguard certain services responses show that amongst citizens, 33 (25%) respondents disagree that exemptions for

services operated outside of the EU are necessary to safeguard certain services and 30 (23%) agree. More respondents (50 or 38%) have no opinion. Although many of the other organisations had a high response of no opinion/not sure, 5 (45%) railway operators agreed that exemptions for services operated outside of the EU are necessary to safeguard certain services. Regarding whether such exemptions facilitate the operation of rail services for new entrants, responses show that amongst citizens, more respondents (49, or 38%) have no opinion, 43 (33%) disagree that exemptions facilitate the operation of rail services for new entrants and 20 (15%) agree. Similarly, the other organisations also have a high number of respondents with no opinion or neutral response.

Whether exemptions given to services for which a significant proportion is operated outside of the EU lead to legal uncertainty for railway undertakings. The responses are similar to those for domestic long distance services with similar numbers of citizens (30, or 23%) disagreeing that the exemption of services with a significant portion outside of the EU led to legal uncertainty for railway undertakings as agreed (31, or 24%). Amongst railway undertakings, however, none of the respondents agreed that the Regulation leads to legal uncertainty for railway undertakings.

On whether the exemptions create legal uncertainty for passengers, responses are similar to those for domestic long distance services with similar numbers of citizens (60, or 46%) either fully or somewhat agreed that exemptions for services with a significant portion outside of the EU cause legal uncertainty for passengers, and 16 (12%) fully or somewhat disagreeing with this. Amongst respondents from passenger/consumer associations, 7 (47%) fully or somewhat agreed that exemptions for services with a significant portion outside the EU cause legal uncertainty for passengers, with only 2 (13%) fully or somewhat disagreeing with this.

When asking whether exemptions given to services for which a significant proportion is operated outside of the EU should stay the same. The responses show that, among citizens, more respondents (45, or 35%) disagree that exemptions given to services for which a significant proportion is operated outside of the EU should stay the same than agree (11, or 8%). Railway undertakings (6, or 55%) fully agree that

Whether exemptions for services with a significant portion outside of the EU should be removed for the part carried out on EU territory. The responses show that among citizens, more respondents fully agree or somewhat agree that exemptions should be removed for the part carried out on EU territory (52, or 40%) than disagree (24, or 18%), and 45 (35%) have no opinion. The majority of railway undertakings strongly disagree (6, or 55%) that exemptions for services with a significant portion outside of the EU should be removed for the part carried out on EU territory.

Whether exemptions for services with a significant portion outside of the EU should be limited in time, responses show that amongst citizens, more respondents (54, or 42%) have no opinion, 46 (35%) fully or somewhat agree that exemptions for services with a significant portion outside of the EU should be limited in time and 18 (14%) disagree. Passenger and consumer associations also mostly fully agree that exemptions should be limited in time (5, or 33%). In contrast, 5 (45%) railway undertakings strongly disagree.

When asked on whether exemptions given to services for which a significant proportion is operated outside of the EU should be limited in scope (e.g. the number of mandatory articles should be increased). The responses show that amongst citizens, more respondents (61, or 47%) have no opinion, 44 (34%) fully or somewhat agree that exemptions for services with a

significant portion outside of the EU should be limited in scope and 8 (6%) disagree. Passenger and consumer associations also mostly fully or somewhat agree that exemptions should be limited in time (6, or 40%). In contrast, 5 (45%) railway undertakings strongly disagree.

3.3 Exemptions for urban, suburban and regional services

Regarding whether exemptions for urban, suburban and regional services should be modified, 57 (44%) of citizens believed that exemptions should be removed. Similarly, 7 (47%) of respondents from passenger and consumer associations and 8 (38%) of respondent from PRM organisations supported the removal of exemptions entirely. In contrast, no railway undertakings, infrastructure manager or industry federation supported the removal of exemptions. 8 (6%) of citizens and 1 (7%) of passenger and consumer associations believed that exemptions should be removed when cross-border services are concerned. Similar to above, no railway undertakings, infrastructure manager or industry federation supported the removal of exemptions when cross-border services are concerned. Limitations of exemptions in time and scope were supported by 28 (22%) of citizens, 4 (27%) of passenger and consumer associations and 2 (33%) of industry federations, but no railway undertakings or infrastructure manager.

Support for maintaining the current system was expressed by 4 (67%) industry federation respondents, 7 (44%) public authority respondents, and 8 (73%) railway undertaking respondents. It should be noted that the sample sizes for these groups were much lower than for those groups who expressed support for a change in exemptions.

The clear preference in the OPC responses for the removal of exemptions for urban, suburban and regional services does support the proposition that exemptions are a problem.

3.4 Whether a phasing out and/or removal of exemptions will increase the economic burden on railway undertakings.

The OPC asked whether a phasing out and/or removal of exemptions will increase the economic burden on railway undertakings. Overall, the belief across all groups is that the phasing out and/or removal of exemptions will increase the economic burden on railway undertakings. The groups which most firmly believe that the economic burden will increase are industry federation, where 6 respondents (100%) believed in an increase, railway undertaking with 8 (73%), public authority with 11 (69%), and the infrastructure manager. Additionally, 57 (44%) of citizen respondents believed that the economic burden will increase; 46 (35%) believed that the economic burden will increase “to some extent” and 11 (8%) believe it will increase “significantly”.

4 Enforcement and complaint handling

4.1 Role and tasks of National Enforcement Bodies (NEBs).

Respondents were asked whether the role of the NEBs is clear. Citizens were unsure of the role of NEBs. 42 (32%) of citizens disagreed that the tasks and role of the NEBs is clear, and 38 (29%) had no opinion or were not sure. 35 (27%) citizens agreed that the tasks and role were clear. Similarly, only 3 (20%) respondents from passenger and consumer associations agreed that the role and tasks were clear. 8 (53%) disagreed that the role and tasks were clear. The Infrastructure Manager somewhat disagreed that the role and tasks of the NEBs is clear. Of the other groups surveyed, 5 (83%) industry federation respondents agreed that the role and tasks is clear, along with 10 (63%) public authority respondents.

Respondents were asked whether they agreed that the tasks of the NEBs should be harmonised in all Member States. Responses were mixed throughout the groups; citizens and passenger and consumer associaiton respondents agreed most strongly with the proposition, while industry groups most strongly disgreed.90 (69%) citizen respondents agreed with the queston, with only 4 (3%) disagreeing. Similarly, 10 (67%) of passenger and consumer associaiton respondents agreed with the proposition, with no disagreements made by this group.8 (50%) of public authority respondents agreed with the question, with just 2 (13%) disagreeing.2 (34%) industry federation respondents disagreed with the propostion, with 1 (17%) agreeing. Similarly, 2 (36%) of railway undertaking respondents disgareed with the proposal, with 1 (18%) agreeing; it should be noted however that 5 (45% of railway undertaking respondents were neutral).

Respondents were asked whether they agreed that the tasks and enforcement powers of the NEBs should be clearly spelled out in the Regulation, shown in Figure A.39.Overall, there was a general agreement with the proposition, where there was less agreement from some groups, this was because respondents were either neutral or had no opinion, rather than because of disagreement by these groups.95 (73%) citizen respondents agreed with the proposition and only 5 (4%) disagreed. Similarly, 13 (67%) of respondents from passenger and consumer associations agreed with the proposition. 6 (75%) PRM organisation respondents strongly agreed with the proposition, along with 8 (50%) of public authority respondents. The Infrastructure Manager was neutral, along with 3 (50%) of industry federation respondents.

Respondents were asked whether the role of the NEBs needs to be strengthened through new obligations (such as reporting, deadlines for complaint handling). Overall, respondents generally agreed with the proposition, with the exception of industry federation and railway undertaking respondents, who strongly disagreed. 94 (72%) of citizens agreed with the proposition, with only 4 (3%) disagreeing. 7 (47%) respondents from passenger and consumer organisations also agreed, and 3 (20%) disagreed .In terms of the response from industry groups, 4 (67%) industry federation respondents and 7 (64%) of railway undertaking respondents strongly disagreed with the proposition. There was support from the infrastructure manager, who somewhat agreed with the proposition, and from PRM organisation respondents, of whom 5 (63%) agreed with the proposals in some capacity. The response from public authorities was mixed, with 5 (31%) of respondents disagreeing and 6 (38%) of respondents agreeing with the proposition.

4.2 Infringements and Complaint handling

Respondents were asked whether the Regulation should harmonise and specify the nature of sanctions for infringements. Overall, responses to the proposition were mixed, with citizen and passenger and consumer association respondents expressing more support for the proposition that rail industry groups.85 (65%) citizen respondents somewhat agreed or fully agreed with the proposition, as did 9 (60%) of passenger/consumer association respondents.5 (63%) PRM respondents fully agreed with the proposition, while the Infrastructure Manager somewhat agreed. In contrast, 3 (50%) industry federation respondents strongly disagreed with the proposition, as did 7 (64%) railway undertaking respondents.

When answering the question whether actors other than railway undertakings (e.g. station managers) should also have a role in dealing with complaint handling , citizens, passenger and consumer associations answered more affirmatively to the question than rail industry respondents. 71 (55%) of citizen respondents replied yes to the question the question, as did

11 (69%) public authority respondents, and 7 (47%) passenger/consumer association respondents. Conversely, 8 (73%) railway undertaking respondents answered "no", as did 4 (67%) industry federation respondents and the Infrastructure Manager.

4.3 Transport disruptions and mobility continuity

Regarding the question whether passengers in all EU countries are sufficiently protected and assisted in case of disruptions 6 (40%) passenger and consumer organisation respondents, 2 (25%) PRM organisation respondents and 4 (25%) of public authority respondents of the OPC had no opinion on this matter, the most commonly supported belief amongst all respondents was that passengers are protected in some EU countries. 38 (29%) citizen respondents and 3 (38%) PRM organisation respondents believed that no passengers are protected in the EU, while this view was not expressed by any respondents from industry federations, railway undertakings or by the Infrastructure Manager.

Respondents were asked to consider if the economic burden for passenger assistance is appropriately shared between railway undertakings and other parties in case of major disruption. Overall, many respondents from the stakeholder categories did not have an opinion on the question, but where a strong opinion was given, 7 (64%) of railway undertaking respondents did not believe that the burden for passenger is assistance is equally shared, as did 50 (38%) citizen respondents. Conversely, the Infrastructure Manager agreed that the burden is appropriately shared, as did 3 (38%) PRM organisation respondents.

Respondents were asked whether the requirement for contingency planning for rail transport operators in case of major rail transport disruption should be part of the framework of rail passenger rights. Responses to the question were split along passenger and industry lines. Respondents from citizens, passenger and consumer associations and PRM organisations were strongly in favour of requiring contingency planning to be part of the framework of rail passenger rights, while responses from industry groups were strongly opposed to the requirement. 102 (78%) of citizen responses were in favour of the requirement, as were 12 (80%) of passenger and consumer association respondents, and 8 (100%) PRM respondents. The Infrastructure Manager was also in favour. Conversely, 5 (83%) industry federation respondents were not in favour of the requirement, along with 9 (82%) of railway undertaking respondents.

Respondents were asked to describe the main benefits of contingency planning. 32 (50%) of organisations responded. Of these, 8 (25%) represented passenger/consumer organisations, 2 (6%) represented industry federations, 6 (19%) represented public authorities, 8 (25%) represented railway undertakings, 6 (19%) represented PRM organisations and 2 (6%) represented other organisations.

For passenger/consumer organisations and PRM organisations (14, or 31%), the most common response (from 4 organisations) suggested the main benefits of contingency planning are that it reduces uncertainty and standardises emergency/evacuation procedures particularly for passengers with disabilities or PRMs, and also provides information in different formats. Other responses, indicated by 2 organisations, suggest the main benefits of contingency planning are as follows:

- provision of intermodal passenger rights;
- provision of real-time multi-modal travel Information and planning services;
- increased care and assistance to passengers, ensuring they receive adequate assistance and protection; and

- more accurate and faster information for passengers in the case of disruptions.

For Industry federations, railway undertakings and infrastructure managers (10, or 31%), the most common response (from 5 organisations) suggested the main benefits of contingency planning are the ability to serve passengers in extreme conditions. In addition, 4 organisations indicated that the main benefit is through staged disasters and crisis simulation exercises which aid preparation and response and test the impact on the rail network. This raises staff awareness of and sensitivity towards crisis situations.

Asked about the main negative impacts of contingency planning,23 organisations provided a response to this question, representing 33% of the number of respondents. There are differences between the various groups. The industry response rate is high at 67% (12 organisations out of 18) whilst other groups have a lower response rate as follows:

- citizens and passenger organisations 17% response rate (4 out of 23)
- public authorities 25% (4 out of 16)
- others including ticket vendors 25% (3 out of 12)

These differences in response rates are justifiable since the industry would be the one bearing the direct cost and responsibility of contingency planning.

Responses varied across stakeholder groups but they generally suggest the following main negative impacts:

- Allocating railway undertakings with additional responsibilities that normally sit with public authorities and increasing bureaucracy (9 responses mainly from railway undertakings)
- Conversely a series of other organisations mainly consumer and passenger organisations as well as public authorities felt there were no negative impacts of contingency planning
- Another main point raised relates to the costs of implementing contingency plans which was mentioned in 4 responses

There were also a series of other points that were made by respondents mainly questioning the efficiency of contingency planning regulation at EU level, some responders noting that contingency planning is better managed at local level, it is more flexible to respond to changing situations on the ground and is already part of the operational requirements of the railways and of other EU regulation and should not be duplicated within the passenger rights regulation. These comments were captured in 4 of the responses from railway undertakings, industry federation and public authorities.

5 Force Majeure

When asked if railway undertakings should have to pay compensation to passengers even in cases where delays were caused by events beyond the control of railway undertakings and which they were not able to prevent

Opinions on this question varied between passenger and consumer associations and PRM organisations who broadly considered that railway undertakings should have to pay compensation in cases where delays were beyond their control, and railway undertakings, industry federations and infrastructure managers who believed that rail undertakings should not have to pay compensation in these cases.95 (73%) citizen respondents believed that compensation should be paid, as did 9 (60%) of passenger and consumer associations and 6 (63%) PRM association respondents. In contrast, rail industry groups did not believe that

compensation should be paid. 6 (100%) industry federation respondents were not in favour of the payment, along with 11 (100%) railway undertaking respondents, the Infrastructure Manager, and 8 (72%) "other" respondents.

6 Assistance to PRMs

Respondents were asked whether they had ever requested assistance for themselves or another person with a disability or with reduced mobility when travelling, the majority of respondents (91, 72%) had not asked for assistance. The remaining 36 (28%) had asked for assistance.

Respondents were asked to give their opinion on the general information about the accessibility of rail services and on the access conditions of rolling stock. Overall, information on accessibility and access conditions was viewed positively, although rail industry respondents had a more positive view of information than citizens, passenger and consumer associations and PRM organisations. 4 (50%) PRM organisation respondents considered information to be "good", although 2 (25%) respondents considered information to be "bad", with the remaining 2 (25%) believing that information is "neither good nor bad". 41 (32%) citizen respondents believed that information is "good" or "very good", but 33 (25%) respondents believed that information is "bad" or "very bad. Just 2 (13%) passenger and consumer association respondents believe that information is "good". Conversely, 6 (100%) industry respondents believed that information is "good" or "very good", along with 10 (91%) railway undertaking responses.

Respondents were asked to assess the accessibility of travel information to be provided before and during the journey (including its provision in alternative formats) .Respondents from passenger and consumer associations and PRM organisations viewed the accessibility of travel information much less positively than rail industry respondents. 1 (7%) passenger and consumer association considered accessibility of information to be "good" or "very good", along with 2 (25%) PRM organisations. 4 (50%) PRM respondents considered accessibility of information to be "bad" or "very bad". Conversely, 4 (66%) industry federation respondents believe that accessibility of information is "good" or "very good", as do 8 (73%) railway undertaking respondents. The Infrastructure Manager believes that information is "good".

Respondents were asked to access the accessibility of stations, platforms, rolling stock and other facilities. Citizens, passenger and consumer associations and PRM organisations largely viewed accessibility as "bad" or "very bad", while rail industry groups viewed accessibility as "neither good nor bad".45 (35%) citizen respondents viewed accessibility as "bad" or "very bad", as did 5 (63%) PRM organisation respondents and 4 (27%) passenger and consumer association respondents. 3 (50%) industry federation respondents believed that accessibility was "neither good nor bad", as did 6 (55%) railway undertaking respondents. Only 2 of 17 respondents from these two groups believed accessibility to be "bad", with none considering it "very bad".

Respondents were asked to assess assistance provided at stations, during boarding, disembarking and on-board. Passenger and consumer associations and PRM organisations largely believed that assistance provided at stations was either "bad", "very bad" or "neither good or bad", while rail industry groups had a more positive view of the assistance available.4 (50%) PRM organisation respondents considered assistance to be "bad", with only 1 (13%) respondent considering assistance to be "good" or "very good". The remaining 3 38% respondents considered assistance to be "neither good nor bad".7 (47%) passenger and consumer organisations respondents did not have an opinion on the matter, with a further 4

(27%) of respondents considering assistance to be “bad”. 1 (7%) respondent considered assistance to be “good”. Rail industry groups viewed assistance provided at stations much more positively, with 6 (100%) industry federation respondents believing assistance to be “good or “very good”, along with 8 (73%) railway undertaking respondents. Both the Infrastructure Manager and the ticket vendor who was surveyed agreed that assistance is “good”.

Respondents were asked to assess financial compensation in case of loss or damage to mobility equipment.67% of all respondents did not have an opinion when asked to assess financial compensation. Of those respondents who did have an opinion, many considered the compensation to be “neither good nor bad”2 (26%) respondents from PRM organisations considered compensation to be “bad” or “very bad” with 1 (13%) considering compensation to be either “good” or “very good”. Respondents from rail industry groups viewed compensation most positively, with 4 (67%) industry federation respondents believing compensation to be “good” or “very good”, along with 9 (82%) railway undertaking respondents.

The OPC asked respondents whether the assistance provided to persons with disabilities or with reduced mobility at stations needs to be reinforced. These responses show that, amongst citizens, 42 (32%) responded yes strongly to whether the assistance provided to persons with disabilities or with reduced mobility at stations needs to be reinforced and 46 (35%) responded yes to a limited extent. All industry federations (6) and infrastructure managers (1) responded no. Conversely, all PRM organisations (8) responded yes (either strongly or to a limited extent).

The OPC asked respondents whether there is a need to enshrine provisions for minimum compulsory awareness and assistance training for staff in the legal framework. The responses show that 71 (55%) of citizens think that there is a need to enshrine provisions for minimum compulsory awareness and assistance training for staff in the legal framework. Passenger/consumer associations (7, 47%) and public authorities (9, 56%) agree with this. All railway undertakings (11) and industry federations (6) responded that there is no need for this.

This question required respondents to identify what are in their view the main benefits of staff training. 26 organisations replied representing 38% of the respondents. The majority of responses 12 (46%) came from citizen and passenger organisations and 7 responses (27%) from public authorities followed by 5 responses (19%) from the industry. Overall the respondents identified a series of benefits that largely fall under the following categories:

- better understanding of passenger needs and increased ability to help and care for the customer (mentioned in 20 responses, half of which came from citizens and passengers associations)
- increased confidence and mutual trust between staff and the passengers with disabilities (mentioned in 3 responses by 2 citizens and passengers organisations and one public authority)
- increased customer satisfaction and usage levels (mentioned in 5 responses, 3 representing citizens and passengers associations)
- reduced personal damage to passengers with disabilities (mentioned in 2 responses, both from citizens and passenger organisations)
- better usage of the equipment in stations and on trains (mentioned in 3 responses)

There were also some additional comments raised in the responses mainly to do with the wider requirement for infrastructure improvements to cater for the entire journey of a passenger not just his experience in the station or on the train but also regarding staff shortages especially in some regional, urban and suburban stations.

This question required respondents to identify what would be the main additional negative impacts or costs for staff training. Only 13 organisations replied representing 19% of the respondents. The majority of responses (77%) were received from the industry and citizens and passenger associations. 1 responses (8%) came from public authorities and 2 responses (15%) from other stakeholders. Overall the respondents identified very few negative impacts with 4 (31%) responses specifically recognising that there are cost implications to the industry but that these costs should not represent an impediment to providing training. Other responses pointed out that training requirements could become too restrictive and inflexible (4 responses) and that situation will be reflected in the increase in costs for the industry and for some public authorities who are subsidising some contracts. There was also one respondent that was of the opinion that training for staff is time consuming and another one that some staff might require alterations to their employment contracts to reflect the additional responsibilities.

Respondents were asked to propose other measures that should be implemented to facilitate rail travel for people with disabilities. 34 responses were received representing a 49% response rate. 12 responses came from the industry (35%), 11 from citizens and passengers associations (32%), 6 responses from public authorities (18%) and 5 responses (15%) from other organisations. The responses mentioned a series of measures to further facilitate rail travel for people with disabilities with the most respondents mentioning

- strong financial support from relevant authorities (third parties, national government and the EU) to upgrade infrastructure and rolling stock (16 responses)
- extension of the accessibility agenda to include a comprehensive, inter-modal approach (13 responses)

Other frequently mentioned measures were the provision of additional station and train staff (7 responses) and improved information and ticketing provision for people with sensory impairments (7 responses). Additionally, 4 responses mentioned the need to reduce or even remove the requirement to provide advance notice of travel, 2 responses mentioned the adherence to the TSI PRM and one response mentioned an EU wide information campaign on the topic.

7 Definitions and other issues

Further, respondents were asked whether the concept of "carrier" (notably in the context of assistance and compensation in the event of delays and missed connections) was unclear. the majority of citizens have no opinion on whether certain terms or rules in the Regulation are unclear in the Regulation which might cause problems to the stakeholders involved in relation to the notion of “carrier”. Amongst citizens, 31 (15%) think that the concept of carrier is unclear, 17 (13%) responded that there was no problem, and 82 (63%) did not have an opinion. The majority of railway undertakings responded that the notion of “carrier” in the regulation was unclear (8, or 73%).

When asked if terms or rules in the Regulation were unclear or missing in relation to the notion of “missed connection”. The responses show that amongst citizens there is a range of responses but the highest, excluding no opinion, is 27 (21%) who responded that the concept

of missed connections is unclear. Railway undertakings (9, or 82%) and industry federations (3, or 50%) responded that there was no problem with the clarity of the rules in the Regulation.

The OPC asked respondents whether the concept of "through tickets" (notably in the context of assistance and compensation in the event of delays and missed connections) was unclear. As can be seen, amongst citizens, 46 (35%) think that the concept of through tickets is unclear, with a further 14 (11%) thinking it is missing or partly missing. Amongst passenger/consumer associations, 6 (40%) think it is unclear, whilst a further 3 (20%) think it is missing or partly missing. This does not necessarily imply that tickets sold under a single contract are not being treated as through tickets. However, it does clearly suggest there is a lack of clarity in the Regulation and/or its interpretation (notwithstanding the EC Interpretative Guidelines).

