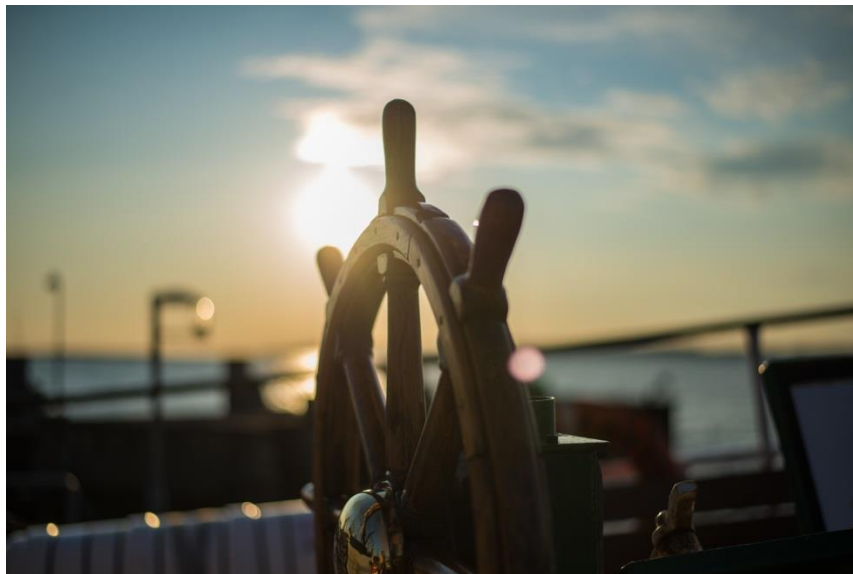




Report of the Federal Railway Authority

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



Source: *Maximilian Weisbecker / Unsplash.com*

Years under review 2017 and 2018



Eisenbahn-Bundesamt

Publication data:

Heinemannstraße 6

53175 Bonn

Germany

www.eisenbahn-bundesamt.de

As at: 17 February 2019



Table of Contents

1. Introduction	4
2. Functions and activities of the national enforcement body as complaints body	5
2.1 General	5
2.2 Data concerning the handling of complaints in 2017	6
2.3 Data concerning the handling of complaints in 2018	7
2.4 Prospects for the handling of complaints	8
3. Enforcement of passenger rights by supervisory measures	9
3.1 General	9
3.2 Data on the enforcement of passenger rights in 2017	9
3.2.1 Terminal operators/port authorities	10
3.2.2 Carriers (shipping companies)	11
3.3 Data on the enforcement of passenger rights in 2018	12
3.3.1 Terminal operators/port authorities	12
3.3.2 Carriers (shipping companies)	13
3.4 Prospects for the enforcement of passenger rights by supervisory measures	14
4. Other activities of the national enforcement body	15
4.1 Public relations work of the national enforcement body	15
4.2 Co-operation of the national enforcement bodies	15
5. Conclusion	16



1. Introduction

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

In accordance with section 3 (1) of the EU Ship Passenger Rights Act (EU-Fahrgastrechte-Schiffahrt-Gesetz, EU-FahrgRSchG), the Federal Railway Authority was designated as national enforcement body and performs the tasks for the implementation of Regulation (EU) No 1177/2010, while making use of the synergy effects from the experiences made as the national enforcement body for the rail and bus and coach transport sectors. Moreover, the Federal Railway Authority is the complaints body in cases where no solution with the carrier could be agreed on (Section 3 (2) of the EU-FahrgRSchG and first sentence of Article 25 (3) of Regulation (EU) No 1177/2010).

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

Passengers can submit their complaints under passenger rights legislation not only to the national enforcement body at the Federal Railway Authority but can, in accordance with Section 6 of the EU FahrgRSchG, also contact arbitration entities recognised by the Federal Ministry of Transport and Digital Infrastructure (BMVI), provided that the concerned company is a member thereof. Up to now, the German Conciliation Body for Public Transport (Schlichtungstelle für den öffentlichen Personenverkehr, söp) has been the dispute settlement authority for sea and inland waterway transport.