The OPC asked respondents whether rules on railway undertakings' liability for passengers and luggage in case of accidents were unclear. Amongst citizens, although the majority of respondents had no opinion (78, 60%), 35 (27%) think the rules on railway undertakings' liability for passengers and luggage in case of accidents are unclear, missing or obsolete. Amongst railway undertakings, 8 (73%) also responded that this was unclear.

Regarding the question whether the general framework for rail passenger rights should prohibit direct or indirect discrimination on grounds of nationality, in addition to Article 18 of the TFEU, amongst citizens and passenger/consumer associations, the opinion is that the general framework for rail passenger rights prohibits direct or indirect discrimination on grounds of nationality with 76 citizens (58%) and 10 passenger/consumer associations (67%) responding yes. Industry federations (3, or 50%) and railway undertakings (5, 45%) also agreed that the framework for rail passenger rights prohibits direct or indirect discrimination on grounds of nationality.

The OPC asked respondents their opinion regarding inconsistencies between the Regulation and the uniform rules CIV in its Annex I. As shown, 30 citizens (23%) think that the best way to deal with inconsistencies between the Regulation and the uniform rules CIV is to keep the body of the regulation and the UR CIV together in a single piece of legislation and include a clause/article allowing amendments or updates. This opinion is supported by 8 (53%) of passenger and consumer associations, 5 (31%) public authorities and 4 (50%) of PRM organisations.

The OPC asked respondents their opinion on whether the dissemination of information to passengers at the national level is most appropriate. The responses show that amongst citizens, 48 (37%) respondents think new national legislation is required in the dissemination of information to passengers, and 24 (18%) suggest voluntary agreements are more appropriate. Responses from PRM organisations also show a preference for new national legislation (4, or 50%).

The OPC asked respondents their opinion on whether liability of railway undertakings in the event of accidents and their obligations towards passengers and their luggage should be addressed at the national level. The responses show that amongst citizens, 50 (38%) respondents think new national legislation is required and 19 (15%) suggest voluntary agreements are more appropriate. Responses from PRM organisations show a preference for new national legislation (3, or 38%) and other legislation (4, or 50%).

The OPC asked respondents their opinion on whether obligations of railway undertakings to passengers in the event of delays, cancellation or missed connections should be addressed at the national level. The responses show that amongst citizens, 54 (42%) respondents think new national legislation is required and 17 (13%) suggest voluntary agreements are more appropriate. Responses from PRM organisations also show a clear preference for new national legislation (5, or 63%). Railway undertakings and industry federations show a preference for other legislation (64% and 67% respectively).

The OPC asked respondents their opinion on whether liability of railway undertakings to compensate passengers for delays caused by unforeseen and unavoidable events (force majeure) should be addressed at the national level. 44 (34%) of citizen responses were in favour of new national legislation, 20 (15%) were in favour of voluntary agreements and 42 (32%) had no opinion about whether liability of railway undertakings to compensate passengers for delays caused by force majeure should be addressed at a national level. PRM organisations were also heavily in favour of new national legislation (5, or 63%) and the preference of 8 (73%) railway undertakings was for other legislation.

The OPC asked respondents their opinion on whether accessibility and assistance for disabled passengers and passengers with reduced mobility should be addressed at the national level. Responses to the question were largely split between passenger and consumer associations and PRM organisations and industry respondents.56 (43%) citizen respondents were in favour of new national legislation, as were 4 (50%) PRM organisation respondents and 4 (27%) Passenger and consumer associations. 7 (44%) public authority respondents were also in favour of new legislation. Conversely, 4 industry federations (67%) were in favour of "other" options as were 7 (64%) railway undertaking respondents. The Infrastructure Manager was in favour of voluntary agreements.

The OPC asked respondents their opinion on whether enforcement should be addressed at the national level. Similar to other questions on whether other issues should be addressed at national level, responses differed between passenger and consumer associations and PRM organisations on the one hand and rail industry respondents on the other hand. 4 (50%) PRM organisation respondents were in favour of new national legislation for enforcement, as were 51 (39%) citizen respondents. 7 (44%) public authority respondents were also in favour of new national legislation. Conversely, 4 (67%) industry federation respondents were in favour of "other" options, as were 7 (64%) railway undertakings respondents, and the one (100%) ticket vendor who responded. The Infrastructure Manager was in favour of voluntary agreements.

The OPC asked respondents their opinion on whether complaint handling should be addressed at the national level. Responses to the question were largely split between citizens, passenger and consumer associations and PRM organisations and industry respondents.5 (63%) PRM organisation respondents were in favour of new national legislation, as were 55 (42%) citizen respondents, and 8 (50%) public authority respondents. Conversely, 4 industry federations (67%) were in favour of "other" options as were 7 (64%) railway undertaking respondents and the surveyed ticket vendor. The Infrastructure Manager was in favour of voluntary agreements.

The OPC asked respondents for their opinion on whether information provided to passengers should be addressed at EU level. The majority of respondent groups favoured a revision of Regulation 1371/2007 to address information provided to passengers. This option was supported by 11 (73%) passenger and consumer association respondents, 5 (63%) PRM

organisation respondents, 8 (50%) public authority respondents, and 51 (39%) citizen respondents. This was also supported by the Infrastructure Manager and the ticket vendor. In contrast, 4 (67%) industry federation respondents favoured "other" options, as did 6 (55%) railway undertakings respondents.

The OPC asked respondents for their opinion on whether liability of railway undertakings in the event of accidents and their obligations towards passengers and their luggage should be addressed at EU level. The majority of respondent groups favoured a revision of Regulation 1371/2007. This option was supported by 5 (63%) PRM organisation respondents, 8 (53%) passenger and consumer association respondents, 8 (50%) public authority respondents, and 48 (37%) citizen respondents. This was also supported by the ticket vendor. Conversely, 4 (67%) industry federation respondents and 6 (55%) railway undertakings respondents favoured "other" options. The Infrastructure Manager favoured voluntary agreements.

The OPC asked respondents for their opinion of whether Obligations of railway undertakings to passengers in the event of delays, cancellation or missed connections (information, assistance, compensation) should be addressed at EU level. The majority of respondent groups favoured a revision of Regulation 1371/2007. This option was supported by 7 (83%) PRM organisation respondents, 11 (73%) passenger/consumer association respondents, 8 (50%) public authority respondents, and 57 (44%) citizen respondents. This was also supported by the ticket vendor. Conversely, 4 (67%) industry federation respondents and 6 (55%) railway undertakings respondents favoured "other" options. The infrastructure manager favoured voluntary agreements.

The OPC asked respondents for their opinion on whether liability of railway undertakings to compensate passengers for delays caused by unforeseen and unavoidable events (force majeure) should be addressed at EU level. Opinion was largely split between passenger and consumer associations and PRM organisations, and rail industry groups. 6 (75%) PRM organisation respondents, 10 (67%) passenger/consumer association respondents, and 54 (42%) citizen respondents favoured a revision of Regulation 1371/2007. This option was also supported by the ticket vendor. Conversely, 6 (55%) railway undertakings respondents and 3 (50%) industry federation respondents favoured "other" options, and the Infrastructure Manager favoured voluntary agreements.

The OPC asked respondents for their opinion on whether accessibility and assistance for disabled passengers and passengers with reduced mobility should be addressed at EU level. 9 (60%) passenger and consumer association respondents and 4 (50%) PRM organisation respondents favoured a revision of the Regulation. 45 (35%) citizen respondents also favoured this option, which had the most support from that respondent group after the 49 (38%) respondents who had no opinion. This option was also supported by the ticket vendor. Conversely, 4 (67%) industry federation respondents and 7 (64%) railway undertakings respondents favoured "other" options. The Infrastructure Manager favoured voluntary agreements.

The OPC asked respondents for their opinion on whether it is appropriate to address enforcement at EU level. Opinion was generally split between passenger and consumer associations and PRM organisations, and rail industry groups. 5 (63%) PRM organisation respondents, 10 (67%) passenger and consumer association respondents, and 52 (40%) citizen respondents favoured a revision of the Regulation. Additionally, this option was supported by the ticket vendor. Conversely, 4 (67%) industry federation respondents and 6 (55%) railway

undertakings respondents favoured “other” options. The Infrastructure Manager favoured voluntary agreements.

The OPC asked respondents for their opinion on whether it is appropriate to address complaint handling at EU level. 10 (67%) passenger and consumer association respondents, 4 (50%) PRM organisation respondents, and 49 (38%) citizen respondents favoured a revision of the Regulation. Additionally, this option was supported by the ticket vendor. Conversely, 4 (67%) industry federation respondents and 6 (55%) railway undertakings respondents favoured “other” options. The Infrastructure Manager favoured voluntary agreements.

Appendix II - Targeted Consultations

Targeted stakeholder consultations have demonstrated that application and impact of the Regulation varies widely between Member States. This is largely due to the differing nature of the rail market in different Member States and the level to which exemptions are applied. Despite these differences, responses from organisations within each stakeholder category were similar across Member States. The findings from the targeted stakeholder consultation helped better inform the impact that potential options would have across the broad range of stakeholders that are relevant to changes in of rail passengers' rights. In order to better understand the problem, case studies were undertaken as part of the targeted stakeholder consultation.

The case studies provide an in depth understanding of the situation in thirteen member states, with a broad range of stakeholders being interviewed, including face-to-face interviews with National Enforcement Bodies and railway undertakings and telephone interviews with railway undertaking associations, infrastructure managers, station managers, consumer associations and PRM organisations in these member states. In the thirteen non-case study states, telephone interviews with National Enforcement Bodies and railway undertakings mainly for the purpose of data collection were held. In the following pages, the main conclusions of the targeted consultations will be summarised around main issues.

1 Awareness and information about passenger rights.

Respondents in Latvia, Belgium, Hungary, Ireland, Luxembourg and the Finnish NEBs stated that passengers are not very much aware of the Regulation. In Hungary according to the NKH passengers are often not aware of the rules of compensation for delay; and the rules of reimbursement of unused tickets. Moreover, they do not receive enough information during the journey. According to NHK, passengers' awareness could be increased by requiring limited information about passengers' rights to be printed on tickets. Modern technologies (e.g. QR codes) could be used.

On the other hand the Finish RU, Germany's EBA and DB, and the Swedish NEB (Consumer Agency) stated that passengers are quite aware of the main principles of the Regulation. For instance, in Germany, since the Regulation came into force, several information campaigns such as print or TV adverts have been run, and that the number of complaints to the NEB has increased constantly over time. In addition, the nature of complaints that the NEB receives from passengers are much more complex than those received in the first years after the Regulation came into force, suggesting greater engagement with the content of passengers' rights regulations. DB expressed the view that passengers are nearly fully aware of their rights in the Regulation. Customer satisfaction surveys carried out by DB confirm the high awareness. For the last six years, staff in DB's long distance trains has been handing out compensation forms in cases of delays of more than 60 minutes.

As another example, the Swedish Consumer Agency noted that despite the high awareness levels, operators often implement the Regulation through their terms and conditions, which tends to mislead passengers about their legal rights as opposed to commercial rights;

2 Exemptions

Some NEBs and RUs expressed their concerns related to the removal of exemptions in France, Germany, Latvia, Lithuania, Romania and the UK. For instance, in France RUs are emphatic that the exemptions for regional, urban and suburban should remain as withdrawing them would increase the difficulties faced by railway undertakings, with an excessive cost burden threatening delivery and improvement of the rail mode. Moreover, there are concerns related to any removal of exemptions in another Member State where they have subsidiaries operating (such as Keolis in Germany). Such a change may lead to a change in the burden of costs between the operator, the sponsoring authority and the passenger.

SNCF provided information about the increased costs occasioned by removing the previous exemptions, although it stated that it did not have the information to provide a breakdown by service type. In this line, Transdev said that Exemptions for PSO-type services should be maintained. The UTP expressed the view that the situation regarding cross-border services is not clear enough.

DB stated that a removal of the exemption for urban, suburban and regional services from the requirement to offer meals and refreshments in case of delays larger than one hour would have a major impact on its operations, as many of the affected rail services currently do not offer on-board catering. Hence, in case of lifting this exemption, DB would need to carry meals and refreshments on these services. In addition, DB suggest that only a small number of passengers would benefit from the removal of this exemption because such delays appear only on very few occasions on urban, suburban and rural rail services.

According to Lietuvos Geležinkeliai (Lithuanian Railways), the removal or limitation of time or in scope of the application of exemptions which are currently granted in Lithuania for domestic services would entail greater financial pressure on the railway sector. Therefore, LG considers the flexibility provided by the Regulation concerning the possibility for Member States to grant exemptions to be pivotal in reducing the impact of different economic conditions under which railway services are operated across Europe. In the case of Romania, the NEB suggested that the lifting of all exemptions would be counter-productive financially and would likely slow down the progress already made. A similar position has been expressed by the national operator CFR Călători. Both organisations indicated removal of exemptions would make the continuation of business very difficult but did not provide supporting documentation to this extent

In UK, ATOC is concerned that removing exemptions from Article 4 of the Regulation could lead to a 'black market' in secondary ticket sales developing, since this article references Title II, Article 7(4) of the CIV, which states that tickets must be transferable if they have not been made out in the passengers' name. ATOC note that the commercial framework of the industry.

Irish Rail stated that removal of exemptions currently granted and a limitation in time of the application of exemptions would lead to additional costs. Similarly, the Luxemburg NEB considers that it would be unthinkable to remove the exemptions. It considers that the national network would remain classified as urban, suburban and regional. Although

the NEB states that it is not able to estimate the impact on the operating costs of removing the exemptions, the impact would be considerable.

Some of the respondents that favoured the removal of exemptions of the Regulation currently in place were both the Austrian NEB and the RU ÖBB. The reasoning behind this is that exempted provisions are regulated by national law, and that involved actors need to follow two different laws. In the UK The Department for Transport (DfT) is actively considering the removal of some exemptions, and is in the process of consulting on this. The DfT have confirmed that, if they remove exemptions, they will remove the same exemptions for long distance and urban/suburban/regional services, as the DfT considers it important to have a consistent approach across all services in the UK. The 2014 consultation suggested that the costs of removing the exemption for Article 13 (relating to the payment of advance compensation in the event of serious injury or death), were 'negligible', although the consultation noted that the industry had initially assessed these costs as being higher. The 2014 consultation also suggested that removing the exemption for Article 22 (3) would have 'negligible' costs relating to the loss of advertising space as a result of the requirement to provide information for PRMs at unstaffed stations. In Slovakia, the ZSSK stated that the variety of exemptions present in EU Member States results in a certain degree of confusion and lack of transparency. In this regard, homogenisation, increased transparency and simplification of some provisions would be beneficial to ensure higher clarity for passengers. According to Dopravný úrad, if exemptions from the Regulation were removed, there would be moderate impact on the level of the NEB's supervisory functions.

3 Force Majeure

Positions about the Force Majeure clause varied among member states. The Belgian, the French, the German, the Czech, the Lithuanian, Spanish, Finish and Swedish RUs were of the opinion that the current obligation regarding force majeure is inequitable compared with other modes. In France SNCF and Transdev both expressed the view that the provisions for force majeure, as confirmed by the Court of Justice ruling, discriminate against the rail mode, particularly with respect to air. They argue that force majeure is a universal principle of law and a concept common to all modes of transport and it should be applied across all modes to ensure legal clarity and consistency for both passengers and carriers. This, argues SNCF, is not consistent with the message of the European Commission 2011 communication, which is that a certain degree of convergence among modes has to be ensured to ease the application of the rules by carriers and citizens' understanding of their rights. The German RU also held the opinion that it would remove inequalities compared to other modes (e.g. coach and ferries) where it has been clarified that in events of 'force majeure' operators are not required to pay compensation. Also, the Czech RU, ČD believes that the decision of the ECJ C-509/11 placed significant discrimination on rail services compared with air, bus and maritime modalities.

On the other hand, other respondents from several MS disagreed and find that the introduction of a force majeure clause is not convenient. The Austrian NEB was strongly in favour of the current provision to not exempt force majeure events from the requirement to pay compensation. They expressed the view that the variation of the transport contract is what matters, regardless of the responsibility of the disruption. They

also mention the additional amount of bureaucracy that would be expected in combination with minimal savings for railway undertakings in relation to their overall revenues. In terms of force majeure, the Finish NEB KVV does not think force majeure clauses should be added to rail sector. Moreover, it was mentioned as a way of comparison that Force Majeure should be removed in the APR Regulation and standard compensation (concerning cancellations and delays) should be tied to the price of the ticket, as is the case in the rail sector. In the UK, it was noted that in the context of the DfT's decision to not include a force majeure clause in the Delay Repay schemes included within franchise agreements, the exact application of any such force majeure clause could have an unintended consequence. ATOC's written response to our questions highlighted the lack of parity between modes as regards force majeure, but did not favour the inclusion of a force majeure clause in the Regulation; instead, ATOC favour the removal of force majeure clauses for compensation in passengers' rights regulations for other modes. The ORR stated that regarding any potential revision to the Regulation, their position would be one of opposing any change that would reduce passenger benefits. This is of particular concern relating to force majeure

The answers provided by Estonia and Ireland were in favour of clarifying and homogenising the level playing field, but did not express a preference as on to force majeure should be added in the Rail Sector, or ideally eliminated from all sectoral legislation, such as other respondents suggested.

4 Assistance to PRMs

The main issues regarding PRMs seem to be related with definitions, alleged potential price discrimination and other general assistance and accessibility related issues.

Responses regarding assistance to PRMs were rather descriptive, with some respondents such as Hungary expressing categorically that the accessibility of stations, platforms, rolling stock and other facilities for persons with disabilities or with reduced mobility is overall poor. Similarly in Italy, a PRM/Consumer Organisation reported that they received complaints from PRMs who found it difficult to travel by train for various reasons – e.g. non-operation of elevators, non-operation of platforms to get on the train, lack of assistance. In addition, ANGLAT recommends that actions are taken by public authorities to make sure that also RUs' staff can help in assisting PRMs – it is to be noted that current contractual conditions prevent in many cases staff employed in RUs to support PRM accessibility to trains. This could only be overcome by a re-negotiation of contractual conditions between RU and employees/unions, which could be somewhat supported, at least in Public Service Contracts, by the inclusion of provisions set by public authorities requiring or promoting the adoption of contractual clauses to that effect. ANGLAT's view is that, as part of Regulation (EC) No. 1371, the EU could recommend the adoption of such clauses. In particular, Anglat noted that, to date, no RU uses elevators on wagons for access of wheelchairs. An adjustment of the employment contracts of railway undertakings operators should provide for the use of elevators on wagons – this would help to strengthen and optimize the services available to PRMs even in those stations where services provided by the 'Sale Blu' network is limited.

In Finland, the definition of PRM causes problems because the definition varies greatly. If the definition remains unchanged, then it should be clarified in chapter V that the possibility to book assistance (and consequently have a guaranteed assistance) can be

restricted at Member State level, by requesting a proof. Spontaneous request of assistance would nevertheless be possible for every PRM, but on the basis of best efforts being made, rather than assistance being guaranteed. The objective is to give priority to the most disabled people but also to avoid having people fraudulently booking assistance if they are not PRMs, abusing it as a porter service. This is the same situation as described in France. Prior to the removal of exemptions, SNCF offered assistance to passengers confirmed as being disabled. Now, it considers that it cannot ask for proof of disability (and that disability is not the only cause of being PRM). The requests for assistance have increased dramatically, which is attributed to the fact that the service is seen as a free porter service.

A potential source of price discrimination may be present with respect to the potential for PRMs from other Member States than Italy to benefit from the Carta Blu (disabled persons railcard), which provides discounts for PRMs resident in Italy and another accompanying adult. Since it would not be possible for non-residents of Italy to provide proof of eligibility, this may lead to price discrimination on the basis of residency within the EU. A similar issue is observed in Latvia, The Netherlands, the UK, Austria, Bulgaria and Romania, whereby CFR Călători suggested that this could be resolved via a common framework for recognising disability uniformly across member states.

Another issue related to accessibility was reported in Belgium, where disabled passengers wishing to reserve a wheelchair space on Thalys or TGV services cannot book the ticket on the internet. They are either required to make a journey to an international ticket office (there are 28)/travel agent or to ring a premium rate number. The fact that the passenger may have to travel to the station or wait until the opening time of a call centre, he or she may miss out on a fare rate and may face an increased fare.

Regarding definitions, SCNF stated that the definition of PRM causes problems because the definition varies greatly. If the definition remains unchanged, then it should be clarified in chapter V that the possibility to book assistance (and consequently have a guaranteed assistance) can be restricted at member state level, by requesting a proof. Similarly, the SCNB argued that the definition of a ‘staffed station’ needs to be clarified. A station may have a member of staff on duty but that role might not be suitable for assisting passengers. The Belgian NEB tends to interpret this in a way that is unfavourable to SNCB.

5 Definitions and other issues (through tickets)

5.1 Definitions

SCNF responded that the definition of “carrier” is inconsistent in the Regulation and in the CIV rules to which the Regulation refers to. The Regulation never uses the term “carrier” (apart in the definition in Art. 3) and puts all the obligations on the “railway undertaking”. The CIV nearly ignores the term “undertaking” and only focuses on the term “carrier”, which may include domestic bus operators or international maritime companies in the chain of carriage.

The Lithuanian RU, LG, underlined that the definitions of ‘carrier’ and ‘ticket vendor’ are to some extent unclear and inconsistent with the Annex 1 CIV rules to which the Regulation refers to. The Regulation does not use the term ‘carrier’ and puts all the

obligations on the 'railway undertaking', whereas CIV focuses on the term 'carrier', which may include other entities in the chain of carriage. LG concluded that the unclear link between the Regulation and the CIV Uniform Rules (CIV UR) in Annex I constitute a negative aspect of the Regulation and raises problems in the practical implementation of the Regulation. VVTAT underlined that the provisions of limited information on the tickets would likely increase passengers' awareness, spurring passengers to look for additional information through other sources.

The Dutch NEB feels that the only aspect of the Regulation which needs changing is the definition of key terms while ROVER, the consumer organisation, suggests that the relationship between the Regulation and the CIV needs to be clearer, and that in the case of conflicts, it needs to be clear which rules or combination of rules are to be used. The Swedish Transport Agency stated the Regulation contains some terms and provisions which are difficult to apply. Further, terms such as 'other facilities', 'station manager' and 'stations' are unclear.

According to the Hungarian NHK, the word 'delay' is not used consequently in the Regulation. Article 3 (where the definition of 'delay' is provided) takes into account the time difference between the time the passenger was scheduled to arrive in accordance with the published timetable and the time of his/her actual or expected arrival. Article 17 and 18 however take into account the time difference between the time the train was scheduled to arrive in accordance with the published timetable and the time of its actual or expected arrival.

The polish RU made mention of the need for clearer definitions of terms within the Regulations as at present the differing levels of interpretation by member states and railway entities leave much room for variations upon the theme. Leading from this, PKP Intercity have suggested that DG MOVE make improvements to translations of documents to non-key languages as some nuances are often missed in translation. One practical suggestion for this has been to start a glossary of key terms, especially in instances where corrections have needed to be made.

5.2 Through tickets

The Austrian NEB indicated that the coming into force of the Regulation had a negative impact on the availability of through tickets. They suggest that railway undertakings are more reluctant to offer through tickets, which enables them to by-pass the provisions of the Regulation for international services. The Belgian NEB stated that the 2015 Interpretative Guidelines from the Commission have made the obligation to offer through tickets less clear: a single journey can be segmented into multiple contracts. SNCB expressed the concern that if the requirements related to through tickets are tightened too much, there is a risk that operators will further reduce the offer available to customers because this is a commercial product with severe commercial pressures upon operators.

In this line, the Italian NEB ART wishes for a review of the Regulation that specifies the rules on through tickets which are unclear. Trenitalia also suggested that there is currently no commercial agreement with other railway undertakings or transport operators with respect to the sale of integrated tickets (e.g. rail/air). In that respect, Trenitalia stressed that it would be useful to establish a common communication protocol between all railway undertakings to manage assistance, claims and compensation in the case of multi-modal travel. Respondents in the Netherlands also found that the definition

of through ticket must be clarified. In the UK,ATOC note that, in the UK, many passengers create ‘virtual’ through tickets by booking separate legs as separate journeys – a practice referred to in the UK as ‘split ticketing’. In all cases, a through ticket would be available for such journeys with the full protection of compensation for delays to end to end journeys. ATOC note that if passengers engage in ‘split ticketing’ in order to pay a lower fare, it is reasonable for operators to treat their journeys as separate journeys, and not to pay compensation as if the journey is being taken on a through ticket.

ANNEX 3: STAKEHOLDERS AFFECTED

Stakeholder	Description	Key interests
Citizens/Rail passengers	Passengers including those with disabilities or reduced mobility (PRMs) who use rail transportation	The Regulation EC 1371/2007 aims to improve the attractiveness of rail passenger transport and its market functioning. It relates to passengers in general but also provides for PRMs. It ensures a minimum level of protection for all rail passengers across the EU and enhances social inclusion of PRMs. All the policy options suggested aim to more transparent and strengthened rights for rail passengers. However, passengers will have to cope with a potential reduction of compensation payments in cases of "force majeure". However, all their rights notably to assistance, care, reimbursement and re-routing remain unchanged in case of force majeure events.
Railway industry	Railway industry and their staff (Railway undertakings - RUs, station and infrastructure managers - IMs)	Railway industry and their staff will have to comply with the new requirements, especially on services which are currently exempted. This will lead to an increase of the costs of compensation and the costs of assistance resulting from the removal of exemptions. The measures directly targeting the RUs relating to the provision of information on passenger rights and the provision of information available in accessible formats to PRMs, will increase the RUs' operating costs notably in view of already existing requirements for accessible information under Article 8 (2) of the Regulation. Apart from provisions increasing RUs costs, some are aiming at reducing RUs' economic burden. The removal of the burden of compensation to be paid to passengers for

		delays of more than 1 hour caused by "force majeure" events will positively affect the business model of RUs and their level investments. This means an overall cost saving for compensation under these events. Burden sharing with other stakeholders through a clarification of RUs' and third parties' responsibilities and obligations in situations of severe transport disruption through contingency planning will also limit the cost for RUs. Also, the clarification of the notion of 'carrier' will release some of the obligations of the RUs. Lastly, the introduction of a right to redress will give RUs the right to claim compensation from third parties when delays and cancellations are caused by their fault or negligence.
National Authorities (NEBs)	National authorities responsible for the enforcement of the rail passenger rights Regulation in the Member States (National Enforcement Bodies (NEBs))	The National authorities will have to enforce the new requirements. The main factor impacting on the Member States' budget will be the requirement for national authorities to share the burden with RUs for the assistance to passengers in case of major disruptions (i.e. ensuring mobility continuity and contingency planning). The details of how to implement this requirement will however be left to Member States. The clarification of the roles and responsibilities of NEBs in complaint handling and cooperation among NEBs in cross-border issues will directly affect their working modalities. Reinforced rights and a better awareness of passengers of their rights might also lead to an increase in complaints to NEBs. The measure related to through ticketing would not have an additional impact on NEBs workload. On the

		one hand, it will increase the number of cases where compensation and assistance will be granted; on the other hand it will clarify the cases concerned, simplifying the work of NEBs. The introduction of a "force majeure" clause could lead to more conflicts between RUs and passengers, where increased NEB intervention might be solicited.

ANNEX 4: IMPACT ASSESSMENT TOOL METHODOLOGY

Introduction

The purpose of the assessment tool is to quantify the impacts arising from each of the options for comparison. The assessment has been undertaken in the 'IA Tool', an excel spreadsheet. A number of input assumptions have been required to carry out the assessment, particularly in relation to the estimation of the impact of the measures, and these have been consolidated on a specific sheet of the 'IA Tool'.

The analysis of impacts covers the baseline scenario and all six policy options (PO). The key economic and social benefits and costs are captured quantitatively at a level of detail consistent with the available data. Other impacts are quantified where evidence suggests there are sufficient material and data available to enable quantification, otherwise they were treated qualitatively.

All costs and benefits are summarised over the 15-year period of 2020-2035 and Net Present Values are calculated based on the social discount rate. All policy measures are compared against the results of the baseline scenario. Cost and benefits at EU level are calculated for EU-26.

The methodology used to assess the options involves a number of steps:

- identification of impacts that may be assessed quantitatively,
- development of the baseline position;
- estimation of the impact of each of the relevant measures; and,
- calculation of the impacts for each of the options.

The quantitative assessment has been undertaken based on the difference between the baseline scenario and each of the options and the impacts have been assessed over a 15-year period. In the absence of robust evidence to support the input assumptions, the validity of the results is checked via a number of sensitivity analyses that assesses the effect of variation in the input assumptions on the results.

Policy measures assessed in the IA Tool

Provided a scarcity of reliable data to build on reliable assumption, the IA Tool is restricted to the assessment of the impacts linked to the introduction of four main categories of policy measures (PM), which are summarised in the following Table:

- Exemptions;
- 'Force Majeure';
- Informing Passengers; and
- PRM Accessibility.

Table 1 - Measures assessed in the IA Tool

PM ID	Description	Yes	No
1.	Require printing of information on tickets	1	0

PM ID	Description	Yes	No
2.	Require notices at stations in prominent positions (as in air passenger rights)	1	0
3.	Require notices and/or announcements in trains regarding passengers rights	1	0
4.	Reduce the exemptions for urban, suburban & regional services	1	0
5.	Remove possibility to exempt cross border urban, suburban and regional services in the EU	1	0
6.	Remove the exemptions to domestic long distance services	1	0
7.	Require disability awareness training for rail staff	1	0
8.	Introduce a force majeure clause for article 17 (compensation)	1	0

Source: *SDG (2016), Impact Assessment exercise concerning a possible revision of regulation (EC) No. 1371/2007 on rail passengers' rights and obligations (IA tool)*

The introduction of the measures in the tool is binary. So, whenever a measure is analysed, it takes the value "1" otherwise "0".

Assessment of Impacts from Introduction of Measures Related to Informing Passengers (IN) (PM1-PM4)

To assess the impact of implementing informing passengers' measures, it is assumed there is a relationship between the number of compensation claims and the level of awareness amongst passengers with regards to their eligibility to compensation when a journey is delayed.

The Special Eurobarometer 420 survey report includes data on the proportion of passengers in each Member State who are aware of their ability to make compensation claims; however, it does not provide data on the proportion of passengers who make compensation claims when services are delayed. Responses from two separate surveys conducted in the UK include data on the proportion of rail passengers who are aware of their ability to make claims and the proportion of the same passengers who make compensation claims when their journey is delayed. The change in levels of awareness and claims, and the ratio between the two, in the UK surveys are shown in the table below.

Table 2 - UK Compensation awareness and claims ratio

Survey	Awareness	Claims	Elasticity
Opinion Leader	18%	11%	
Which?	36%	34%	
Change	18%	23%	**78%**

Source: *SDG (2016), Impact Assessment exercise concerning a possible revision of regulation (EC) No. 1371/2007 on rail passengers' rights and obligations (IA tool)*

The awareness/claims elasticity calculated from the two UK surveys is used to extrapolate the relationship between awareness and claims in all other Member States. Any increase in the level of awareness arising from the IN measures is assumed to lead to a proportionate increase in claims based on the awareness/claims elasticity.

The implementation measures are assumed to raise the level of awareness in each Member State to the level of the UK (36%). The UK has already implemented actions contained within the IN measures and therefore is assumed that the level of awareness in other Member States will rise to a similar level when the measures are implemented. As the IN measures are a package, the net impact of all four IN measures is considered together.

Assessment of Impacts from the Introduction of Exemptions (EX) (PM5-PM8)

To assess the impact of implementing each of the exemption (EX) measures, an increase in journeys is estimated, in each Member State for each of the four journey types, which will no longer be exempt from providing compensation to passengers on delayed services based on the information the Commission holds on where exemptions are currently applied.

Impact on Compensation Costs

The increase in non-exempt journeys in each Member State is then multiplied by the proportion of delayed services and the proportion of claims on delayed services to calculate the increase in compensation claims to determine an uplift in compensation paid to passengers. The proportion of claims on delayed services is calculated by estimating an average claims per delayed service and adjusting this average by Member State for the level of rights awareness in each Member State.

The increases in compensation payments in monetary terms are calculated by applying the percentage increase in claims to the base level of compensation payments. The base compensation payments are assumed to grow throughout the assessment period in line with non-exempt journeys in each Member State.

Impact on the Cost of Assistance (refreshments)

The increase in cost of assistance payments, arising from the implementation of EX measures, has been calculated using the same method as the increase in compensation payments. However as passengers automatically receive cost of assistance on delayed

services, payments apply on all delayed non-exempt journeys, as opposed to only the proportion on which passengers make claims.

The UK Rail Regulator (ORR) estimated the cost of assistance per passenger as part of an impact assessment into the implementation of Passengers' Rights Regulation, to be approximately €3 per affected passenger, and this has been adjusted by PPP to estimate the cost by Member State. The cost of assistance reported in the Finland case study is similar to the estimate made by ORR adjusted for PPP and therefore supports the ORR estimate. The base cost of assistance in each Member State has been built up using the proportion of services delayed more than 60 minutes (calculated as described above), the number of non-exempt journey and the cost of assistance per passenger.

Assessment of Impact from introduction of PRM Training Accessibility measure (PM13)

To assess the impact of implementing the PRM accessibility (PR) measure, the cost of PRM training per staff member is assumed to be based on the cost of training courses for customer-facing staff serving disabled customers in the UK. This cost has been adjusted for PPP to estimate the costs in other Member States. The number of employees working for RUs and IMs in Europe was sourced from the Cost and Contribution of Rail study (Steer Davies Gleave on behalf of the Commission[158]) and assumptions have been made as to the proportion of staff that will initially require training to conform to any changes in the Regulation and as well as the proportion requiring training per year thereafter.

Assessment of Impacts from introduction of a 'Force Majeure' clause (PM 26)

To assess the impact of implementing the 'Force Majeure' measure, the rail industry is assumed to no longer pay compensation to passengers when delays are caused by a 'Force Majeure' event. The total level of compensation paid is therefore reduced by the proportion of total delays that are due to 'Force Majeure' events.

Austria, Italy and Poland provided the levels of compensation paid to passengers as a result of 'Force Majeure' events and these figures have been used in the tool for these three Member States. In all other Member States, it is assumed that the proportion of compensation payments that are due to 'Force Majeure' events is equivalent to the proportion of delay minutes in the UK that are due to 'Force Majeure' events up to max 17%). It should be noted that as with other input assumptions described in this document, a sensitivity analysis has been carried out on this proportion. Compensation paid to passengers due to 'Force Majeure' events grows throughout the assessment period proportionally with total compensation costs.

[158] http://ec.europa.eu/transport/sites/transport/files/modes/rail/studies/doc/2015-09-study-on-the-cost-and-contribution-of-the-rail-sector.pdf

Impacts and Metrics

Implementing each of the set of measures described above leads to changes in the following:

- Passenger demand;
- Mode share;
- Compensation costs;
- Force majeure costs;
- Costs of assistance;
- PRM training costs.

Table 3 –Impacts and Metrics

	Metric	Units	Total Type
Passenger Welfare	Compensation Costs	€m	NPV
	Force Majeure	€m	NPV
	Cost of Assistance	€m	NPV
	PRM Training Costs	€m	NPV

Source: SDG (2016), Impact Assessment exercise concerning a possible revision of regulation (EC) No. 1371/2007 on rail passengers' rights and obligations

Passenger Demand

The change in passenger kilometres (PKM) is calculated, for each journey type in each Member State arising from changes to fare levels, using demand elasticities and guidance provided in the UK's passenger demand forecasting handbook (PDFH). It should be noted that while the guidance included in PDFH has been developed based on the UK rail market, it includes the results of research related to the adjustment of the provided elasticities for journeys where fare levels are significantly lower and this has been used when estimating the change in demand in each Member State.

Passenger Welfare

Compensation and Cost of Assistance Payments

To calculate base compensation costs, data on the number of compensation claims made by rail passengers have been used and the total cost of compensation payments provided by Austria and Finland as part of the consultation exercise. This data has been used in combination with data on the reliability of passenger services and annual passenger journeys to calculate average compensation paid per claim on eligible journeys.

For the rest Member States who did not provide any data as part of the consultation exercise, the level of compensation payments was extrapolated by using data on reliability, passenger journey numbers and purchasing power parities (PPP). The reliability data has been adjusted using the profile of delays in six Member States (Belgium, Bulgaria, Germany, Italy and Lithuania) to account for delays greater than 60 minutes. The number of claims per service delayed longer than 60 minutes was calculated by combining the adjusted reliability data for Austria and Finland with the

number of successful claims made in these Member States adjusted for rights' awareness (data was not available from other Member States to do the same). The amount of compensation paid per successful claim was similarly calculated based on the data provided by Austria and Finland and adjusted by purchasing power parities (PPP) for each Member State. Finally, the base compensation level was arrived at by combining the estimates for compensation paid per successful claims, the number of successful claims per delayed service and the number of delayed services.

Force majeure costs

Please see the relevant analysis under the "Measures assessed in the IA Tool" as well as "Assumptions and data resources".

PRM training costs

Please see the relevant analysis under the "Measures assessed in the IA Tool" as well as "Assumptions and data resources".

Data Sources and Assumptions

Inputs and assumptions used to estimate the impact of the measures have been taken from a variety of sources such as publicly accessible data and studies; the consultation exercise; and input assumptions.

Publicly accessible databases

Publicly accessible databases (such as Eurostat, Worldbank, EU website, stakeholders' websites, CER publications, publicly available websites, eurobarometers on passenger rights, etc.) have been used to obtain statistics regarding passenger demand and mode share. Some further inputs have been sourced from publicly available sources including the average carbon emissions per passenger kilometre (European Environment Agency), carbon price per tonne (European Commission) and Purchasing Power Parity (PPP) by Member State (Eurostat). Additionally previous studies by Davies Gleave[159] have been used to source the required data.

Consultation exercise

Stakeholders including railway undertakings (RUs), national enforcement bodies (NEBs) and umbrella organisations (e.g. CER, EIM) were asked to provide data for a number of metrics that would be useful in assessing the aforementioned impacts. However, due to a number of factors including commercial sensitivity and a lack of records, much of this data was unavailable. For example, many RUs do not keep records of delays specifically due to force majeure events as they see no reason to do so given the current regulation. Thus, the consultation exercise in particular resulted in patchy and incomplete data that did not lend itself well for direct use in the IA Tool. However, the data obtained has been used in a number of places to establish inputs, as described in the section below, or to support some rationale. Data provided in response to the consultation has only been used in a small number of instances as described below due to the incompleteness of the data provided. It should be noted that further attempts were also made to return to stakeholders to fill data gaps, however, these attempts were largely unsuccessful as it appeared stakeholders either did not keep records of the requested data or were unwilling to provide the data due to commercial sensitivity. Due to the lack of robust evidence, a number of assumptions are made in the Tool. Sensitivities have been carried out on all of these assumptions to assess the impact of variation on the results.

Input assumptions

Passenger demand and mode share

Eurostat data has been used as the primary source for passenger demand[160] (both in terms of journeys and passenger-kilometres). Gaps have been identified in a small number of places (detailed further in the tables presented later in this chapter). In general, either data

[159] http://ec.europa.eu/transport/modes/rail/studies/doc/2015-09-study-on-the-cost-and-contribution-of-the-rail-sector.pdf

[160] Comparison of passenger demand data in the PRIME-TREMOVE model and Eurostat indicates that demand on metro and tram systems is not included in the Eurostat data.

from previous years or the EU average has been used to fill these gaps. Eurostat data has also been used to establish the base mode share by Member State.

Data from the UITP regional and suburban railways analysis market update has been used in conjunction with the data provided by the Community of European Railway and Infrastructure Companies (CER) to split the passenger demand data by journey type. The UITP data only includes the split by Member State between Urban, Suburban and Regional and other demand and the EU wide average split between domestic long distance and international demand provided by CER has been used to disaggregate the latter two journey types.

For the passenger demand forecasts, the PRIMES-TREMOVE model 2016 reference scenario has been used in conjunction with the splits by journey type assumed in the Fourth Railway Package Impact Assessment undertaken by Steer Davies Gleave to produce a passenger demand forecast at the EU-level by journey type. The PRIMES-TREMOVE model also includes a forecast of mode share by Member State which has been used in the 'IA Tool'. It should be noted that all impacts are forecast to grow in line with the growth in passenger demand.

Split of demand by journey type

Eurostat provides data on the spilt between national and total passenger demand in each Member State, which has been used to calculate the level of international passenger demand. A UTIP study provides a split between regional and long distance services which has been used to calculate the level of domestic long distance and urban, suburban and regional journeys in each Member State.

Compensation Costs

The number and value of compensation claims were estimated based on data provided by Member States and data on punctuality and reliability[161] of rail services by journey type was extracted from the Steer Davies Gleave study 'The Price and Quality of Rail Services'[162].This has been used as the basis for the proportion of services delayed or cancelled by Member State and journey type. Austria and Finland provided data on the number of successful (satisfied) compensation claims made by rail passengers. This has been used in combination with data on the reliability of passenger services and annual passenger journeys to develop an average claims per eligible passenger journey which has been used to estimate the number of claims in Member States who did not provide the data. Similarly, data provided by Member States on the value of compensation per claim has been used along with the distribution of purchasing power parities (PPP) to estimate the compensation per successful claim in Member States that have not provided this data. The Eurobarometer Survey 420 conducted in 2014 included a question on EU

[161] Punctuality and reliability data were not used as a proxy for passenger service quality or passenger welfare, as there is no indication of how punctuality and reliability will change as a result of the changes to the regulation. We are able to use it in estimating the impact on compensation as the changes arise from removal of exemptions and information measures, both of which have a measureable impact on the number of successful compensation claims that are likely to be made.

[162] http://ec.europa.eu/transport/modes/rail/studies/doc/2016-04-price-quality-rail-pax-services-exec-summ.pdf

rail passengers' awareness of their rights and this has been used as the base level of passenger awareness used in estimating the impact of information provision measures on compensation claims.

Compensation Costs due to "force majeure" events

Generally, respondents to the consultation exercise noted that they do not keep specific records of compensation claims related to 'Force Majeure' events. However, the number of approved compensation claims resulting from 'Force Majeure' events and the total value of these claims has been provided by a number of Member States along with similar data for all compensation claims. The data represents a very broad range of "force majeure" incidents in the EU, which varies from 'the vast majority' to less than 1.25% of delays. These discrepancies are largely caused by the different definitions applied by Member States. To ensure a common minimum level of treatment among Member States and to limit at maximum the negative impact on passengers the concept of "force majeure" for the purpose of this IA was defined restrictively so that only clearly defined and very rare situations can qualify. This definition was limited only to heavy floods, earthquakes, volcanic eruptions and very heavy storms (known as 'Acts of God'). Considering the data provided by UK and assuming an equal probability of "force majeure" occurrence across Member States, it is assumed that less than 17% of all delays of more than 1 hour across the EU are caused by such circumstances. Based on this information, it is assessed that depending on the year in question the level of force majeure incidents could reach a maximum of 17% - 20% of all delays exceeding one hour. Therefore, the model accounts the level of force majeure as 17%. This has been multiplied by the amount of compensation paid by Member States to calculate the compensation related to 'Force Majeure' events paid by Member States.

Therefore, the proportion of total compensation paid to passengers on delayed services caused by 'Force Majeure' events is assumed to be 17.0%. The data from Austria, Italy and Poland have been used for the estimation of 'Force Majeure' payments.

Exemptions

Article 2 of (EC) Regulation 1371/2007 sets of the scope and timescales of exemptions that may be applied. It allows Member States to grant domestic long distance services exemptions from the Regulation for a maximum of 15 years from the date the Regulation came into effect, meaning exemptions to these services will have to be removed by 2024. It has been assumed that the effects of this will be realised over a two year period leading up to 2024, as we expect operators to begin making adjustments to comply with the Regulation leading up to the removal of exemptions. The assumed decrease in exempt passenger journeys arising from each exemption measure, and the journey types to which they apply, are shown in the Table below..

Table 5 - Exemption measures decrease in exempt journeys

A/A	Measure	Decrease in Exempt Journeys	Urban, suburban and regional	Domestic Long Distance	International	Extra-EU
6.	Reduce the exemptions for urban, suburban & regional services	100%	☑			
7.	Remove possibility to exempt cross border urban, suburban and regional services in the EU	100%	☑		☑	
8.	Remove the exemptions to domestic long distance services	100%		☑		
9.	Apply limit to number of times exemptions for services with a significant part outside of EU can be renewed	50%				☑

Source: SDG (2016), Impact Assessment exercise concerning a possible revision of regulation (EC) No. 1371/2007 on rail passengers' rights and obligations

Measures PM 6-8 are explicit about which journey types they apply to and state all exemptions will be removed; therefore exempt passenger journeys were assumed to decrease by 100% on relevant journey types as a result of these measures.