¹ In the following: Regulation (EU) No 1177/2010



2. Functions and activities of the national enforcement body as complaints body

2.1 General

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

In accordance with Article 25 (3) (a) of Regulation (EU) No 1177/2010 in conjunction with Section 3 (2) of the EU-FahrgRSchG, passengers have first of all to contact the carrier before consulting the national enforcement body as complaints body. Subsequently, passengers can submit a complaint regarding the decision of the carrier to the national enforcement body for review if they are of the opinion that the carrier did not observe the passenger rights guaranteed by law.

In the period between 2013 and 2017, the national enforcement body for the rights of passengers travelling by sea and inland waterway only received a relatively low number of enquiries/complaints concerning passenger rights. In 2018, the number of submissions increased threefold. Nevertheless, the total number of submissions is significantly lower than for the rail and road modes.

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

In practice, this means that for example such submissions where the Federal Railway Authority only refers the passenger to the carrier, to other regulatory authorities, to other



national enforcement bodies or to arbitration entities can, for statistical purposes, not be considered as complaints under passenger rights law. This includes general submissions, for instance concerning service failures, or civil claims by passengers.

Other requests of passengers, which are not covered by the narrow definition of the term “complaint”, are of course also recorded statistically and dealt with by the Federal Railway Authority. In the following, these complaints are designated as submissions.

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

2.2 Data concerning the handling of complaints in 2017

In 2017, a total of 10 written and 5 oral submissions in connection with the rights of passengers travelling by sea and inland waterway were received by the national enforcement body.

4 of the written submissions did not concern passenger rights issues. In the case of one submission, the complainant was directly referred to the carrier in accordance with Article 25 (3) (a) of Regulation (EU) No 1177/2010 in conjunction with Section 3 (2) of the EU-FahrgRSchG.

3 submissions, which all related to Article 19 of Regulation (EU) No 1177/2010, were transferred to the national enforcement bodies in Italy or France for reasons of competence.

2 submissions comply with the narrow definition of the term “complaint” as mentioned above, which applies to all transport modes.



Type and contents of the complaints in 2017 ²				
Regulation (EU) No 1177/2010	Contents	Number of complaints	Infringements	Remarks
Article 18	Re-routing and reimbursement of the ticket price in the event of cancelled or delayed departures	2	1 ³	The ticket price was reimbursed after clarification of the facts

In terms of content, both complaints referred to the rights in the event of cancelled or delayed departure in accordance with Article 18 of Regulation No 1177/2010.

In both cases, the national enforcement body asked the carriers for a statement in order to clarify the situation. In one case, an infringement was identified. The ticket price was reimbursed after clarification of the facts; therefore, no other measures for the enforcement of passenger rights or any penalties were necessary.

2.3 Data concerning the handling of complaints in 2018

In 2018, 31 written and 16 oral submissions in connection with the rights of passengers travelling by sea and inland waterway were received by the national enforcement body.

20 of the written submissions did not concern passenger rights issues. One case that seemed to be eligible for arbitration was referred to the arbitration entity söp, as the reason for complaint was beyond the responsibility of the national enforcement body and the concerned carrier was member of the arbitration entity.

8 complaints were transferred to the national enforcement bodies in Italy, Greece and France.

2 submissions comply with the narrow definition of the term “complaint” as mentioned above, which applies to all transport modes.

²Evaluation by the deadline of 6 February 2019

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



Type and contents of the complaints in 2018 ⁴				
Regulation (EU) No 1177/2010	Contents	Number of complaints	Infringements	Remarks
Article 19	Compensation by reduction of the ticket price in the event of delay in arrival	1	0 ⁵	Exemption under Article 20 (4)
Article 24	Complaints	1		Carrier did not receive the complaint

In terms of content, the complaints referred to the refusal of compensation under Article 19 of Regulation (EU) No 1177/2010 and to the non-reply to a complaint in accordance with Article 24 (2) of Regulation (EU) No 1177/2010. After clarification of the facts, no infringements were identified. In 2018, too, no penalties were required in this respect.