Measure PM 9 applies only to Extra-EU journeys, and while we have made an assumption on the effect of this, the aggregation of extra-EU and intra-EU international journeys means this does not currently result in any impacts. Measure 5 applies to all journeys and is unlikely to lead to a large reduction in exempt passenger journeys as the measure only includes guidance and exchange of best practise; it is therefore assumed exempt passenger journeys will not bring substantial effects with a decrease only by 10%.

Staff Training on Disability Awareness

It is assumed that 30% of staff working in the rail industry is facing customers. The proportion of staff requiring training in year 1 is likely to be high. The proportion of staff requiring training annually represents the turnover of staff 10% (new staff who join will need to be trained) as well as re-training where necessary.

Table 6 - PRM Staff proportions

% of Staff	Proportion of Staff
Proportion of Customer Facing Staff in Rail Industry	30%
Proportion of Staff Requiring PRM Training in Year 1	80%
Proportion of Staff Requiring PRM Training annually	10%

Source: SDG (2016), Impact Assessment exercise concerning a possible revision of regulation (EC) No. 1371/2007 on rail passengers' rights and obligations

These proportions are estimates as robust evidence was not available to support this during our research. The stakeholders during the consultation process apart from some general statements that they have PRM training in place could not provide any hard evidence with this regards.

Costs borne by RUs vs IMs

The assumed proportion of increased operating costs increases borne by RUs and IMs are shown below.

Table 7- RU- IM operating cost split

Measure Area	Railway Undertaking % of Cost	Infrastructure Manager % of Cost
Exemptions	100.0%	-
Force Majeure	100.0%	-
Informing Passengers	100.0%	-
PRM Accessibility	25.0%	75.0%

Source: SDG (2016), Impact Assessment exercise concerning a possible revision of regulation (EC) No. 1371/2007 on rail passengers' rights and obligations

For all measures relating to exemptions, 'Force Majeure' and informing passengers, we have assumed all costs are borne by RUs, as these measures all relate to delayed services for which RUs must compensate passengers. The majority of PRM accessibility costs are assumed to be borne by IMs (see Table 7, 75%), as IMs generally are responsible for managing stations, where the majority of PRM accessibility investment will be required.

Informing Passengers

The UK and Germany have been used as a benchmark for the level of awareness arising from implementation of measures relating to informing passengers in Member States with a lower base level of Passenger Awareness. Some of the measures relating to increased information for passengers relating to compensation are already in force in the UK and Germany, and these Member States consequently have a higher level of awareness as recorded in the Eurobarometer Survey.

For example, it is known that awareness levels are reported at 46% in Germany where DB distribute compensation claim forms to passengers affected by service disruptions which loosely correspond to the strongest measure with regards to informing passengers of their rights. Similarly, many operators in the UK make announcements to passengers at stations and on trains that are delayed instructing them on how to claim compensation and some also hand out compensation claim forms when such events take place.

Given the above, it has been assumed the implementation of measures relating to informing passengers will increase awareness to 36%- the level in the UK- as this is more likely than the higher 46% level of awareness in Germany and the evidence provided to support the use of the UK as a benchmark was stronger[163].

Phasing of impacts and measure introduction year

It is assumed the Regulation comes into force in 2020 and there is no period during which the impacts of the regulation are gradually phased in; therefore all impacts are fully realised in the year the regulation is introduced. The exception to this is in the Baseline, it is assumed that the impact of cessation of all domestic long distance extensions will be realised over a two year period prior to 2024 as it is highly likely that the industry will begin to prepare for the cessation of exemptions prior to when they expire.

Proportion of urban, suburban and regional (USR) Journeys to include

It is assumed 90% of USR journeys are under 1 hour and therefore the regulation will not apply to them. Limited data is available on passenger demand on metro systems; however desk research suggests a large proportion of USR one-way trips are typically less than 1 hour.

Proportion of rail demand abstracted by air and road

The proportion of passenger kilometres abstracted by air and road, for each journey type, is based on data provided in the UK national travel survey.

[163] Requirements for the measures currently implemented in relation to informing passengers on delayed services are set out in franchise agreements in the UK while only anecdotal evidence was available from Germany.

Data sources and input in the IA Tool

The tables below summarise the availability of data and provide further details on the use of the input data within the 'IA Tool'. It should be noted that the use in calculations are broken down into steps where a data input has been used to develop an intermediary dataset (e.g. the proportion of passenger journey delays more than 5 minutes by Member State is used to calculate the proportion of passengers delayed more than 60 minutes by Member State which is in turn used to calculate the number of compensation claims by Member State – all steps of this calculation have been included in the tables below).

Table 8 - Data availability - general metrics

Description	Availability	Source(s)	Notes	Use in calculations
Passenger journeys by Member State	Available	Eurostat[164]	In the case of Belgium, the average across the EU has been used.	Used throughout
Passenger kilometres by Member State	Available	Eurostat[165] / World Bank /	Data from the World Bank has been used to fill in some gaps in the Eurostat data.	Used throughout
Split of passenger journeys and kilometres by	Available	Eurostat / UITP[166]	Eurostat data (referenced in the last two items) includes some breakdown by journey type for both passenger kilometres and journeys. However, the data does not include a split of national passenger kilometres and	Used throughout

[164] http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Evolution_rail_passenger_transport_2013-2014_(1000_passengers).png

[165] http://ec.europa.eu/eurostat/statistics-explained/index.php/Passenger_transport_statistics

[166] http://www.uitp.org/regional-and-suburban-railways-market-analysis-update

journey types			UITP data has been used to split USR and long-distance passengers.	
Passenger transport modal share and passenger demand forecasts	Available	PRIMES-TREMOVE Transport Model	No identified data gaps.	Used throughout
PKM growth rate	Available	4REP Forecasts	Forecast EU-wide PKM growth by journey type	
Application of exemptions	Available	European Commission website	No identified data gaps.	Used throughout

Data availability – sanctions and compensation

Description	Availability	Source(s)	Notes	Use in calculations
Number of passenger journeys affected by delays/cancellations	Incomplete	Desk research / RUs / NEBs / CER / Study on the Price and Quality of Rail Services (SDG)	Five RUs and NEBs (BE, BG, DE, IT & LT) provided data on the proportion of services delayed by more than 60 minutes. Data obtained through consultation and desk research was sourced from Steer Davies Gleave's Study on the	MS proportion of services delayed by 60 minutes = $\frac{average\ proportion\ delayed\ by > 60mins}{average\ proportion\ delayed\ by > 5mins} \times MS\ proportion\ delayed\ by > 5mins$

			Price and Quality of Rail Services for the proportion of services delayed more than 5 minutes by MS. This is a complete data set. The two were combined to estimate an average relationship between the proportion of services delayed more than 5 minutes and the proportion delayed more than 60 minutes based on those MS for which both data points were available. This was then applied to the proportion of services delayed by more than 5 minutes for all other MS to estimate the proportion delayed by more than 60 minutes.	
Proportion of Urban, Suburban and Regional journeys shorter than 1 hour	Incomplete	Desk research	Limited data is publicly available on passenger demand on metro systems; however desk research suggests USR one-way trips are typically under 1 hour.	Assumption used to factor Urban, Suburban and Regional journeys eligible for compensation as journeys shorter than one hour are highly unlikely to incur delays more than an hour.
Number of successful compensation claims	Incomplete	RUs / NEBs / CER	The estimate of compensation claims by MS has been built up using a combination of the level of claims reported by Finland and Austria, delayed services (discussed above)	Average claims per delayed journey = $\frac{total\ \#\ of\ claims\ (AT\ \&\ FI)}{average\ number\ of\ delayed\ services\ (AT\ \&\ FI)}$

			and rail passengers' rights awareness levels reported in the Eurobarometer survey. An "average" level of claims per delayed service has been developed for Finland and Austria. This has been multiplied by the proportions of delayed services and eligible journeys for each MS and then factored for rights awareness levels to arrive at the estimated number of claims by MS.	MS compensation claims = $$average\ claims\ per\ delayed\ journey \times MS\ \#\ of\ delayed\ journeys \times \frac{MS\ rights\ awareness\ level}{AT\ \&\ FI\ average\ awareness\ level}$$
Passenger awareness levels of rights to compensation	Complete	Eurobarometer / ORR	No identified data gaps..	Used to calculate the impact of increased (passengers'' rights) information provision on the proportion of passengers claiming compensation
Passenger awareness-compensation claims elasticity	Incomplete	ORR / Which? Supercomplaint	Data available for UK only for two points in time. In lieu of more complete data, this has been extrapolated and applied across the EU	Used to calculate the impact of increased (passengers'' rights) information provision on the proportion of passengers claiming compensation
Value of compensation paid	Incomplete	RUs / NEBs / CER	The number of compensation claims and amount of compensation paid reported by Finland and Austria have been used to develop an average	Average compensation paid per claim = $$\frac{Total\ compensation\ paid\ in\ AT\ \&\ FI}{Total\ \#\ of\ claims\ in\ AT\ \&\ FI}$$

			level of compensation paid per claim. This has been adjusted for PPP to develop an estimate of the compensation paid per claim by MS. The PPP adjusted compensation paid per claim has been combined with the number of claims by MS (described above) to estimate the level of compensation currently paid by MS, noting any data provided directly by RUs/NEBs has been used to overwrite this. The same limitation as that noted for the estimate of the number of claims above applies here. That is that the average compensation paid per claim is based on only two data points. PPP adjustment has been used to mitigate this. It is assumed that compensation will grow in line with passenger kilometres.	MS compensation paid per claim = $$average\ compensation\ paid\ per\ claim\ (AT\ \&\ FI) \times \frac{MS\ PPP}{AT\ \&\ FI\ average\ PPP}$$ MS compensation paid (if not directly provided by MS) = $$MS\ compensation\ paid\ per\ claim \times MS\ estimated\ number\ of\ claims$$
Cost of providing assistance in case of delays	Available	Desk research	Information is available from ORR and CER on the recommended value of assistance (for refreshments, etc) and the level of delays by journey	Used to calculate the cost of assistance (refreshments) by taking the number of journeys delayed and multiplying by the cost per passenger

			type at the EU level respectively. It is assumed that the same voucher value will be issued across the EU.	assistance is provided to
Proportion of delays due to Force Majeure events	Incomplete	RUs / NEBs	Limited data was provided by RUs and NEBs on the proportion of delayed journeys resulting from Force Majeure events. Extrapolation and/or assumptions will be required to fill in data gaps.	Used to calculate the reduction in compensation paid due to the introduction of a force majeure clause in the Regulation

Data availability – PRM training and facility costs

Description	Availability	Source(s)	Notes	Use in calculations
PRM training costs	Incomplete	Desk research	Some data has been sourced on the costs of a generic training course for staff assisting disabled person in the UKs.	Used to calculate the annual cost of providing staff training.
Number of customer facing staff on stations (require PRM	Incomplete	Cost & Contribution of Rail study (SDG)[167]	Data is available on the number of employees in the European Rail sector by Member State. Assumptions are made as to the proportion of staff who require PRM training per year.	Used to calculate the annual cost of providing staff training.

[167] http://ec.europa.eu/transport/modes/rail/studies/doc/2015-09-study-on-the-cost-and-contribution-of-the-rail-sector.pdf

training)				

Data availability - operating costs and fare level metrics

Description	Availability	Source(s)	Notes	Use in calculations
RU and IM operating costs	Available	Cost & Contribution of Rail study (SDG)	Data was available for 2013 and the 10 year CAGR has been used to arrive at operating costs[168] for 2014. Splits between RUs and IMs are based on the EU average where the study did not uncover sufficient evidence of the split.	Used as the base upon which the change in operating costs are calculated
Passenger Revenue	Available	Cost & Contribution of Rail study (SDG)	Data was available for 2013 and the 10 year CAGR has been used to arrive at revenue for 2014.	The impact on costs has been assessed in relation to base costs to determine whether increased costs are likely to significantly affect margins. Additionally the majority of services in the EU operate under PSO agreements; this is unlikely to have much bearing on viability of RUs to operate.
Average fare levels per kilometre	Available	Rail Pricing study (SDG)	Data based on a sample of representative station-station pairs from each member state Segmentation differs slightly from that used in the current study. Assumptions have been made to map the segmentation; domestic long-	Used to determine fare-demand elasticities for MS other than the UK and as a base upon which the change in fare levels are calculated

[168] See footnote **Error! Bookmark not defined.** for comments on taxonomy of costs

			distance and urban and suburban and regional in the current study are mapped to fares for inter-city journeys <300km and regional services under 100km respectively.	
Fare-demand elasticities	Available	Passenger Demand Forecasting Handbook	Elasticities for leisure trips <32km (20 miles) and non-business trips >32km (20 miles) used for USR and long-distance journeys respectively. Elasticities adjusted for PPP-adjusted fares according to PDFH guidance. PDFH is designed for use in the UK rail sector.	Used to reflect the impact of the change on fares on passenger demand

Data availability – environmental impacts

Description	Availability	Source(s)	Notes	Use in calculations
Specific CO_2 emissions per pax-km	Available	European Environment Agency	Historic 10-year CAGR used to project emissions	Used to calculate carbon emissions (mass)
Traded carbon costs per tonne	Available	EU Reference Scenario 2016 Energy, transport and GHG	Includes forecasts in 5 year intervals, linear profile assumed between intervals	Used to calculate carbon emissions (price)

	emissions Trends to 2050 (EC)

Source: SDG (2016), Impact Assessment exercise concerning a possible revision of regulation (EC) No. 1371/2007 on rail passengers' rights and obligations

Results of the Tool

Baseline Scenario

The current situation and what it is likely to be in the future without any intervention has been assessed and used to develop the Baseline. Any assumptions made as part of the development of either the baseline or the modelled options reflect available data taking into account the specificities of the European rail sector. The net result of these elements is that the 'status quo' has largely been maintained in the baseline, barring the impact of exemptions for domestic long distance services ceasing by 2020. It should be noted that the status quo includes increasing costs to the industry due to improved access to information and improvements to PRM accessibility resulting from PRM-TSI. The key metrics in the baseline are shown in the paragraphs below. The numbers presented in Table 9 represent the total amount for every metric in a period of 15 years, 2020-2035. Also, all the Tables presented in this section illustrate a print-out form of the results of the tool.

Table 9- Results baseline scenario

	Metric	Units	Total Type	Baseline
Passenger Welfare				
	Compensation Costs	€m	NPV	3,172
	Less: Force Majeure	€m	NPV	-
	Cost of Assistance	€m	NPV	363
	PRM Training Costs	€m	NPV	-
				3,535

The analysis in the IA report is based on the first package of metrics under the passenger welfare analysis. The estimations are based on the data for the RUs costs paid for compensation to passengers, compensation to passengers including the component of the compensation costs linked to the Force majeure events, costs for assistance and costs to train their staff on disability awareness. For the analysis purposes, it was assumed that these RUs costs are translated into passengers' welfare in the sense that the compensation and the assistance received by the passengers (including PRMs) increase passengers welfare.

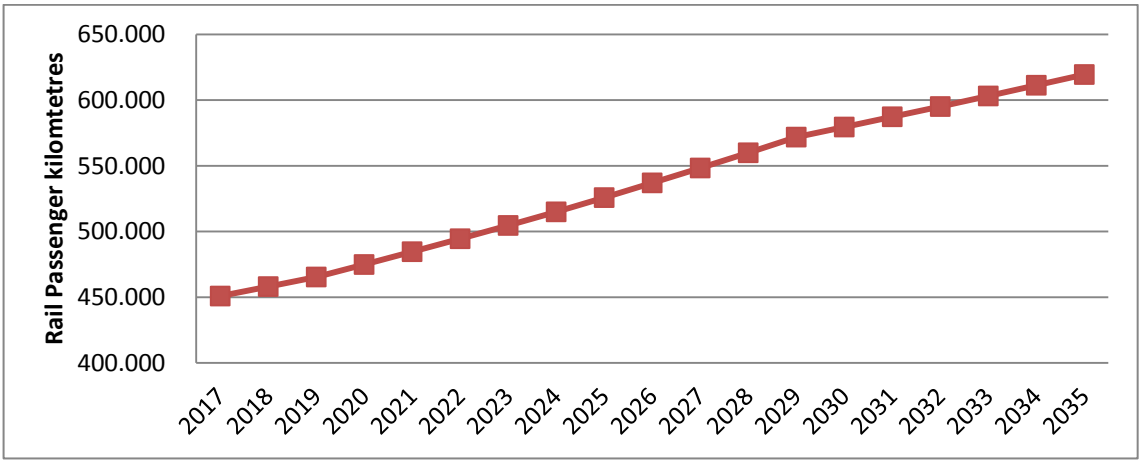
In order to be able to compare the different scenarios on an equal basis, all the metrics are presented in NPV. Taken into consideration that 2020 will be the year of adoption of the Regulation, the analysis of the results are presented for the period 2017-2035[169].

Below, is presented the configuration of the basic metrics used for the analysis in the IA report as it is expected to be formed under option 2A during the period under consideration.

Passenger demand (passenger kilometres) and journeys

Figure 1- Passenger demand (in pkm)

[169] For presentational purposes, starting point on the Figures is 2017. However, the analysis is carried out for a period of 15 years 2020-2035.



Source: Commission calculations based on impact assessment tool in SDG (2016), Impact Assessment exercise concerning a possible revision of regulation (EC) No. 1371/2007 on rail passengers' rights and obligations

More than 50% of demand originates from Germany, France and the UK. Passenger demand is expected to grow by an annual average of 1.8% between 2015 and 2035 with much of this growth occurring in 2020 - 2030. It is estimated that the increasing availability of high speed services and the implementation of the fourth railway package will lead to this increase being reflected more heavily in international and domestic long distance services. A breakdown of the annual growth rates used in the Impact Assessment Tool as shown in Table 10 - below.

Table 10 - Average annual growth in passenger rail demand

Period	Total demand	Urban, Suburban and Regional	Domestic Long Distance	International
2015-2020	1.6%	1.6%	1.7%	2.4%
2020-2025	2.0%	1.7%	2.0%	2.9%
2025-2030	2.1%	1.6%	1.8%	2.7%
2030-2035	1.3%	1.1%	1.2%	1.8%

The split between urban, suburban and regional, domestic long distance and international passenger demand and journeys are illustrated in Table below. As there was little data available on the split between intra-EU and extra-EU international demand and what little data that was available suggested extra-EU demand was smaller by several magnitudes, attempts have not been made to split the two.

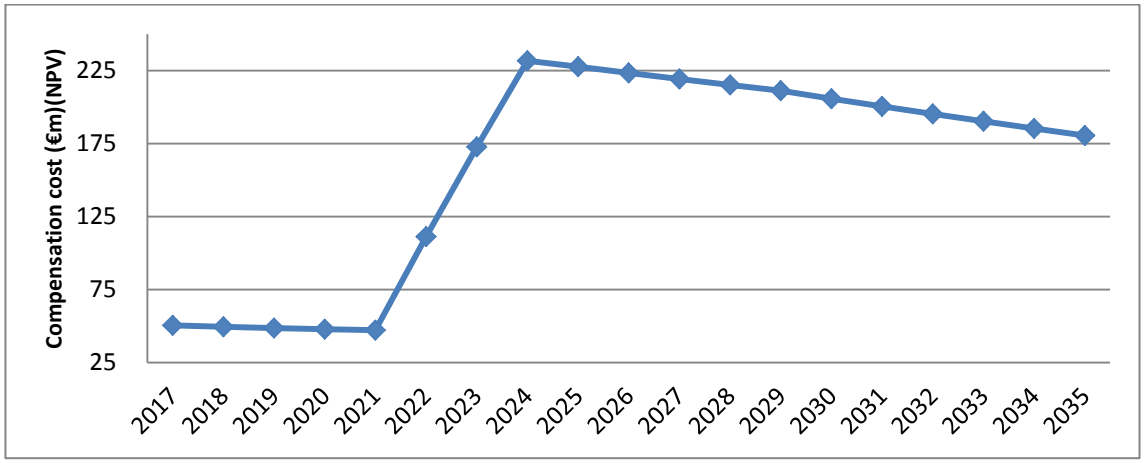
Table 11 - Passenger demand and journey splits by journey type

Journey type	% of passenger kilometres	% of passenger journeys

Urban, suburban and regional	84.9%	89.0%
Domestic long distance	9.4%	9.3%
International	5.8%	1.7%

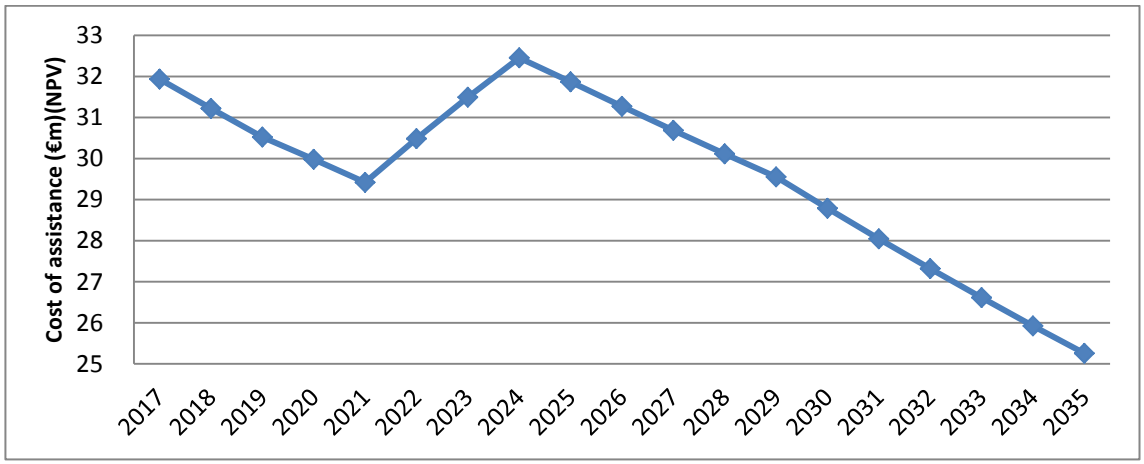
Compensation Costs

Figure 3:- Compensation paid to passengers



Source: Commission calculations based on impact assessment tool in SDG (2016), Impact Assessment exercise concerning a possible revision of regulation (EC) No. 1371/2007 on rail passengers' rights and obligations

Figure 4: Cost of assistance



Source: Commission calculations based on impact assessment tool in SDG (2016), Impact Assessment exercise concerning a possible revision of regulation (EC) No. 1371/2007 on rail passengers' rights and obligations

PART I – Problems linked to the current application of the Regulation

Policy options to address issues linked to the scope of the rail passengers legislation (exemptions for all passengers)

Policy scenario A	Policy scenario B	Policy scenario C
• Advancing removal of exemptions for long distance domestic services to 2020 (PM1); • Limit in time exemptions for services with third countries (PM2)	• Advancing removal of exemptions for long distance domestic services to 2020 (PM1); • Limit in time exemptions for services with third countries (PM2) • Removal of exemptions for urban, suburban and regional services when they are cross-border services (PM3)	• Advancing removal of exemptions for long distance domestic services to 2020 (PM1); • Limit in time exemptions for services with third countries (PM2) • Removal of exemptions for urban, suburban and regional services when they are cross-border services (PM3) • Removal of the exemptions for urban, suburban and regional services (PM4)

Policy scenario A

The tool is run for policy scenario A with input for the following measures:

Ref:	Area	Measure	Policy Scenario
EX04	Exemptions	Remove possibility to apply exemptions to domestic long distance services earlier than 2024	1
EX05	Exemptions	Apply limit to number of times exemptions for services with a significant part outside of EU can be renewed	1

The results are presented in the Table below:

Table 12 - Results of policy scenario A (compared to baseline scenario)

	Metric	Units	Total Type	Baseline	Policy Scenario
Passenger Welfare					
	Compensation Costs	€m	NPV	3,172	0.79
	Less: Force Majeure	€m	NPV	-	-
	Cost of Assistance	€m	NPV	663	0.07
	PRM Training Costs	€m	NPV	-	-
				3,835	**0.87**
Industry Burden					
	RU Operating Costs	€m	NPV	1,178,029	0.87
	IM Operating Costs	€m	NPV	687,966	-
				1,865,995	**0.87**

The numbers in the Table represent the total variation (increase or decrease) of the amount for every metric over a period of 15 years 2020-2035 compared with the relevant baseline scenario. Policy scenario A is expected to increase the **overall cost** for railway undertakings by about EUR 1 million for the period of 15 years between 2020 and 2035 in comparison with the baseline scenario (or increase of 0.031% in compensation costs and 0.026% in total costs imputable to the Regulation).

Policy scenario B

The tool is run for policy scenario B with input for the following measures:

Ref:	Area	Measure	Policy Scenario
EX02	Exemptions	Remove possibility to apply exemptions to intra-EU cross border urban, suburban and regional services	1
EX04	Exemptions	Remove possibility to apply exemptions to domestic long distance services earlier than 2024	1
EX05	Exemptions	Apply limit to number of times exemptions for services with a significant part outside of EU can be renewed	1

The results are presented in the Table below:

Table 13 - Results of policy measure B compared to baseline scenario

	Metric	Units	Total Type	Baseline	Policy Scenario
Passenger Welfare					
	Compensation Costs	€m	NPV	3,172	3.65
	Less: Force Majeure	€m	NPV	-	-
	Cost of Assistance	€m	NPV	663	1.33
	PRM Training Costs	€m	NPV	-	-
				3,835	**4.97**
Industry Burden					
	RU Operating Costs	€m	NPV	1,178,029	4.97
	IM Operating Costs	€m	NPV	687,966	-
				1,865,995	**4.97**

The numbers in the Table represent the total variation (increase or decrease) of the amount for every metric in a period of 15 years 2020-2035 compared with the relevant baseline scenario. Policy scenario B is expected to increase the **overall cost** for railway undertakings by about EUR 5 million for the period of 15 years between 2020 and 2035 in comparison with the baseline scenario (increase by 0.13% in total costs). This amount is due to the increase of **costs of compensation** resulting from the removal of the exemptions expected to amount to EUR 4 million (increase by 0.12%) between 2020 and 2035 compared to the baseline scenario. The increase of **costs of assistance** resulting from the removal of the exemptions will amount to EUR 1 million (increase by 0.15%) between 2020 and 2035 compared to the baseline scenario.

Policy scenario C

The tool is run for policy scenario C with input for the following measures:

Ref:	Area	Measure	Policy Scenario
EX02	Exemptions	Remove possibility to apply exemptions to intra-EU cross border urban, suburban and regional services	1
EX03	Exemptions	Remove possibility to exempt urban, suburban and regional services	1
EX04	Exemptions	Remove possibility to apply exemptions to domestic long distance services earlier than 2024	1
EX05	Exemptions	Apply limit to number of times exemptions for services with a significant part outside of EU can be renewed	1

The results are presented in the Table below:

Table 14 - Results of policy measure C (compared to baseline scenario)

	Metric	Units	Total Type	Baseline	Policy Scenario
Passenger Welfare					
	Compensation Costs	€m	NPV	3,172	1,259
	Less: Force Majeure	€m	NPV	-	0
	Cost of Assistance	€m	NPV	663	55.2
	PRM Training Costs	€m	NPV	-	0
				3,835	**1,314**
Industry Burden					
	RU Operating Costs	€m	NPV	1,178,029	1
	IM Operating Costs	€m	NPV	687,966	0
				1,865,995	**1**

The numbers in the Table represent the total variation (increase or decrease) of the amount for every metric over a period of 15 years 2020-2035 compared with the relevant baseline scenario. Policy scenario C is expected to produce for the EU railway undertakings an **overall cost** increase of about EUR 1,314 million (or 34.26%) for the period of 15 years between 2020 and 2035 in comparison with the baseline scenario. This amount is due to the increase of the **costs of compensation** resulting from the removal of exemptions to urban, suburban and regional services and would amount to EUR 1,259 million (or by 39.69%) between 2020 and 2035 compared to the baseline scenario. The removal of exemptions to urban, suburban and regional will increase the **costs of assistance** to EUR 55 million (or by 8.29%) between 2020 and 2035 compared to the baseline scenario.

Policy options to address issues linked to PRM rights

PRM rights are applicable on all services

Policy scenario B
• Regulatory provision on the application of the RPM rights (PM 10 H)

Due to lack of data specifically for PRMs, data for all passengers are used in order to give an estimate of potential costs of policy measures targeting PRMs. The exemptions on provisions related to PRMs are part (%) of the general set of exemptions discussed above, concerning all passengers (Annex 5 Tables A2 & A3). For analytical reasons, the

structure of the exemptions for all passengers is followed. In that case, the provisions for PRMs that can currently be exempted (Articles 19-25) refer to all services (including urban, suburban and regional services). As a result, the scenario for the PRM exemptions follows the policy scenario C when exemptions for all passengers are concerned (Table 14). The tool is run for policy scenario B:

Ref:	Area	Measure	Policy Scenario
EX02	Exemptions	Remove possibility to apply exemptions to intra-EU cross border urban, suburban and regional services	1
EX03	Exemptions	Remove possibility to exempt urban, suburban and regional services	1
EX04	Exemptions	Remove possibility to apply exemptions to domestic long distance services earlier than 2024	1
EX05	Exemptions	Apply limit to number of times exemptions for services with a significant part outside of EU can be renewed	1

In the estimations above for exemptions of articles related to the rights of all passengers, articles 19-25 which concern PRMs are included. In addition, compensation and assistance costs are related to the number of passengers who are entitled to these (i.e. PRMs). According to the report of the World Health Organisation (WHO)[170] approximately 16.6% of the EU population has some form of disability. Taken into account that according to the Eurobarometer survey on passenger rights of 2014[171], 7% of respondents had requested assistance either for themselves or for another person, one could assume that the costs for railway undertakings for applying the relevant provisions will be around 9.3% of the costs for all the provisions exempted. The results are presented in the Table below:

Table 15- Results of policy scenario B compared to baseline scenario

	Metric	Units	Total Type	Baseline	Policy Scenario
Passenger Welfare					
	Compensation Costs	€m	NPV	3,172	113.298
	Less: Force Majeure	€m	NPV	-	-
	Cost of Assistance	€m	NPV	663	4.972
	PRM Training Costs	€m	NPV	-	-
				3,835	**118.270**

The above assumptions lead to the conclusion that the costs for railway undertakings are low for regulatory provisions on the application of the PRM rights. The increase in compensation cost is expected to be EUR 113.3 million between 2020 and 2035 compared with the baseline scenario, notably because PRM provisions will then be mandatory on all services, including on urban, suburban and regional services. Still, this is an increase of only 3.56% for compensation costs. If guidelines are chosen to promote

[170] World Health Organisation (WHO), 2012

[171] http://ec.europa.eu/public_opinion/archives/ebs/ebs_420_en.pdf

the application of the PRM rights, due to their non-binding character, fewer railway undertakings are expected to apply them, leading to an incremental cost increase (much less than 3.56%).

Information provisions for PRMs

Policy scenario B
• Journey information is accessible to all PRMs (PM5) • Information on passenger rights is accessible to all PRMs (PM6)

In the absence of data about the costs for railway undertakings and station managers regarding the potential compensation they will need to pay to passenger rights for PRMs with all kinds of disabilities, it is assumed that the compensation cost will be either equal or less than the compensation cost to all passengers. (For compensation paid to all passengers due to improved information, please see the analysis below in the section "information provisions for all passengers"). Even if the compensation costs for railway undertakings to PRMs were 100% of their compensation costs for all passengers, the financial burden for railway undertakings is still low in the course of the 15 year period. The tool is run for policy scenario B:

Ref:	Area	Measure	Policy Scenario	Option 2
IN02	Informing Passenger	Require printing of information on tickets	1	1
IN03	Informing Passenger	Require notices at stations in prominent positions (as in air passenger rights)	1	1
IN04	Informing Passenger	Require notices and/or announcements in trains regarding passengers rights	1	1

The results are presented in the Table below:

Table 16 - Results of policy scenario B compared to baseline scenario

	Metric	Units	Total Type	Baseline	Policy Scenario
Passenger Welfare					
	Compensation Costs	€m	NPV	3,172	28
	Less: Force Majeure	€m	NPV	-	-
	Cost of Assistance	€m	NPV	663	-
	PRM Training Costs	€m	NPV	-	-
				3,835	**28**
Industry Burden					
	RU Operating Costs	€m	NPV	1,178,029	28
	IM Operating Costs	€m	NPV	687,966	-
				1,865,995	**28**

The numbers in the Table represent the total variation (increase or decrease) of the amount for every metric in a period of 15 years 2020-2035 compared with the relevant baseline scenario. Based on the data estimated by the tool for the provision of information for all passengers, it could be argued that an increase of maximum EUR 28 million in compensation costs is expected between 2020 and 2035 compared with the baseline scenario.

Sensitivity Analysis

The sensitivity analysis is made to examine the effects of a decision if the preferred policy scenario B for information provisions for PRMs accompanies policy scenario C for exemptions for PRMs. For this reason, the tool is run for both, the preferred policy scenario B for information provisions for PRMs and policy scenario C on exemptions for PRMs to check if there are any changes in the expected costs. The same reasoning is followed all over for the section on PRMs. All the assumptions made for every scenario are kept here and the tool is run again for both scenarios at the same time.

Ref:	Area	Measure	Policy Scenario
EX02	Exemptions	Remove possibility to apply exemptions to intra-EU cross border urban, suburban and regional services	1
EX03	Exemptions	Remove possibility to exempt urban, suburban and regional services	1
EX04	Exemptions	Remove possibility to apply exemptions to domestic long distance services earlier than 2024	1
EX05	Exemptions	Apply limit to number of times exemptions for services with a significant part outside of EU can be renewed	1
IN02	Informing Passenger	Require printing of information on tickets	1
IN03	Informing Passenger	Require notices at stations in prominent positions (as in air passenger rights)	1
IN04	Informing Passenger	Require notices and/or announcements in trains regarding passengers rights	1

The results are presented in the Table below:

Table 17 – Sensitivity analysis

	Metric	Units	Total Type	Baseline	Policy Scenario
Passenger Welfare					
	Compensation Costs	€m	NPV	3,172	141
	Less: Force Majeure	€m	NPV	-	-
	Cost of Assistance	€m	NPV	663	5
	PRM Training Costs	€m	NPV	-	-
				3,835	**146**

There are no potential changes on the effects of the final result. The results are the same as when policy scenarios are analysed separately.

Assistance for PRMs at the stations and on board trains

Policy scenario B
• Require disability awareness training for rail staff (PM8)

The tool is run for the policy scenario B:

Ref:	Area	Measure	Policy Scenario
PR01	PRM Accessibility	Require PRM training	1

The results are presented in the Table below:

Table 18 - Results of policy scenario B compared to baseline scenario

	Metric	Units	Total Type	Baseline	Policy Scenario
Passenger Welfare					
	Compensation Costs	€m	NPV	3,172	-
	Less: Force Majeure	€m	NPV	-	-
	Cost of Assistance	€m	NPV	663	-
	PRM Training Costs	€m	NPV	-	12
				3,835	**12**
Industry Burden					
	RU Operating Costs	€m	NPV	1,178,029	3
	IM Operating Costs	€m	NPV	687,966	9
				1,865,995	**12**

The numbers presented in the Table represent the total variation (increase or decrease) of the amount for every metric over a period of 15 years 2020-2035 compared with the relevant baseline scenario. Maintaining all other issues the same as in the baseline scenario, the possibility of increase in disability awareness training for rail staff is examined. Under this scenario, the cost for the whole rail industry to train their staff on PRM issues will provoke an increase of EUR 12 million (0.31% increase in total costs) between 2020 and 2035 compared with the baseline scenario.

Information provisions for all passengers

Policy scenario
• Information on rail passenger rights is provided together with the ticket (PM11) • Information on passenger rights is provided in stations and on board trains (PM12)

The tool is run for the policy scenario:

Ref:	Area	Measure	Policy Scenario	Option 2
IN02	Informing Passenger	Require printing of information on tickets	1	1
IN03	Informing Passenger	Require notices at stations in prominent positions (as in air passenger rights)	1	1
IN04	Informing Passenger	Require notices and/or announcements in trains regarding passengers rights	1	1

The results are presented in the Table below:

Table 19 - Results of policy scenario B compared to baseline scenario

	Metric	Units	Total Type	Baseline	Policy Scenario
Passenger Welfare					
	Compensation Costs	€m	NPV	3,172	28
	Less: Force Majeure	€m	NPV	-	-
	Cost of Assistance	€m	NPV	663	-
	PRM Training Costs	€m	NPV	-	-
				3,835	**28**
Industry Burden					
	RU Operating Costs	€m	NPV	1,178,029	28
	IM Operating Costs	€m	NPV	687,966	-
				1,865,995	**28**

An increase of EUR 28 million in compensation costs is expected between 2020 and 2035 compared with the baseline scenario, notably in view of already existing requirements for information under Article 8 of the Regulation. This represents 0.88% increase in the compensation costs railway undertakings need to pay and 0.73% in their total costs.

Sensitivity Analysis (policy scenario on information and policy scenario A for exemptions for all passengers)

The sensitivity analysis is made to examine the effects of a decision if the policy scenario on information accompanies policy scenario A for exemptions for all passengers. For this reason, the tool is run for both, the policy scenario on information and policy scenario A for exemptions for all passengers.

Ref:	Area	Measure	Policy Scenario
EX04	Exemptions	Remove possibility to apply exemptions to domestic long distance services earlier than 2024	1
EX05	Exemptions	Apply limit to number of times exemptions for services with a significant part outside of EU can be renewed	1
IN02	Informing Passenger	Require printing of information on tickets	1
IN03	Informing Passenger	Require notices at stations in prominent positions (as in air passenger rights)	1
IN04	Informing Passenger	Require notices and/or announcements in trains regarding passengers rights	1

The results of the sensitivity tests are summarised in the Table below:

Table 20 – Sensitivity analysis (policy scenario on information and policy scenario A for exemptions for all passengers)

	Metric	Units	Total Type	Baseline	Policy Scenario
Passenger Welfare					
	Compensation Costs	€m	NPV	3,172	29
	Less: Force Majeure	€m	NPV	-	-
	Cost of Assistance	€m	NPV	663	0
	PRM Training Costs	€m	NPV	-	-
				3,835	**29**
Industry Burden					
	RU Operating Costs	€m	NPV	1,178,029	29
	IM Operating Costs	€m	NPV	687,966	-
				1,865,995	**29**

There are no potential changes on the effects of the final result. The results are the same as when the policy scenarios are analysed separately.

Sensitivity Analysis (policy scenario on information and preferred policy scenario B for exemptions for all passengers)

The sensitivity analysis is made to examine the effects of a decision if the policy scenario on information accompanies policy scenario B for exemptions for all passengers. For this reason, the tool is run for both, the policy scenario on information and the preferred policy scenario B for exemptions for all passengers.

Ref:	Area	Measure	Policy Scenario
EX02	Exemptions	Remove possibility to apply exemptions to intra-EU cross border urban, suburban and regional services	1
EX04	Exemptions	Remove possibility to apply exemptions to domestic long distance services earlier than 2024	1
EX05	Exemptions	Apply limit to number of times exemptions for services with a significant part outside of EU can be renewed	1
IN02	Informing Passenger	Require printing of information on tickets	1
IN03	Informing Passenger	Require notices at stations in prominent positions (as in air passenger rights)	1
IN04	Informing Passenger	Require notices and/or announcements in trains regarding passengers rights	1

The results of the sensitivity tests are summarised in the Table below:

Table 21 – Sensitivity analysis (policy scenario on information and preferred policy scenario B for exemptions for all passengers)

	Metric	Units	Total Type	Baseline	Policy Scenario
Passenger Welfare					
	Compensation Costs	€m	NPV	3,172	32
	Less: Force Majeure	€m	NPV	-	-
	Cost of Assistance	€m	NPV	663	1
	PRM Training Costs	€m	NPV	-	-
				3,835	**33**
Industry Burden					
	RU Operating Costs	€m	NPV	1,178,029	33
	IM Operating Costs	€m	NPV	687,966	-
				1,865,995	**33**

There are no potential changes on the effects of the final result. The results are the same as when the policy scenarios are analysed separately.

Sensitivity Analysis (policy scenario on information and policy scenario C for exemptions for all passengers)

The sensitivity analysis is made to examine the outcome of a decision if the policy scenario on information accompanies policy scenario C for exemptions for all passengers. For this reason, the tool is run for both, the policy scenario on information and policy scenario C for exemptions for all passengers.

Ref:	Area	Measure	Policy Scenario
EX02	Exemptions	Remove possibility to apply exemptions to intra-EU cross border urban, suburban and regional services	1
EX03	Exemptions	Remove possibility to exempt urban, suburban and regional services	1
EX04	Exemptions	Remove possibility to apply exemptions to domestic long distance services earlier than 2024	1
EX05	Exemptions	Apply limit to number of times exemptions for services with a significant part outside of EU can be renewed	1
IN02	Informing Passenger	Require printing of information on tickets	1
IN03	Informing Passenger	Require notices at stations in prominent positions (as in air passenger rights)	1
IN04	Informing Passenger	Require notices and/or announcements in trains regarding passengers rights	1

The results of the sensitivity tests are summarised in the Table below:

Table 22 – Sensitivity analysis (policy scenario on information and policy scenario C for exemptions for all passengers)

	Metric	Units	Total Type	Baseline	Policy Scenario
Passenger Welfare					
	Compensation Costs	€m	NPV	3,172	1,289
	Less: Force Majeure	€m	NPV	-	-
	Cost of Assistance	€m	NPV	663	55
	PRM Training Costs	€m	NPV	-	-
				3,835	**1,344**
Industry Burden					
	RU Operating Costs	€m	NPV	1,178,029	31
	IM Operating Costs	€m	NPV	687,966	-
				1,865,995	**31**

There are no potential changes on the effects of the final result. The results are the same as when the policy scenarios are analysed separately.

PART II - Policy options addressing the problems linked to "force majeure"

Narrow definition of "force majeure"

Policy scenario A
• Reintroduction of a "force majeure" clause for article 17 (compensation) • Narrow definition of "force majeure" where a railway undertaking proves that a long delay of more than one hour is caused by heavy floods, earthquakes, volcanic eruptions or very heavy storms (known as 'Acts of God)' and which it could not have foreseen or prevented even if all reasonable measures had been taken.

The tool is run for policy scenario A with a narrow definition of "force majeure", which is restricted to "acts of Gods", and reaches the possibility of occurrence of around 17%:

Ref:	Area	Measure	Policy Scenario
FM01-A	Force Majeure	Introduce a force majeure clause for article 17 (compensation)	1

The results are presented in the Table below:

Table 23 - Results of policy scenario A compared to baseline scenario

	Metric	Units	Total Type	Baseline	Policy Scenario
Passenger Welfare					
	Compensation Costs	€m	NPV	3,172	-
	Less: Force Majeure	€m	NPV	-	(562)
	Cost of Assistance	€m	NPV	663	-
	PRM Training Costs	€m	NPV	-	-
				3,835	**(562)**
Industry Burden					
	RU Operating Costs	€m	NPV	1,178,029	(562)
	IM Operating Costs	€m	NPV	687,966	-
				1,865,995	**(562)**

Note: red numbers in parenthesis demonstrate decrease

The re-introduction of a "force majeure" clause with a narrow definition will bring a saving of costs for the railway undertakings by removing the burden of having to pay compensation in these situations. The decrease in compensation costs is expected to be EUR 562 million, representing 17.17% decrease in comparison with the compensation costs under the baseline scenario and 14.65% in comparison with the overall costs under the baseline scenario.

Sensitivity Analysis (policy scenario A on "force majeure" and preferred policy options)

The sensitivity analysis is made to examine the outcome of a decision if the re-introduction of a "force majeure" clause with a narrow definition accompanies the preferred policy options. For this reason, the tool is run for both policy scenario A on "force majeure" situations with 17% of occurrence and preferred policy options.

Ref:	Area	Measure	Policy Scenario
EX02	Exemptions	Remove possibility to apply exemptions to intra-EU cross border urban, suburban and regional services	1
EX04	Exemptions	Remove possibility to apply exemptions to domestic long distance services earlier than 2024	1
EX05	Exemptions	Apply limit to number of times exemptions for services with a significant part outside of EU can be renewed	1
FM01-A	Force Majeure	Introduce a force majeure clause for article 17 (compensation)	1
IN01	Informing Passenger	Issue guidance of good practice regarding informing passengers of their rights	1
IN02	Informing Passenger	Require printing of information on tickets	1
IN03	Informing Passenger	Require notices at stations in prominent positions (as in air passenger rights)	1
IN04	Informing Passenger	Require notices and/or announcements in trains regarding passengers rights	1

The results of the sensitivity tests are summarised in the Table below:

Table 24 – Sensitivity analysis (policy scenario A on "force majeure" and preferred policy options)

	Metric	Units	Total Type	Baseline	Policy Scenario
Passenger Welfare					
	Compensation Costs	€m	NPV	3,172	34
	Less: Force Majeure	€m	NPV	-	(569)
	Cost of Assistance	€m	NPV	663	1
	PRM Training Costs	€m	NPV	-	-
				3,835	**(533)**
Industry Burden					
	RU Operating Costs	€m	NPV	1,178,029	(533)
	IM Operating Costs	€m	NPV	687,966	-
				1,865,995	**(533)**

Note: red numbers in parenthesis demonstrate decrease

There are only incremental changes on the impacts of the final result. One could argue that the results are the same as when policy scenarios are analysed separately.