2.4 Prospects for the handling of complaints

On the whole, the number of complaints received in the sea and inland waterway sectors continues to be extremely low in the period under review 2017/2018. Noticeable is the increase in the number of submissions in 2018 that lie in the responsibility of other national enforcement bodies.

The awareness level of the Federal Railway Authority as national enforcement body has further increased during the period under review 2017/2018. This is visible not only for the sea and inland waterway sectors but also for the rail and bus and coach transport sectors.

⁴Evaluation by the deadline of 6 February 2019

⁵ Related to all complaints complying with the narrow definition of the term



3. Enforcement of passenger rights by supervisory measures

3.1 General

During the period under review 2017/2018, the Federal Railway Authority as the national enforcement body has also taken supervisory measures in accordance with Article 25 (1) of Regulation (EU) No 1177/2010 in conjunction with Section 4 of the EU-FahrgRSchG to ensure compliance with Regulation (EU) No 1177/2010.

In the course of periodic inspections of terminals, the national enforcement body has checked whether commitments made with regard to the implementation of passenger rights have been kept. Apart from the ferry port and cruise terminals, the terminals for transport services to and from the North and East Frisian Islands were also included in the assessments in the period under review 2017/2018.

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

In view of the treatment of passengers by tour operators and travel agents which was in the majority of cases compliant with the Passenger Rights Regulation in the past, supervisory measures are only carried out for the obligated parties if a relevant incident occurs. Therefore, in the years under review 2017 and 2018, no assessments were carried out.

3.2 Data on the enforcement of passenger rights in 2017

In 2017, a total of 65 assessments were carried out. Terminal operators accounted for 5 of these assessments, carriers for 60.



3.2.1 Terminal operators/port authorities

In 2017, the national enforcement body carried out 5 assessments at terminal operators.

Key issues of the assessments of terminal operators / port authorities in 2017⁶			
Regulation (EU) No 1177/2010	Contents	Number of assessments	Infringements
Article 12 (3)	Establishment of a point of contact for disabled persons or persons with reduced mobility	5	0
Article 14	Instruction of the personnel when dealing with disabled persons or persons with reduced mobility		
Article 23	Information on passenger rights Indication of the contact details of the enforcement body		

2 assessments were carried out at Baltic Sea ferry ports and 3 supervisory measures at terminals for services to and from the North Sea islands. Here, the obligation under Article 12 (3) of Regulation (EU) No 1177/2010 to establish a point to which disabled persons and persons with reduced mobility can address their requests for assistance as well as the obligation from Article 14 of Regulation (EU) No 1177/2010 with regard to the training and instruction of personnel in their dealings with disabled persons were checked by means of a survey. Furthermore, the terminal operators were monitored as to their compliance with the obligation to provide information on passenger rights according to Article 23 of Regulation (EU) No 1177/2010. No infringements were identified.

⁶Evaluation by the deadline of 6 February 2019



3.2.2 Carriers (shipping companies)

In 2017, the national enforcement body carried out 60 supervisory measures at carriers/shipping companies.

Key issues of the assessments of carriers/shipping companies in 2017⁷			
Regulation (EU) No 1177/2010	Contents	Number of assessments	Infringements
Article 13 (3)	Information on quality standards for assistance	60	1
Article 14	Training and instruction		
Article 22	Information throughout the journey		
Article 23	Information on passenger rights Indication of the contact details of the enforcement body		
Article 24	Complaints management		

Two shipping companies were assessed with regard to the legally compliant handling of complaints. For this purpose, 20 or 10 complaint files, respectively, were requested from the shipping companies to assess if these were processed in compliance with the Regulation. No infringements were identified.