Broad definition of "force majeure" situations

Policy scenario B
• Reintroduction of a "force majeure" clause for article 17 (compensation) • Broad definition of "force majeure" corresponding to situations where a railway undertaking proves that a long delay of more than one hour is caused by external factors which would include i. a. severe weather conditions, cable theft or failures, vandalism, fatalities (including suicides), terrorist attacks. Strikes would not be included.

The tool is run for the policy scenario B with the broader definition of "force majeure" beyond "acts of Gods", and reaches the possibility of occurrence of around 41,4%:

Ref:	Area	Measure	Policy Scenario
FM01-A	Force Majeure	Introduce a force majeure clause for article 17 (compensation)	1

The results are presented in the Table 16 below:

Table 25 - Results of policy scenario B compared to baseline scenario

	Metric	Units	Total Type	Baseline	Policy Scenario
Passenger Welfare					
	Compensation Costs	€m	NPV	3,172	-
	Less: Force Majeure	€m	NPV	-	(1,299)
	Cost of Assistance	€m	NPV	663	-
	PRM Training Costs	€m	NPV	-	-
				3,835	**(1,299)**
Industry Burden					
	RU Operating Costs	€m	NPV	1,178,029	(1,299)
	IM Operating Costs	€m	NPV	687,966	-
				1,865,995	**(1,299)**

Note: red numbers in parenthesis demonstrate decrease.

The re-introduction of force majeure clause with a broad definition is expected to bring cost savings for railway undertakings of EUR 1,299 million representing a cost decrease in terms of compensation of up to 40.95% in comparison with the baseline scenario and 33.87% decrease of overall costs in comparison with the baseline scenario.

Sensitivity Analysis (policy scenario b on "force majeure" and preferred policy options)

The sensitivity analysis takes place to examine what will be the outcome of a decision if the re-introduction of a "force majeure" clause with broad definition accompanies the preferred policy options. For this reason, the tool is run for both policy scenario b on "force majeure" situations with 41.4% of occurrence and preferred policy options.

Ref:	Area	Measure	Policy Scenario
EX02	Exemptions	Remove possibility to apply exemptions to intra-EU cross border urban, suburban and regional services	1
EX04	Exemptions	Remove possibility to apply exemptions to domestic long distance services earlier than 2024	1
EX05	Exemptions	Apply limit to number of times exemptions for services with a significant part outside of EU can be renewed	1
FM01-A	Force Majeure	Introduce a force majeure clause for article 17 (compensation)	1
IN01	Informing Passenger	Issue guidance of good practice regarding informing passengers of their rights	1
IN02	Informing Passenger	Require printing of information on tickets	1
IN03	Informing Passenger	Require notices at stations in prominent positions (as in air passenger rights)	1
IN04	Informing Passenger	Require notices and/or announcements in trains regarding passengers rights	1

The results of the sensitivity tests are summarised in the Table below:

Table 26 – Sensitivity analysis (policy scenario B on "force majeure" and preferred policy options)

	Metric	Units	Total Type	Baseline	Policy Scenario
Passenger Welfare					
	Compensation Costs	€m	NPV	3,172	34
	Less: Force Majeure	€m	NPV	-	(1,313)
	Cost of Assistance	€m	NPV	663	1
	PRM Training Costs	€m	NPV	-	-
				3,835	**(1,278)**
Industry Burden					
	RU Operating Costs	€m	NPV	1,178,029	(1,278)
	IM Operating Costs	€m	NPV	687,966	-
				1,865,995	**(1,278)**

Note: red numbers in parenthesis demonstrate decrease

There are only incremental changes on the impacts of the final result. One could argue that the results are the same as when policy scenarios analysed separately.

ANNEX 5: COMPLEMENTARY INFORMATION

Table A1 - Abbreviations

ATOC	Association of Train Operating Companies
EPF	European Passenger Federation
IM	Infrastructure Manager
EDF	European Disability Forum
MS	Member State
NPV	Net Present Value
PRMs	Persons with Disabilites or Reduced Mobility
PPP	Purchasing power parity
KVV	Finish National Enforcement Body
TraFi	Finish National Enforcement Body
VR	Finish Railway Undertaking / SM
PV	Present value
RUs	Railway Undertakings
TFEU	Treaty on the Functioning of the EU
TOC	Train Operating Companies
UNCRPD	UN Convention on the Rights of Persons with Disabilities
EAA	European Accessibility Act

Table A2: Exemptions by MS from articles relating to compensation and assistance

Article	MS applying exemptions for domestic long distance services	MS applying exemptions for urban, suburban, regional services	MS applying exemptions for third country services	MS applying no exemptions (all services)
17 – Right to compensation	11	15	8	8
18 (1) – Requirement to inform passengers in case of disruption	8	12	7	10
18 (2)(a) – provision of meals / refreshments for delays > 1hr	11	16	8	8
18 (2)(b) – provision of hotel / accommodation where delay requires	11	15	8	9
18 (2)(c) – transport to final destination where train blocked on track	9	14	7	10
18 (3) – alternative transport if service cannot be continued	8	12	7	10
18 (4) – requirement for RUs to certify tickets in case of delay	8	14	7	10
18 (5) – requirement for RUs to pay particular attention to PRMs in case of disruption	9	13	8	11

Source: SDG (2016), Impact Assessment exercise concerning a possible revision of regulation (EC) No. 1371/2007 on rail passengers' rights and obligations

Table A3: Exemptions by MS from articles relating to disabled persons and PRMs

Article	MS applying exemptions for domestic long distance services	MS applying exemptions for urban, suburban, regional services	MS applying exemptions for third country services	MS applying no exemptions (all services)	% PRM km exempt from provisions and no equivalent domestic provision
20(2) – requirement to inform PRM in writing of reason not to offer carriage under 19(2) in writing	5	10	5	13	2.5%
21(2) – requirement for RUs and SMs to make all reasonable efforts to provide assistance at unstaffed stations / on unstaffed trains	7	10	5	14	1.2%
22 – requirement for SMs to provide assistance at stations to PRMs free of charge	7	10	6	13	2.6%
23 – requirement for RUs to provide assistance on trains to PRMs free of charge	8	10	6	17	2.8%
24(a) – requirement for 48 hours' notice to be provided for assistance	5	9	5	14	4.8%
24(b) – RUs, SMs, ticket vendors and tour operators to take all necessary	5	9	5	12	2.5%

measures to receive notifications of request for assistance					
24(c) – RUs and SMs to make all reasonable efforts to assist PRMs in case of no notification being given	5	9	5	12	2.0%
24(d) – RUs and SMs to designate areas at which PRMs can announce their arrival at a station and request assistance	5	9	5	14	4.8%
24(e) – PRMs to present themselves at a time stipulated by RU/SM, which may not be more than 60 min before departure	5	9	5	14	2.5%
25 – compensation in respect of mobility equipment, with unlimited liability	6	10	6	12	2.4%

Source: SDG (2016), Impact Assessment exercise concerning a possible revision of regulation (EC) No. 1371/2007 on rail passengers' rights and obligations

Table A4 – Contingency Planning measures in Member States

Austria	The Austrian railway undertaking[i] stated that several measures are in place to cater for events of service disruption such as provision of rail replacement buses; carriage by other means of transportation, alternative routes or alternative trains; compensation for costs of accommodation (where necessary); refreshments and snacks; and fair dealings as special customer service. With respect to terrorism threat, ÖBB has elaborated communication strategies in cooperation with the Ministry of Transport. As an example, press releases are being prepared for different levels of threat and issued to the media once a specific threat level has been reached. ÖBB and the Ministry of Transport are seeking to find a balance between increasing the awareness of the public, and not creating unnecessary concerns amongst passengers.
Belgium	We have been assured that contingency plans exist for major incidents and that these reflect excellent collaboration between all agencies concerned. There has been much focus on this issue this year due to the terrorist attacks.
	Much of the assistance is given by 18 mobile 'B for You' teams. As has been noted above, sometimes assistance is refused subsequent to being agreed initially because these staff are not available. PRM organisations also complain that, even when this has not happened, on occasions, the assistance does not show up at all. In that case, there is no contingency plan. This is a particular concern when it affects connections between trains.
	SNCB, speaking as both station manager and railway undertaking, told us that it has extensive plans for emergencies and that there is a legal obligation for this to be the case, though it is not possible to provide details of their contents.
	There is collaboration at the highest level between all agencies involved in major incidents. Clearly this has been put to the test in Brussels this year in the face of terrorist attacks.
	The BDF and the CSNPH complain that, in general, information provision during disruption by all methods is poor and needs improvement. They also complain that information is not systematically accessible for people with a disability. For instance, sometimes,

	passengers only get visual information, sometimes only spoken messages.
Bulgaria	There are contingency plans and communication plans for handling emergencies. Recently, plans for changes of legislation concerning terrorist attacks and prevention are proposed and are expected to be adopted by the end of this year.
Czech Republic	No information available.
Germany	DB have contingency plans in place which apply in cases of 'force majeure' but also in circumstances caused by the railway undertakings. In conjunction with infrastructure manager DB Netz, disposition manuals are made available for operative services. It is described therein how train operations can be continued in case of any restriction of the infrastructure, or the extent to which rail operations need to be reduced. Also other railway undertakings are entitled to take part in such coordinated and common action for passenger transport on the same railway line.
	For rail-bound substitute services or additional rail traffic DB holds available standby long-distance trains. These are staffed trains which can be put into service within 15 minutes. In case no rail-bound services are possible, nationwide framework contracts have been concluded with coach operators in order to guarantee rail replacement services. DB established a permanent and nationwide emergency service organisation with on-call duty to offer assistance to rail travellers in emergency situations. In case the evacuation of railway lines is required, DB can make use of diesel locomotives for hauling trains in case of catenary damage or other disruption to the electricity supply.
	In case of unpredictable events and force majeure which could not be mitigated by the measures in place, DB creates a new timetable concept for its long distance services within three days and introduces it in the fastest possible way including providing information on this new timetable through its online journey planner (examples are the flood in 2013, and fire of the signal tower in Mühlheim in 2015).
	In case of events whose dimensions can be estimated in advance, shadow planning will have been undertaken, allowing for the introduction of a new timetable within 24 hours (examples are the train drivers' strike in 2014/2015, and preparations made for expected vehicle failures over the winter period).
Denmark	DSB undertakes contingency planning alongside the Danish police. For security reasons, DSB is unable to share any details of these plans.

Estonia	Elron has internal rules on action to take in cases when incidents occur – e.g. including the chain of internal and external notification, notification to passengers, and action plans for events which may have a major effect on traffic and safety.
Greece	No information available on this point
Spain	RENFE informed us that it has updated its contingency plans in June 2016 and all information is captured in the document Contingency Plan RENFE Traveller applies the General Interest Railway Network managed by Adif.
	Plan Counterterrorist, Level 4, was adopted in June 2015 by the Ministry of Interior and includes the RENFE Group. The plan:
	·intensifies preventive and protective measures on trains, stations, workshops, office buildings and other railway facilities;
	·reinforces security at major stations and transport interchanges in order to detect and, if necessary, neutralize or / and reduce the impact;
	·introduces greater control of the places susceptible to hide explosive devices,
	·introduces greater control and monitoring of suspicious individuals (by the guards themselves and by CCTV and Control Centers);
	·restricts access, circulation or transit through certain areas, places or infrastructure;
	·ensures communication throughout the central and territorial structure of the Department for Extreme Surveillance and Control;
	· ensures communication to different security companies working for RENFE Group;
	· ensures constant coordination with the Forces and Security Corps (both state and regional) and forecasts intervention of civil protection agencies in rail services (health, civil protection, fire, etc.) ;
	·ensures coordination with other transport operators (metro, buses, etc.) in the same territory;
	ensures greater control of abandoned or lost and found luggage.

Finland	There is an Operations Centre and electronic handbook for force majeure situations. There are set procedures and VR works with the National Authorities and Police, who can take charge in certain situations.
France	SNCF states that there are processes in place to ensure an appropriate and effective reaction in case of disruptions on aspects involving different players (e.g. providing assistance food and beverages in stations). However, these processes are not specific to disruptions caused by force majeure. It advises us that this does not mean that nothing is done to prepare for force majeure incidents. Different measures have been taken, especially at European level, which is relevant in many force majeure cases.
	We have obtained information about contingency planning from SNCF:
	At national level:
	There is contingency planning involving the public authorities, which might be considered to relate general to the issue of force majeure.
	More generally, there are contingency plans in place for serious disruption and there are processes in place involving different players to ensure an appropriate and effective reaction in case of disruptions on aspects (e.g. providing assistance such as food and beverages in stations).
	Related to security:
	There are governmental contingency plans both for prevention (Vigipirate) and for reaction in case of a terror attack (Métropirate). They are cross-sectoral (transport, health, energy etc.) and they define general rules that are mandatory for SNCF.
	On the basis of these plans, SNCF defines the modalities of implementation of the general rules. This means cooperation with the different ministries (transport, interior), with local law enforcement forces, with national defence and national security authorities and of course with different partners within the transport system: station manager, infrastructure manager.
	For many years, this had been done along a top-down approach. However, recent attacks and simulation exercises have demonstrated the importance and the better effectiveness of a more cooperative approach between public authorities and operators. There is now a trend of better cooperation and joint activities to feed in the design of the contingency plans.

	At EU level:
	The agreement reached by the COREPER on revision of Directive 2012/34 contains a provision to ensure that operators realise the necessary coordination of contingency plans.
	Railway undertakings initiated a process to regularly and systematically update the information and contact details of the operational services in charge of disruption/crisis management in their counterparts. This ensures that liaison points are clearly identified in the different European companies in order to facilitate cooperation, reactivity and crisis management. The directory also contains information regarding contact persons in major airports in case of serious traffic disruptions that could have an impact on both modes.
	To be prepared to better cope with major disruptions affecting several modes, railways undertakings also participate in simulation exercises (e.g. with EUROCONTROL).
Croatia	In case of 'force majeure' events HŽPP's contingency plans provide for:
	substituting rail passenger transport with bus transport;
	Cooperating with HŽ Infrastructure in order to inform passengers and organising bus transport.
	Croatian railways have signed a contract with a security firm for protection of train staff, passengers and assets of the HŽPP.
	Communication protocols are signed between the UNISDR's National Protection and Rescue Directorate (NPRD) and HŽ Infrastructure.
	Working meetings were held with the General Police Directorate of the Croatian Ministry of the Interior, following which guidelines were developed on the procedure in case of detection of suspicious items, as well as a list of police officers within the police departments were appointed as responsible for monitoring the general state of railway safety.
	All HŽPP employees are equipped with mobile phones during the performance of services, and are able to timely provide assistance in accordance with the relevant rules.
	The railway undertaking has developed contingency plans ("Plan of emergency preparedness") in case of terrorist attacks or other security

	threats in the Czech Railways.
	The contingency plan registered under ref. 2535/2015 – KPP dated 30/12/2015 includes an overview of the tasks and measures to cope with emergencies and crisis situations, including coordination of IRS (Integrated Rescue System), EU institutions, and bodies with territorial responsibility.
	Security of rail services provided by ČD is also ensured by a number of security services governed by internal guidelines.
Hungary	Both railway undertakings have contingency plans, however, these are not publicly available.
Ireland	Irish Rail has security plans in place which are agreed with police authorities. Weather management plans are also in place to mitigate the risks of service disruptions during adverse weather.
	There is one international service that operates between Dublin and Belfast. Irish Rail indicated that it has been the subject of security threats in the past and contingency plans are in place to respond to such occurrences. These include the provision of alternative bus services when rail services cannot operate.
Italy	Contingency plans for the railway sector are set by the Prefectures and are confidential documents.
	In the event of traffic disruption (both for scheduled events and unexpected events) contingency plans are implemented which are developed by the infrastructure manager together with the railway undertakings.
	To address specific recurring series, specific emergency plans are prepared by Trenitalia. For example, the 'snow emergency plan' prepared annually together with the infrastructure manager before winter defines roles and responsibilities of the different actors involved, as well as identifies on the basis of the network capacity which trains can circulate and which will be abolished (in that case appropriate advertisement is provided to customers, e.g. posters in stations, information on the web, etc.).
	In case of unavailability of lines/plants, specific plans for train deviations are developed which identify the alternative paths and the estimated delays. In case of special events, specific plans are prepared together with various stakeholders (infrastructure manager, railway undertakings, etc.).

	Trenitalia also has organisational procedures that determine the behaviour to be followed in the occurrence of specific critical situations.
	Contingency plans for the railway sector are set by the Prefectures and are confidential documents. The FSI Group is implementing contingency plans specifically designed for terrorist attacks, which cannot be disclosed because of the sensitive information they contain.
Lithuania	In cases of events of 'force majeure', a common emergency plan is followed. LG's Directorate for Passenger Transport and the Safety Division communicate and work together with the police, as well as medical and fire brigade services.
	Contingency plans in case of terrorist attack and traffic accidents have been developed by LG (Passenger Transportation Directorate). Timetables of on-call duty responsible employees for coordination of accidents and extreme situations have also been developed.
Luxembourg	No information was made available.
Latvia	In force majeure circumstances, there are different instructions available depending on the situation. Some of these instructions are provided by the infrastructure manager. No further information was provided.
	Latvian Railways have clear instructions regarding how to appropriately inform the special services. The infrastructure manager is the primary responsible actor in such situations, and is responsible for traffic management and dealing with terrorist attacks.
Netherlands	NS has contingency plans which nominate points of contact in emergencies. These points of contact are civic organisations, such as the police. In The Netherlands, the mayor of any city has the power to take control of the infrastructure, including rail services and stations, in the case of an emergency.
	NS is of the opinion that passengers' rights regulation is not the appropriate basis for regulation on contingency planning, as NS consider that the regulation should be aimed at individual citizens and railway undertakings, whereas contingency planning should be an all-encompassing activity which covers all citizens and companies.
	NS indicated that its contingency plans are a subject of constant discussion with the Ministry of Infrastructure and the Environment, but that these are nonetheless confidential.

Poland	Where possible alternative transport can be provided and where delays or missed connections have occurred, this is the preferred resolution to delays and cancellations. Tickets purchased from Intercity services can be used on any other service in Poland for any delays of over 40 minutes. This particular agreement is exclusive between Intercity and other operators although it is likely that similar agreements exist between the other RUs.
	In case of terrorist attack or other security threats, PKP IC has the following policies and plans in place, all of which are available on the company's internal website.
	· Safety instructions for PKP IC telephone consultants;
	·Regulations on proceeding in case of threat of the terrorist attack (notification of planting/finding an explosive charge on the site or the place of business);
	·Regulations on proceeding in case of the threat of bioterrorist attack (receiving a suspicious parcel, planting an explosive charge with dangerous biologic material);
	·Regulations on proceeding in case of a confirmed threat or after receiving information of a threat;
	·Regulations on proceeding in case of confirmed threat or after receiving information of a threat at the station;
	·Procedure for the train driver after receiving information of the threat on board a train;
	· Procedure for the technical services, including cleaning staff, after receiving information of a threat;
	·Crisis Management Procedure in PKP Intercity S.A.; and
	Procedures for train staff in case of immediate evacuation of passengers' from the train.
Portugal	The RU reported that contingency plans are in place and concern all the parties involved, including station managers, state authorities, NGOs, etc. The plans are in place to limit the disruption for passengers and to assure the quickest and best transport to passenger's final destination in all conditions of safety and security.

	The National Railway Network has a General Emergency Plan and the operator, CP has specific emergency plans for some of its facilities, including rolling stock depots.
	In addition there is specific regulation (ICET 296, published by the Infrastructure Manager) that stipulates procedures and chain of coordination in case of security threats and emergency situations.
Romania	The national operator has not provided any information regarding the contingency plans for 'force majeure' but the Infrastructure Manager stated that Căile Ferate Române - CFR has a procedure for 'force majeure' situations, including the alert to National System for Emergency Situations.
	The access contract stipulates that CFR and RUs collaborate and share information regarding the expected impacts of the specific 'force majeure' event. CFR has an agreement in place with the Transport Police Department, which includes cooperation in case of 'force majeure' situations.
	The current interpretation of the 'force majeure' terminology from both the RU and NEB conflicts with the actual definition of such situations in the Standard Access Contract that any operator signs with the Infrastructure Manager.
	Nevertheless there seems to be common understanding that events such as extreme heat or snowstorms, which are predictable and affect the network each year on specific segments, are treated as force majeure due to their severe negative impact and difficulty of dealing with them.
	The Standard Access Contract also exonerates both the Infrastructure Manager and the operator from responsibility for 'force majeure' and unforeseeable events.
	The infrastructure manager, CFR stated that it has an agreement in place with the Transport Police Department, including the cooperation of the Department in case of terrorist attacks. The agreement is confidential and is not available. The operator, CFR Călători stated that it also has anti-terrorist prevention action plans for each region. These plans are periodically updated and approved by the Transport Police Department. The railway staff and especially the on-board staff are trained accordingly. The institution periodically updates its procedures and maintains contact with the Romanian Intelligence Service in order to ensure the safety, regularity and efficiency of the passenger transport.

Sweden	In case of Force Majeure SJ's operations' officer is responsible to coordinate tactical meetings with personnel in key positions within SJ. SJ also establishes communication with Trafikverket which establishes the restrictions that SJ has to consider during the disruption.
	The contingency plan includes actions on communication, rolling stock, crew, queues and ticket offices.
	In these major disturbances SJ tries to provide staff at the stations that are affected and if needed makes use of an external company for last minute staffing needs.
	SJ's existing contingency plans to handle disruptions can be activated for many different reasons such as low of power, signalling system errors or in case of major security issues.
	In case of a terrorist attack, SJ's Crisis Management Organisation will be activated and they would act in accordance with a contingency plan covering both major safety and security issues. This plan includes establishing the necessary contacts with the police, station managers, other operators and rescue services.
	In addition, the Swedish Transport Agency stated that the intended scope and requirements of Article 26 (Personal Security of Passengers) are unclear. Without clarification and guidance, the Article will continue to have a low impact.
Slovenia	No information available on this point.
	Slovenske Železnice does not have contingency plans in case of terrorist attacks or other security threats at the moment.
Slovakia	Action plans to deal with exceptional/emergency situations – including detailed guidelines as well as crisis management procedures – have been developed by ZSSK in cooperation with ŽSR (the infrastructure manager) and the Ministry of Transport, Construction and Regional Development, as well as with other public bodies.
	Contingency plans regulate actions to be taken by the responsible subjects in case of critical situations. The competent internal and external security units are involved in the plan (e.g. ZSR, the Ministry of Interior, security bodies).
UK	Virgin Trains noted that they have contingency plans in place to deal with a wide range of potential situations. An example of this was the recent closing of the Lamington viaduct in Scotland as a result of severe winter floods in Scotland, which forms part of Virgin Trains'

	mainline route from Glasgow to England.
	In this instance, Virgin recast the timetable with diversions in place, allowing for passengers to continue using rail services rather than replacement buses. This was advertised extensively, including the impact that the diversion would have on journey times. Virgin stated that contingency plans were always developed on the basis of finding the best way for Virgin Trains to fulfil their customers' journey requirements.
	ATOC stated that contingency planning in Britain works well and is highly effective. ATOC suggested that such planning seeks to prioritise the needs of the passenger "without becoming entangled in additional bureaucracy EU intervention could result in" and that "legislating in this area could create a lack of flexibility and prevent the industry from being as responsive as it needs to be."
	Virgin Trains stated that they have measures in place with relation to security issues, and have a dedicated safety team for this purpose. They were unable to share with us any documentation regarding this due to issues of confidentiality.
	Network Rail were also not able to disclose the precise details of their contingency plans for Security, but did provide some further detail, stating that they work very closely with the British Transport Police, local forces, and a wide range of state authorities, where the DfT has the policy lead.
	Network Rail confirmed that the Land Transport Security (LTS) team in the Department for Transport is responsible for setting policy in relation to counter-terrorist security on:
	· the national rail network;
	·London Underground and other light rail networks;
	·buses and coaches;
	·the Channel Tunnel; and
	·international rail services.