8 supervisory measures involving river cruise ships as well as 22 assessments of shipping companies and ferries for transport services to and from the North and East Frisian Islands referred to the compliance with and the implementation of the quality standards for assistance in accordance with Article 13 (3) of Regulation (EU) No 1177/2010 and the training and instructions of the personnel of shipping companies with regard to the treatment of disabled and mobility-impaired passengers in accordance with Article 14 of Regulation

⁷Evaluation by the deadline of 6 February 2019



(EU) No 1177/2010. The obligation to provide information from Article 22 and Article 23 of Regulation (EU) No 1177/2010 was assessed, too.

Predominantly, the shipping companies displayed their willingness to cooperate. Only in 2 cases, the cooperation of the shipping companies had to be brought about by a consultation and an order to provide information in accordance with section 4 (1) (2) of the FahrgRSchG. Only in one case, an identified infringement of Article 14 of Regulation (EU) No 1177/2010 was eliminated by means of an administrative procedure. No other penalties had to be imposed.

3.3 Data on the enforcement of passenger rights in 2018

Given the positive results of recent years, a total of 7 assessments were carried out in 2018. Terminal operators accounted for 2 of these assessments, carriers for 5.

3.3.1 Terminal operators/port authorities

In 2018, 2 supervisory measures were carried out at terminals/port authorities to monitor official orders made in 2015. Since no infringements were identified, administrative measures could be waived.

Key issues of the assessments of terminal operators/port authorities in 2018⁸			
Regulation (EU) No 1177/2010	Contents	Number of assessments	Infringements
Article 23	Information on passenger rights Indication of the contact details of the enforcement body	2	0

⁸Evaluation by the deadline of 6 February 2019



3.3.2 Carriers (shipping companies)

In 2018, the national enforcement body carried out 5 supervisory measures at carriers/shipping companies.

Key issues of the assessments of carriers/shipping companies in 2018⁹			
Regulation (EU) No 1177/2010	Contents	Number of assessments	Infringements
Article 10	Assistance on board ships	5	1
Article 16	Information in the event of cancelled or delayed departures		
Article 22	Information throughout the journey		
Article 23	Information on passenger rights Indication of the contact details of the enforcement body		
Article 24	Complaints management		

2 shipping companies and 2 ferries offering services to and from the North Sea islands as well as 1 shipping company operating in international Baltic Sea transport were assessed. At the time of reporting, the administrative procedure for one assessment had not yet been completed.

Only in one case, shortcomings with regard to Article 23 of Regulation (EU) No 1177/2010 were determined which were remedied immediately without an administrative procedure.

⁹Evaluation by the deadline of 6 February 2019



3.4 Prospects for the enforcement of passenger rights by supervisory measures

For the assessment of the terminals for transport services to and from the islands, the focus will remain on ensuring the basic requirements from Regulation (EU) No 1177/2010. Within the context of periodic inspections, the ferry ports and cruise terminals will repeatedly be assessed to ensure sustainability.

Current shipping incidents are to be taken as an occasion to assess the respective shipping companies with regard to the implementation of and compliance with passenger rights. In this context, complaint files will be requested and assessed. These supervisory measures are also designed to detect the sectors with possible shortcomings in the field of passenger rights in order to define further key areas on which the assessments will focus.

As a result of the continuously good results, assessments of ferries, inland waterway vessels and ticket vendors will be reduced and only be performed occasionally in the future.



4. Other activities of the national enforcement body

4.1 Public relations work of the national enforcement body

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

At the annual open day of the Federal Ministries, the national enforcement body regularly offers a point of contact to provide citizens with information on passenger rights. In the period under review, such events were held from 26 to 27 August 2017 and from 25 to 26 August 2018.

4.2 Co-operation of the national enforcement bodies

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



5. Conclusion

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

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

It has proved helpful to be able to use the experiences made in the enforcement of passenger rights for the rail and road transport modes. Since the administrative governance for the handling of complaints as well as for the implementation of supervisory measures is uniform for all modes of transport, the national enforcement body can make use of the synergistic benefits.

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