	Additionally, LTS deliver the counter terrorist security compliance programme for these sectors and also for the carriage of dangerous goods by rail and road. The objectives of the compliance programmes and the processes, principles and working practices followed by inspectors are set out in the Land Transport Security compliance policy framework.

Table A5 - Estimation of delays due to the force majeure

Undertaking	ember State	FM estimate	Note
		f all delays in 2015 % increase in compensation payments in 2013[172]	r, according to estimations by ÖBB, only around 1% of delayed services are delayed by at least one hour, and the large majority of these delays are due to force majeure events.
	/	015 which includes cost compensation on ticket price, cost of assistance and administrative costs	ders as F.M. events of heavy rainfall, storms, weather fronts, as well as vandalism and deliberate damage against railway property and other technical objects and theft of security-relevant components (cables, catenary, signal installations etc.) with the effect of considerable economic losses.
		015	ed that this represented 'more than half of delays' (169 / 291). It considers as F.M. events such as snow (€202k). lightning (€85k), accident/collision (€115k) Trenitalia provided about 0.1% of total revenue for compensation and reimbursements (a total sum of €3.6 million) NTV cancelled 111 trains (0.66% of the total). NTV trains subject to delays were 291 (1.7% of the total)
tori		e total nb. of services	and NEB define F.M. as storm, heavy snowfall, floods, ground slips, extreme heat as well as exceptional circumstances such as the refugee crisis in 2015. age, about 1.96 million passengers are affected yearly by delays due to 'force majeure' events (of which 1,590,000 are on regional trains and 370,000 on long-distance, inter-regional trains).

[172] The introduction of the **case C-509/11**

			e Potential scale of delays attributed to force majeure (UK 2015-2016)
		jeure events are uncommon	Discussions with both the NEB and RU highlighted that force majeure events are uncommon and those which are classed as force majeure may not strictly be classed as acts outside of the control of the railway entities. xample of a tree falling across a line and causing cancellations to services, the event was classed as force majeure event by the operator who did not want to pay any compensation to passengers for delays. Prior to ECJ ruling in case C-509/11 compensation was not paid in these circumstances. vided the following data Number of claims for compensation under force majeure conditions: • 2014 – 3,028 (18,897 complaints in total) • 2015 – 4,832 (21,822 complaints in total)
	public		ate that in the period mid 2013 – mid 2016, the number of delayed trains due to F.M. has been equal to 1,614, the number of cancelled trains was 2,512 With respect to regularity of F.M. events: • Frozen railways due to bad weather conditions in winter (1-2 times per year); • Floods (1-2 times per year); • Trees fallen on the tracks due to bad weather conditions (10 times per year); • Railways workers' strikes (1-2 times per year)
ilway Administration		ve been some force majeure cases, but these generally did not affect passengers rights and the operator would address any complaints	laints have been received regarding force majeure events. The largest problem leading to force majeure events in Latvia surrounds false bomb threats at Riga station. No further information regarding the regularity of events was provided.

		elays	imate - FM considered to include accidents with cars, collisions with wild animals, incidents with passengers, bad weather conditions
		lays	2015, 218 events occurred, that HŽPP classified as F.M. events. These were exceptional events at level crossings; collisions with people; malfunctions of the rail network; floods; landslides and mudslides; fires; derailment of railways vehicles; and refugee crises in 2015. the total cost of compensation paid by HŽPP to complainants amounted to 184.23€, an average of 15.35€ per complaint
		of delays	g to MÁV-START, the percentage of services delayed or cancelled due to force majeure is under 0.1% ulation: 8% of services have delays of >15 min. and MÁV reports that <0.1% of all services have FM delay. Thus, the % of delays attributable to FM is <0.1/0.08 = <1.25%
		lays	ajeure events include extreme weather conditions (storms with heavy winds). ncial liability for compensation payments amounted to approximately €900,000 during Q4 2015. 5,475 events with 821,250 affected passengers.
		elays	Quality Report (2015): tes 80% of delays to other causes than the carrier portion of delays of <60 min. is around 2% overall (about 2.5% in international transport and about 1% in domestic transport)
	a		5 trains were affected by unforeseen circumstances, in 2012 30, in 2013 9, in 2014 25 and in 2015 8.

			ıge, 12 services are delayed per year as a result of force majeure events. The length of delays varies, with most delays of more than 1 hour. Less than 10 services are cancelled per year, and a small number of passengers are affected as a result of force majeure events. ıjeure events include storm damage, security and terrorism alerts, suicides and attempted suicides and other non-passenger fatalities and level crossing issues. ıber of claims received by Irish Rail is "low", and compensation is only paid to those passengers who complain.
ɛ Železnice		one event classified as 'force majeure' – the line Ljubljana-Koper was closed due to a hailstorm	ere no service delays/cancellations, but alternative transport services (e.g. buses) were organised.
		f all delays in 2015	6.38% of GYSEV services were subject to delays exceeding 60 minutes – the large increase in the percentage of long delays between 2014 and 2015 is due to the 2015 international migrant crisis. only 0.21 of all services were delayed for more than 1 hour.

Source: SDG (2016), Impact Assessment

Table A6 – Delays above one hour by Member States

ember State	Delays above 1 hour
	g to estimations by ÖBB, only around 1% of delayed services are delayed by at least one hour.
(2015)	onal inutes - 0.71 % out of all services an 120 – 0.12 % of all services c (all – subject to the Regulation)) 0.5% out of all services an 120 – 0.5 % out of all services
lgaria (2015)	onal in 2015 inutes - 4.3% out of all services an 120 – 2.1% of all services c long dist. 2% out of all services an 120 – 0.8 % out of all services and suburban (exempt from the Regulation) 0.5% out of all services an 120 – 10% out of all services
epublic (2015)	Trains delayed more than 1 hour National & international 1.31% of all services Regional 0.09% Trains cancelled: National & international 0.5 % of all services Regional 0.24% of all services
y	N/A
k	N/A
	s of more than 1 h (0.00004% out of all services).

)14)	c Long Distance[173] ninutes - 0.39% out of all services an 120 – 0.09% of all services Medium distance ninutes - 0.55% % out of all services an 120 – 0.24% % of all services
2015)	.8 % of all services covered by the Regulation present a delay of at least of 1 hour (i.e. 3920 trains delayed by more than 1 hour out of 487 000 journeys covered by the Regulation).
(2014)	ninutes - 0.18% out of all services an 120 – 0.03% of all services
	1% of Irish Rail services are subject to disruption, including long delays (delays over an hour) and cancellations.
	1% of medium and long distance trains arrived with more than 1 hour delay, 0.7% were cancelled; 0.8% of international trains had a delay of more than 1 hour and 1.1% were cancelled while 0.1% of regional trains had a delay of more than 1 hour and 2.9% were cancelled. In 2015, NTV cancelled 111 trains (0.66% of the total). NTV trains subject to delays were 291 (1.7% of the total).
a (2014)	onal ninutes - 5.2% out of all services an 120 – 6.1% of all services c (all lines) 1.4% out of all services an 120 – 0.2 % out of all services
burg	
herlands	

[173] 'Domestic Long Distance' includes conventional trains, High Speed-Long Distance and international trains in national territory.

2015)	ninutes - 0.71 % out of all services an 120 – 0.12 % of all services
	5% of the total number of services. ıge, about 1.96 million passengers are affected yearly by delays due to 'force majeure' events (of which 1,590,000 on regional trains and 370,000 on long-distance, inter-regional trains)[174].
	ces were delayed for more than one hour.
(2015)	on of delays of <60 min. is around 2% overall (about 2.5% in international transport and about 1% in domestic transport).
	e, across the UK rail network, on average 3% of services were considered to be cancelled or 'severely late' (more than 30 min) in 2014-2015.

[174] In this particular case, Force majeure is defined as storm, heavy snowfall, floods, ground slips, extreme heat as well as exceptional circumstances such as the refugee crisis in 2015.

Member State	Sanctions	Notes
Austria	No sanctions have been issued	The apf in its function as NEB may review the operators' Conditions of Carriage, but has no power to supervise their application in practice. This means that legal actions can be taken only if the Conditions of Carriage do not comply with the Regulation. If such a violation appears, sanctions can be imposed by the Bezirksverwaltungsbehörde (district administrative authority) in accordance with Article 167 of the Railway Act. The Schienen-Control Commission is an independent administrative court headed by a judge. It meets 12 times a year and decides on issues related to the tasks of the regulatory body as well as those of the apf. Since the apf does not have the power to take decisions or to impose sanctions, it notifies the Schienen-Control Commission of any infringement. In addition, the apf must inform the Schienen-Control Commission if a complaint remains unresolved. The Schienen-Control Commission does not have the power to impose sanctions itself. In the case of a violation of the Regulation, the Schienen-Control Commission notifies the responsible district administrative authority (Bezirksverwaltungsbehörde) of this. The district administrative authority then decides whether to impose a sanction, which can amount to up to €7,200. However, the circumstances under which sanctions can be imposed are very limited. In accordance with Article 78a paragraph 5 of the Railway Act, in cases of complaints of passengers regarding a lack of or insufficient compensation for delays or cancellations, the Schienen-Control Commission can declare the solution proposed by the apf as legally binding, and award a compensation payment to the complainant. In addition, the Schienen-Control Commission can declare invalid the compensation arrangements of the railway undertakings if these do not comply with the Regulation. Appeals against decisions of the Schienen-Control Commission have to be directed to the Administrative High Court.
Belgium	Only **one** case since the implementation of the Regulation has led to sanctions. This combined sanctions of €750 related to Article 17 and 6,000 related to Article 27 because of the case being handled	Sanctions are always administrative. For a serious (3rd degree) contravention, the sanction would be between €6,000 and €12,000.

	too slowly.	
Bulgaria	No sanctions have been issued so far	The level of potential sanctions is generally fixed in the range between €1.000 and € 50 000 for railway undertakings and in the range from €1000 to €5000 for infrastructure managers; €100 to €500 for ticket vendors, and €1000 to €3000 tour operators.
Czech Republic	no sanctions have been issued so far	
Germany	no sanctions have been issued so far	The complaint handling and enforcement process in Germany is an administrative procedure. In the event that a complaint is upheld, the NEB can issue a decision which the company is required to comply with; if it does not then the NEB threatens to impose a sanction, and if this does not work then a sanction of up to €500,000 can be levied in accordance with Article 5a(9) of the General Railway Act (AEG). The sanctioning process halts immediately if corrective measures are taken.
Denmark	The **three** instances in which sanctions were imposed are as follows: a RU refused to pay for alternative transport by taxi for a passenger facing a 3.5 hour delay due to a train hitting a person. → 10,000 DKK (€1,333) fine on the railway undertaking. a RU sold a passenger a ticket which was not the cheapest available, → 10,000 DKK (€1,333) fine on the railway undertaking. a railway undertaking rejected a passengers' request for compensation in regards to accommodation and taxi costs →10,000 DKK (€1,333) fine on the railway undertaking.	The maximum sanction the ABTM can levy is 10,000 DKK (€1,333). JBN can decide that sanctions should be levied within its competencies, but the scale of the sanction is decided by the Danish courts system. The theoretical scale of the sanction is unlimited.
Estonia	no sanctions have been issued so far	CPB has powers to impose both criminal and administrative sanctions. According to the Railways Act (Section 73 (1)) in the event of failure to comply with a CPB's precept, the Ministry of Economic Affairs and Communications, the Technical Surveillance Authority, the Competition Authority and the Consumer Protection Board (CPB) have the right to apply a penalty payment in the amount of up to € 3,200 to natural persons and in the amount of up to € 32,000 to legal

		persons (pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act). Pursuant to Sections from 100.2 to 100.5 of the Railways Act, failure to comply with Articles 8, 13, 16, 18, 20 or 23 of the Regulation is punishable by a fine of up to 50 fine units (€ 200, since one fine unit is € 4). The same act if committed by a legal person is punishable by a fine of up to € 3,200.
Greece	no sanctions have been issued so far	It can issue administrative penalties in the form of: recommendation for compliance to a specific provision of law, with a warning for penalties in case of repetition, and/or a penalty up to one million euro. The nature, the seriousness and the duration of the violation is taken into consideration, when deciding on the penalty. The NEB stated that no sanction relating to Regulation 1371 have been issued.
Spain	no sanctions have been issued so far	The Ministry of Public Works and Transport has the power to issue sanctions for violations of provisions of Regulation (EC) No. 1371/2007. There are three levels of administrative sanctions: very serious, serious and minor infractions.
Finland	no sanctions have been issued so far	
France	no sanctions have been issued so far	Pursuant to Article L2151-3 of the Code des Transports, breaches of the provisions of Regulation 1371 may be subject to a fine imposed by the French NEB. The maximum amount of such fines is €15,000, or €45,000 for issues related to discriminations against PRM (article 19) and insurance (article 12).
Croatia	no sanctions have been issued so far	The level of potential sanctions is generally fixed in the range between €2.654 and €13271 for railway undertakings.
Hungary	NKH has imposed several penalties for violations of Regulation (EC) No. 1371/2007, mostly regarding to information to be provided to passengers during the journey.	The maximum amount of the penalty is 0.1% of revenue with a maximum threshold of 15 million Hungarian forint – which can be raised up to 25 million HUF (ca. 80,000 EUR) in certain cases.

	According to MAV-START, in 2011 a fine amounting to about € 3,000 was imposed three times to the RU .	
Ireland	no sanctions have been issued so far	The National Transport Authority is of the opinion that an operator is in breach of the Regulation it can on its own initiative or following a complaint from a passenger issue request to operators to submit an improvement plan. If the National Transport Authority is not satisfied that all issues have been addressed appropriately by the improvement plan, then it can issue an improvement notice to the operator, directing the operator to remedy the alleged breaches of the regulations. If an operator fails to satisfactorily comply with the improvement notice, they are deemed to have committed an offence and are liable on summary conviction to a fine not exceeding €5,000 or on conviction on indictment to a fine not exceeding €150,000.
Italy	The 17 The 17 sanctioning proceedings started to date. One is closed in favour of the railway undertaking: Information on accessibility and access conditions for bicycles.--> €2,500 Information to users on procedures for submission of complaints. (Procedure closed upon payment of reduced penalties.) → 333.3*4 Right to refund in case of cancellation of train services (Procedure closed upon payment of reduced penalties.) → 500 Failure to respond to a complaint (Infringement ascertained.) →€333.33 Modalities for purchasing tickets in case of absence of the ticket office/machines at the station, and information to users(Infringement ascertained) →€2,500 Lack of response to a complaint(Procedure closed upon payment of reduced penalties.) → €333.33 Lack of response to a complaint(Procedure closed upon payment of reduced penalties.) → €333.33	Level of sanctions that can be applied to a railway operator for violations of decisions taken by ART as 10% of turnover; however, such a sanction could only be applied in cases of serious breaches of rail passengers' rights in Italy.

	Lack of response to a complaint(Procedure closed upon payment of reduced penalties.) → €333.33	
Lithuania	VGI has neither issued any sanction for breaches of the Regulation in past years, nor conducted any ex officio actions in that field	In case of violations of provisions relating to train delays, missed connections and cancellations, as well as provision relating to information and rights of disabled people and PRMs, the head of the railway company or its designee is subject to an administrative sanction in a range from €289 to €868.
Luxembourg	no sanctions have been issued so far	The NEB can issue administrative sanctions of between 500 and 2,000 Euros.
Latvia	no sanctions have been issued so far	t Two cases where it has the right to impose sanctions. These are when an operator does not provide information and non-fulfilment of State Railway Administration decisions, which can be made for any competencies in railway law. The maximum sanction is €14,200. The Road Transport Administration can also issue sanctions of €25,000, which can be doubled if repeated in one year.
the Netherlands	One sanction has been issued by the NEB, and this is currently (as of May 2016) passing through the courts in The Netherlands. Details of the sanction, including the size of the fine, will not be available until this process is complete.	The NEB has advised us that it is able to impose unlimited sanctions, although in practice if a sanction was disproportionate it could be challenged and reduced by the courts. The approach to sanctions in The Netherlands includes the possibility of 'ratcheting-up' sanctions, such that the size of the sanction can be increased if the railway undertaking or station manager does not comply within the time limits set by the NEB as part of the sanction.
Poland	By the end of 2014, 21 administrative proceedings had been closed or completed by the NEB and 338 improvement notices were issued to railway entities, this amounted to an increase of 25% on 2013 levels. The NEB conducted 326 supervisory activities during 2014 relating to provision of appropriate levels of quality and passenger safety. Despite this relatively high level of intervention by the NEB, since 2011 only two sanctions have been directly related to EC1371/2007, both of which were financial and covered by the NEBs Administrative Policy. In both instances, PKP Intercity and Regional Railways were found to be in breach of Article 8.2, provision of	• Punctuality of all the trains within monthly settlement < 85% – for the Task — Every month €188409 • Punctuality of the single train within monthly settlement < 75% — Each daily train €5652 • Train cancellation without ensuring substitute communication — Each case €28 • Incompliance with quality parameters of the train composition on the starting point (according to the minimum quality requirement set out in Appendix 5.1.) — Each train 7536 • Lack of designated and marked seats for PRM and for passengers with children under 6 — Each train 5652

	travel information. The combined fines for these infringements totalled €42,651, 5% of the total value of fines imposed by the NEB (€942,415) between 2011 and 2015.	• Inappropriate cleanliness of the train — Each train 4710 • Lack of heating in times of low temperatures in compartments or corridors — Each coach 471 • Non-functioning sound system in compartment or corridor — Each train 283 • Incompliance with any other minimum quality requirement set out in the Appendix No. 5.1 to the Framework Agreement — Each train 565 • Improper behaviour of the train staff contrary to quality requirements set out in the Appendix No 5 to the Framework Agreement or any other specific regulations of the Company — Each case €94
Portugal	no sanctions have been issued so far	
Romania	no sanctions have been issued so far	The level of potential sanctions is generally fixed in the range between around €200 and €4 400for railway undertakings
Sweden	no sanctions have been issued so far	If a company or an organisation fails to comply with the provisions in these articles, the Swedish Transport Agency can issue sanctions. These are in the form of orders and the organisation must take necessary measures to fulfil the requirements. The order can be combined with a fee; however, information regarding the size of fines and payment was not provided.
Slovenia	no sanctions have been issued so far	The level of potential sanctions is generally fixed in the range between €1,000 and €40,000 for railway undertakings and in the range from €500 to €30,000 for ticket vendors, station managers and tour operators. 1Moreover, in each case in which a sanction is imposed to a RU, ticket vendor, station manager, or tour operator, a fine in the range from €250 to €2,500 is imposed on the person responsible for the violation within the RU/ticket vendor/station manager/tour operator.
Slovakia	no sanctions have been issued so far	Railway undertakings which do not observe passenger rights in accordance with Regulation (EC) No. 1371/2007 can be subject to fines up to € 1,000.

UK	no sanctions have been issued so far	ORR stated that the maximum sanction that could be applied to a railway undertaking would be 10% of turnover, and that this would be applied in an instance of a serious breach of contract. Passenger rights provisions form part of the franchise, concession or open access contract, and therefore any sanction would be applied on this basis.

Table A8 : Classification of the NR-on-TOC delays used in the UK railway management

Animal Strike/Incursion not within the control of Network Rail EXT ANIMAL	External
Trespass TRESPASS	External
Vandalism/theft (including the placing of objects on the line) VANDALS	External
Fatalities/ injuries caused by being hit by train FATALITIES	External
Level Crossing Incidents XING INCDT	External
Police searching line POLICE-RLY	External
Security alert affecting Network Rail Network SEC ALERT	External
External Power Supply Failure Network Rail Infrastructure EXTL POWER	External
Fire external to railway infrastructure EXTL FIRES	External
Gas/water mains/overhead power lines GAS/WATER	External
Road related - excl bridge strikes/level crossing incident ROAD INCDT	External
No Code Desc	External
Bridge Strike BDG STRIKE	External
Swing bridge open for river or canal traffic BDGE OPEN	External

Cable vandalism/theft CABLE CUT	External
Level Crossing misuse XNG MISUSE	External
Sunlight on signal SUN OBSCUR	External
Fire or evacuation due to fire alarm of Network Rail buildings other than stations due to vandalism NR FIRE	External
Other external causes the responsibility of Network Rail EXT OTHER	External
Possession over-run from planned work OVERRUN	Network Management
Track Patrolling TRK PATROL	Network Management
Engineer's train late/failed in possession ENGNRS TRN	Network Management
Animal Strike/Incursion within the control of Network Rail ANIMAL	Network Management
Trackside sign blown down/light out etc TRACK SIGN	Network Management
Engineers on-track plant affecting possession ONTRACK EQ	Network Management
Mishap - Network Rail causes INF MISHAP	Network Management
Other infrastructure causes INF OTHER	Network Management
Safety Issue No Fault Found INF NFF	Network Management
Damage to infrastructure caused by on-track machine whilst operating in a possession ONTRK DMG	Network Management

Preventative Maintenance to the infrastructure in response to a Remote Condition Monitoring Alert RCM ALERT	Network Management
ESR/TSR due to cancelled possession/work not completed ESR/TSR	Network Management
Network Rail/TRC Staff error STAFF	Network Management
Non-maintenance of the 5 metre Flail Strip FLAIL STRP	Network Management
Trains striking overhanging branches/vegetation (not weatherrelated) TREE OHANG	Network Management
Signals/track signs obscured by vegetation HIDDEN SIG	Network Management
Miscellaneous items (including trees) causing obstructions, not the result of trespass, vandalism, weather or fallen/thrown from trains MISC OBS	Network Management
ACI Failures ACI FAIL	Network Management
Delayed by signaller not applying applicable regulating policy Regulation	Network Management
Signaller, including wrong routing and wrong ETCS/ ERTMS instruction SIGNALLER	Network Management
Delayed as a result of Route Control directive NR CONTROL	Network Management
ARS software problem (excluding scheduling error and technical failures) ARS	Network Management
Formal Inquiry Incident - other operators JOINT INQ	Network Management
Fire in station building or on platform, affecting operators not booked to call at that station STN FIRE	Network Management

Delay caused by Operating staff oversight, error or absence (excluding signallers and Control) OPTG STAFF	Network Management
Signal Box not open during booked hours BOX CLOSED	Network Management
Technical failure associated with a Railhead Conditioning train RHC FLR	Network Management
Delays not properly investigated by Network Rail Mis-invest	Network Management
Late start of a RHC RHC	Network Management
Failure of TRUST/SMART systems TRUST FLR	Network Management
Incorrect Simplifier SIMP ERR	Network Management
Delays to other trains caused by a Railhead Conditioning train taking unusually long time in section or at a location RHC LATE	Network Management
Delays un-investigated Un-invest	Network Management
Fire or evacuation due to fire alarm of Network Rail buildings other than stations not due to vandalism NR FIRE	Network Management
No Code Desc	Network Management
Mishap - Network Rail Operating cause NR MISHAP	Network Management
Other Network Rail Operating causes OPTG OTHER	Network Management
No Code Desc	Network Management

Train schedule error on TSDB WTT schedule WTT SCHED	Network Management
Planned engineering work - diversion/SLW not timetabled (outside rules of the route) DIVRSN/SLW	Network Management
Train schedule error on TSDB STP/VAR service STP SCHED	Network Management
Train schedule error on TOPS created schedule, of a serious nature, i.e. incorrect route /conflict with normal WTT service TOPS SCHED	Network Management
Reactionary Delay to “P” coded Possession PLND LOP	Network Management
Simplifier Error Ops Planning OPS S ERR	Network Management
Delay accepted by Network Rail as part of a commercial agreement where no substantive delay reason is identified TAKEBACK	Network Management
Other Network Rail non-Operating causes COMM OTHER	Network Management
Unattributed Cancellations UNATR CAN	Network Management
Unexplained late start UNEX L/S	Network Management
Unexplained Station overtime UNEX O/T	Network Management
Unexplained loss in running UNEX L/R	Network Management
Telecom equipment failures legacy (inc. NRN/CSR/RETB link) RADIO FLR	Non-Track Assets
Overhead line/third rail defect OHL/3 RAIL	Non-Track Assets

AC/DC trip AC/DC TRIP	Non-Track Assets
Obstruction on OHL, cause of which is not known ON OHL	Non-Track Assets
OHL/third rail power supply failure/reduction SUPPLY FLR	Non-Track Assets
Signal failure SIGNAL FLR	Non-Track Assets
Points failure POINTS FLR	Non-Track Assets
Track circuit failure TC FAILURE	Non-Track Assets
Level crossing failure incl. barrow/foot crossings and crossing treadles LEVEL XING	Non-Track Assets
Power failure POWER FLR	Non-Track Assets
Train Describer/Panel/ARS/SSI/TDM/Remote Control failure PANEL/TDM/FLR	Non-Track Assets
Block failure BLOCK FLR	Non-Track Assets
No Code Desc	Non-Track Assets
Power Supply cable fault/fire due to cable fault CABLE FLR	Non-Track Assets
AWS/ATP/TPWS/Train Stop/On-track equipment failure AWS/ATP	Non-Track Assets
Telephone equipment failure PHONE/SPT	Non-Track Assets
Token equipment failure TOKEN FLR	Non-Track Assets
Infrastructure Balise Failure BALISE	Non-Track Assets

HABD/Panchex/WILD/Wheelchex HABD FAULT	Non-Track Assets
No fault found/HABD/Panchex/WILD/Wheelchex NFF	Non-Track Assets
Points failure caused by snow or frost where heaters are fitted but found to be not operative or defective PNT HEATER	Non-Track Assets
Telecom radio failures IVRS/GSM-R GSM-R FLR	Non-Track Assets
No Code Desc	Non-Track Assets
TRTS Failure TRTS FLR	Non-Track Assets
Axle Counter Failure AXLE FLR	Non-Track Assets
ETCS/ ERTMS Equipment Failure (excluding communications link and balises) ETCS FLR	Non-Track Assets
Telecom cable failure (transmission sys & cable failures) COMM LINKS	Non-Track Assets
Change of Signal Aspects - no fault found ASPECT CHG	Non-Track Assets
Points failure caused by snow or frost where heaters are not fitted NO PNT HTR	Non-Track Assets
Earthslip/subsidence/breached sea defences not the result of severe weather EARTHSLIP	Severe Weather, Autumn & Structures
Non severe- Snow/Ice/Frost affecting infrastructure equipment COLD	Severe Weather, Autumn & Structures
Lightning strike against unprotected assets LIGHTNING	Severe Weather, Autumn &

	Structures
No Code Desc	Severe Weather, Autumn & Structures
Critical Rail Temperature speeds, (other than buckled rails) HEAT SPEED	Severe Weather, Autumn & Structures
Swing/lifting bridge failure SWING BDGE	Severe Weather, Autumn & Structures
Flooding not due to exceptional weather FLOODING	Severe Weather, Autumn & Structures
Failure to lay Sandite or operate Railhead Conditioning train as programmed RHC PROG	Severe Weather, Autumn & Structures
Ice on conductor rail/OLE ICE	Severe Weather, Autumn & Structures
No Code Desc	Severe Weather, Autumn & Structures
Adhesion problems due to leaf contamination LEAF SLIP	Severe Weather, Autumn & Structures
Cautioning due to railhead leaf contamination RLHD CONT	Severe Weather, Autumn & Structures
Special working for leaf-fall track circuit operation LEAVES T/C	Severe Weather, Autumn & Structures

Visibility in semaphore signalled areas, or special working for fog and falling snow implemented by Network Rail – in all signalling areas SPL REGS	Severe Weather, Autumn & Structures
Severe flooding beyond that which could be mitigated on Network Rail infrastructure SEV FLOOD	Severe Weather, Autumn & Structures
Lightning Strike – damage to protected systems. LGHTNG	Severe Weather, Autumn & Structures
Blanket speed restriction for extreme heat or high wind in accordance with the Group Standards BLNK REST	Severe Weather, Autumn & Structures
No Code Desc	Severe Weather, Autumn & Structures
Severe heat affecting infrastructure the responsibility of Network Rail (excluding Heat speeds) SEV HEAT	Severe Weather, Autumn & Structures
Severe cold weather affecting infrastructure the responsibility of Network Rail SEV COLD	Severe Weather, Autumn & Structures
High winds affecting infrastructure the responsibility of Network Rail including objects on the line due to the effect of weather WIND	Severe Weather, Autumn & Structures

Table A9 - Potential scale of delays attributed to force majeure (UK 2015-2016)

Force majeure definition	Causes included	lelay within 'force majeure' definition
ause of delay outside of the control of the railway undertaking concerned	TOC[175] n-TOC[176] , that includes causes linked to External factors, Network management, ,Non-track access, Severe Weather, Autumn & Structures and finally problems on tracks	71.0%
ause of delay outside of the control of the railway undertaking concerned (but assuming all TOCs count as one organisation)	n-TOC, that includes causes[177] linked to External factors, Network management, ,Non-track access, Severe Weather, Autumn & Structures and finally problems on tracks	59.8%
ause of delay which could not reasonably have been foreseen or could not reasonably have been mitigated	factors; Severe Weather, Autumn & Structures; Non-Track Assets	41.4%
ause of delay which could not reasonably have been foreseen	Veather, Autumn & Structures	17.0%

Source: SDG (2016), Impact Assessment exercise concerning a possible revision of regulation (EC) No. 1371/2007 on rail passengers' rights and obligations

[175] TOC = Train operating companies, TOC-on-TOC means incidents that one train operating company causes to another train operating company

[176] NR is the infrastructure manager Network Rail, NR-on-TOC means incidents caused by the infrastructure manager to a train operating company

[177] Definitions in use are provided in Table A8 in Annexe 5

Table A10 - List of Enforcement measures

Persuasion through awareness

- (NEBs) Reporting on sanctions applied and other enforcement measures imposed where infringements were detected
- Publication of enforcement policy documents (objectives, long-term roadmap, priorities)
- Publication of guidelines, checklists and toolkits to encourage and facilitate compliance
- Publication of blacklists ("naming and shaming" as deterrents for third parties)

Enforcement Notices and Warning Letters

- Improvement Notices
- Suspension Notices
- Enforcement Notices
- Enforcement Actions

Reputation-based measures

- Publicity Requirements
- Publication of blacklists ("naming and shaming" as reputation-based measures for operators in the blacklist)

Alternative sentencing in criminal sentences

- Profit Order
- Corporate Rehabilitation Order
- Publicity Order

Licence Suspension and revocation

Other measures

- **-**Distribution of vouchers for passengers/PRMs that lodged a complaint
- -Organization of surveys among passengers to evaluate the quality of service including for PRMs
- -Responsive approach to inspections: differentiated enforcement strategy based on the behaviour and history of dealings with RUs.

Table A11: Draft screening of policy measures

Key:	Low / poor assessment against criterion	Medium	High / good	Depends on specific requirements

Proposed policy measure	Source	Legal feasibility	Effectiveness and efficiency	Political feasibility	Proportionality and scope
Information					
RUs to send sms/e-mail info to passengers about delays/cancellations of services using the same channels as chosen at the time of booking	IT	Information provision already required under Article 8 and Annex II Part I. Depending on the type of service and means of ticket purchase, RUs may not have the contact details of passengers.			
Exemptions					
Clarify obligations for mixed journeys with exempted and non-exempted services. Exempted services should always be considered as exempted even if they are	SNCF, UTP	This will be tackled in the discussion on through-tickets	Depending on the formulation, it might be a costly measure for RUs.	Such a measure has been requested by consumer organisation, but in a way to	To introduce obligations to consider the whole journey covered by a through ticket as exempted could be seen as overruling national exemptions granted to certain

Proposed policy measure	Source	Legal feasibility	Effectiveness and efficiency	Political feasibility	Proportionality and scope
part of the journey.				consider the whole journey as exempted. COM guidelines already recommended to consider the whole journey as exempted.	services in line with the Regulation. To keep exempted services exempted does not remove legal insecurity for passengers.
PRMs					
Definition of station/staffed station, station manager, other facilities	BE, HR, SE	Risk of conflict with other rail legislation, notably on access rules or PRM TSI.	NA	Potential resistance from MS/SM	Depending on the definition. This can be clarified through guidance.
Clarify definition of PRM. Add requirement to show proof entitling to the right to assistance.	SNCF	The definition of PRM is aligned across all PR Regulations.	Such a measure would lead to a significant reduction of PRM passenger rights.	The COM specified in its 2015 guidelines that no proof can be required for assistance.	
Provide greater detail on non-discriminatory access	HR	To be checked in line with PRM TSI and the proposal	Some resistance from RU is to be	Depending on the definition	Depending on the definition

Proposed policy measure	Source	Legal feasibility	Effectiveness and efficiency	Political feasibility	Proportionality and scope
rules for PRM (Article 19)		for an equal treatment directive[178].	expected.		
Provide greater detail on efforts to be considered 'reasonable' relating to PRM assistance if there is no staff on board or at the station.	HR	There is a risk that by providing more detail on the term would narrow down the amount and nature of efforts to be made.	Depending on the definition	Depending on the definition	This can be clarified through guidance.
Compensation and assistance to passengers in case of missed connections, delays or cancellations					
Add compensation for additional services such as tickets for vehicle trains	AT	Already covered in CIV (Chapter IV, Articles 23 – 24). Rules on carrier liability and compensation for delay in loading or delivery or for loss of vehicles are also contained in the CIV (Articles 44 and 45) and can be claimed in a court procedure.			

[178] Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation {SEC(2008) 2180} {SEC(2008) 2181}, COM/2008/0426 final, 2.7.2008

Proposed policy measure	Source	Legal feasibility	Effectiveness and efficiency	Political feasibility	Proportionality and scope
Automatic compensation for delays should be given to passengers – no need to complain.	IT	An individual assessment must always be possible.			Guidance could be provided on facilitating lodging of complaints
Better define whether delay means delay of the train or delay of the passenger	NHK (HU)	Article 3 (12) is crystal clear that the delay to be used as a basis to calculate compensation must be the delay of the passenger at the final destination on his/her ticket.	NA	NA	Already clarified by the Commission in its 2015 guidelines.
Enforcement of the rail passenger rights legislation					
Add rules/guidance on whether NEBs can enforce on enterprises which are not RUs to comply with the Regulation.	SE	Already covered under the Regulation which is clear on this aspect. Further clarification could be provided through guidelines.	NA	NA	The Regulation explicitly mentions other actors (ticket vendors/tour operators) who have obligations, e.g. with regard to travel or PRM information (Article 8 and 20: ticket vendors and tour operators) or availability of tickets (Article 9: ticket vendors). For compensation the (operating) RUs are responsible. Under Article 27 passengers can complain to

Proposed policy measure	Source	Legal feasibility	Effectiveness and efficiency	Political feasibility	Proportionality and scope
					any RU involved.
Measures not covered by any of the identified problem drivers					
Translation issues with the Regulation in certain EU languages	BE, HR	NA	NA	NA	Out of scope, translation issues cannot be tackled by a revision, but MS would have to address their concerns to the Council
Proposal to take a multi-modal approach to align PR in all modes, also view of integrated multi-modal tickets	FI,IT	Full new IA would be required for such a measure.	Depending on the scope of this measure, it might produce high costs for operators.	EP is pushing for multi-modal PR, but operators are more sceptical.	COM will assess options to address passenger rights in a multi-modal context. To include this in the revision would go beyond the scope of a mere revision of RPR.

Proposed policy measure	Source	Legal feasibility	Effectiveness and efficiency	Political feasibility	Proportionality and scope
Force Majeure					
Remove force majeure from	FI	A proposal for a revised	Such a measure	Foreseeable	Measure might be in conflict

Proposed policy measure	Source	Legal feasibility	Effectiveness and efficiency	Political feasibility	Proportionality and scope
other Passenger Rights Regulations (notably air)	Competition and Consumer Authority (KKV), EPF, Trainline, DE consumer association (VZBV), DE rail passenger organisation (PRO BAHN)	Regulation on air passenger rights is currently under negotiation. No changes to remove FM were made and would have to be introduced under co-decision. There is no intention to revise Passenger rights Regulations for waterborne and bus & coach transport in the short term.	would increase passenger rights and legal certainty. However, it would impose a heavy financial burden on carriers.	strong opposition from MS and carriers.	with the general principle of legal fairness and proportionality.
Create an insurance against force majeure	PRO BAHN	There is no need to regulate such a measure at EU level	This measure would cover the costs of railway undertakings in the event of force majeure. However, it would impose a financial burden on RUs and would not solve the issue of legal unfairness	Potential resistance from RUs.	No need to regulate this at EU level

Proposed policy measure	Source	Legal feasibility	Effectiveness and efficiency	Political feasibility	Proportionality and scope
			between modes of transport.		
Make assistance to passengers in case of force majeure non-binding	RDG (Rail Delivery Group: an industry body representing railway undertakings and infrastructure managers in Great Britain)	This would significantly undermine the protection of passengers and not be in line with the objectives of the rail passenger rights Regulation to provide a high level of passenger protection.	Pragmatic reaction from RUs in the event of force majeure, rather than concern about law suits. However, passenger's protection would significantly decrease.	Strong opposition to be expected from MS, EP and passenger rights organisations.	

Source: DG MOVE

Table A12: Exemptions

Regulation 1371/2007 on rail passenger rights
Summary Table - Information on national exemptions (situation in March 2017)

Country	Domestic Rail Services			Urban, suburban and regional services			International rail services beyond external EU borders		
	Yes		No	Yes		No	Yes		No
	Exemptions	Time-limit		Exemptions	Time-limit		Exemptions	Time-limit	
Austria			X	Urban: All provisions of the Regulation except for those provided in Art 2(3); Suburban and regional: Art 16, 17, 18(4), 28, 15 in conjuction with Annex I Title IV Chapter II: € 80 cost limit for hotel and € 50 for taxi (not applicable to disabled persons).	unlimited				X
Belgium			X			X			X
Bulgaria	Articles 4, 5, 6(1), 8, 10, 13, 15, 16, 17, 18, 20 (2) - 25	5 years		Articles 4, 5, 6(1), 8, 10, 13, 15, 16, 17, 18, 20 (2) - 25	5 years		Articles 4, 5, 6(1), 8, 10, 13, 15, 16, 17, 18, 20 (2) - 25	5 years	
Czech Republic	Art 8, 10, 17 18(2)(a) and (b), 18(3), Annex I Art 7(2)(b), 17(2)(b), 24(3)(b), 32, and Annex II	5 years				X			X
Croatia	Art 13,15,16,17,18,25 and 28	5 years		Art 13,15,16,17,18,25 and 28	5 years		Art 13,15,16,17,18,25 and 28	5 years	
Denmark			X			X			X
Estonia	Art 10, 13(2), 15, 16, 17, 18(2), (4) and (5) and 22	5 years		Art 10, 13(2), 15, 18(2), (4) and (5) and 22	5 years		Art 10, 13(2), 15, 16, 17 and 22	5 years	
Finland			X	Art 10, 17 and 18(2)(a) and (b) are not applicable in regional services of Helsinki Metropolitan Region (Helsinki-Kirkkonummi, Helsinki-Karjaa, Helsinki-Vantaankoski-Helsinki-Vantaa Airport-Tikkurila-Helsinki, Helsinki-Riihimäki, Helsinki-Lahti and Lahti-Riihimäki)	unlimited		Only those related to services to/from Russia.	5 years	
France	All provisions of the Regulation except for those provided in Art 2(3)	5 years		All provisions of the Regulation except for those provided in Art 2(3)	unlimited				X
Germany			X	Art 8 (2), Art 15 - 18 (modifications), 18 (2) a), 27 (3), 28, 29 (1) sentence 1, and for services run mainly on account of their historical significance or for the purposes of tourism	unlimited				X
Greece	Art 10, 13, 15, 16, 17, 18 and 28	5 years		Art 10, 13, 15, 16, 17, 18 and 28	5 years		Art 10, 13, 15, 16, 17, 18 and 28 related to services to Serbia, other countries via FYROM and Turkey	5 years	
Hungary	Art 8(2), 10(1), (2) and (4), 17, 18(2)(a) and (b), 18(5), 21(1) and 23	5 years		All provisions of the Regulation with the exemption of what established in Art 2(3)	5 years		Art 10(1), (2) and (4), 18(2)(a) and (b), 18(5), 21(1) and 23	5 years	
Ireland	Art 13, 15, 21 and 23	5 years		Art 13, 15, 21 and 23	5 years		*not applicable*		
Italy			X			X			X
Latvia	All provisions of the Regulation except for those provided in Art 2(3)	5 years		All provisions of the Regulation except for those provided in Art 2(3)	5 years		Not applicable to services between stations located in Latvia and third countries	5 years	
Lithuania	Art. 8 (2) and (3) (Annex II), 13, 21, 22, 23 and 24	5 years				X	All provisions of the Regulation	5 years	
Luxembourg			X	All provisions of the Regulation except for those provided in Art 2(3)	unlimited				X
Netherlands			X			X			X
Poland	Art. 8(3), 10, 21 (1)	5 years		All provisions of the Regulation except for those provided in Art 4, 5, 8(1), 9, 11, 12, 16, 19, 20(1), 21(2), 22, 23, 24, 26, 27, 28, 29.	unlimited		Art. 8(3), 10, 21 (1)	5 years	
Portugal	All provisions of the Regulation except for those provided in Art 2(3) as well as Art 8, 10,13-17, 18(2), 20(2), 27, 28, as well as art.6-14 &32 of Annex I, Annex II, Annex III • PT confirm that intends to	5 years		All provisions of the Regulation except for those provided in Art 2(3) as well as Art 8, 10,13-17, 18(2), 20(2), 27, 28, as well as Art.6-14 &32 of Annex I, Annex II, Annex III	5 years				
Romania	All provisions of the Regulation except for those provided in Art 2(3)	5 years		All provisions of the Regulation except for those provided in Art 2(3)	5 years		All provisions of the Regulation except for those provided in Art 2(3)	5 years	
Slovenia			X			X			X
Slovakia	Art. 13, 15, 16, 17, 18, 21, 22, 23, 25 and 28	5 years		All provisions of the Regulation except for those provided in Art 2(3)	unlimited				X
Spain			X	Art. 10, 21 - 24	unlimited				X
Sweden			X	Art. 7, 8 (1), 10 (1), (2) and (4), 15, 16, 17 and 18	unlimited				X
UK	All provisions of the Regulation except for those provided in Art 2(3)	5 years		All provisions of the Regulation except for those provided in Art 2(3)	unlimited				X

Note: this list of exemptions is based on information provided by Member States and does not therefore represent any view or commitment by the European Commission

Document A 1: Overview on competition between rail and other modes of transport

The Commission assessed the level of competition between air transport and rail transport in several merger control decisions on the basis of the point of origin - point of destination (or city-pair) approach. A distinction was drawn between time-sensitive passengers (predominantly business travellers) and non-time sensitive passengers (predominantly leisure travellers).

For instance, rail transport was considered a substitute to air transport on the Brussels-London route and partially on the Brussels-Frankfurt route (case M5335 – Lufthansa/SN), on the Athens-Thessaloniki route (case M5830 – Olympic/Aegean), on the Vienna-Linz route and partially on the Vienna-Munich route (case M5440 – Lufthansa/Austrian) and on the London – Manchester route and partially on the London-Edinburg route (case M6447-IAG/BMI).

On the opposite, substitutability between air transport and rail transport has not been recognized on the Brussels-Munich and Brussels-Hamburg routes (case M5335-Lufthansa/SN).

A certain degree of competition between rail and air transport could also be identified (without concluding to substitutability) in the merger cases M5655 – SNCF/LCR/Eurostar, M6150 – Veolia Transport/Trenitalia/SV and M 7011 – SNCF/SNCB/Thalys SV.

The Commission did not have the opportunity to assess competition between rail transport and coach transport in detail in merger control decisions. However, in case M1768-Schoyen/Goldman Sachs/Swebus, it has not excluded competition between coach and rail transport especially at regional level.