

# Position Paper

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## **RECAST REGULATION (EU) 1371/2007 On Passengers' Rights and Obligations**

**2<sup>nd</sup> October 2018**

## Introduction

Regulation (EU) 1371/2007 (“the Regulation”) aims at ensuring high quality rail services for the benefit of passengers, granting them significant rights on the same line as other modes of transport. The Regulation builds on the existing “Uniform Rules concerning the Contract for International Carriage of Passengers and Luggage by Rail (CIV)” and extends its scope to domestic rail passenger services.

According to the European Commission, several factors have been hampering the implementation of the Regulation’s original objectives – the extensive use of exemptions at national level has notably constituted a major hindrance to the uniform application of the Regulation.

On 27<sup>th</sup> September 2017, the European Commission published its proposal for a recast of Regulation (EU) 1371/2007 “on rail passengers’ rights and obligations” (hereinafter: the Recast Regulation).

With this proposal, the Commission aims at tackling various aspects of the Regulation, by providing amendments for what concerns matters such as the availability/accessibility of information; passengers’ rights in situations of delays, missed connections or train cancellation; complaints-handling procedure; the assistance to people with disabilities and people with reduced mobility (“PRM”); and measures to ensure the enforcement of those rules.

Accordingly, several provisions of the new proposal target station managers and infrastructure managers (“IMs”) by extending to them – beyond railway undertakings (“RUs”) – some of the original obligations of Regulation 1371/2007, or creating new ones.

The European Commission has invited all interested/concerned stakeholders to express their views on the draft text of the recast Regulation – in the form of a 4000-characters feedback – by 22<sup>nd</sup> November 2017.

EIM welcomes the initiative of the Commission to review the Regulation, tackling some of the hurdles to its smooth implementation in the best interests of rail passengers. With this Position Paper, EIM and its Members wish to present their position on the recast Regulation in a comprehensive way, highlighting to the European Union’s Institutions and all interested stakeholders what are the main concerns, risks and expectations for station managers and infrastructure managers.

## Travel Information – Article 9(4)

In the reviewed text of Article 9 on “Travel Information”, the European Commission is proposing a new Paragraph (4) to extend – beyond RUs and ticket vendors – the obligation to provide the information during the journey. Accordingly, Article 9(4) foresees for station managers and infrastructure managers the obligation to make – in a non-discriminatory manner – real-time data related to trains available to railway undertakings and ticket vendors. Notably, this real-time data would also include trains which are operated by any other railway undertaking.

<u>EC Proposal</u>	<u>EIM Amendment(s)</u>
<p><u>Article 9(4)</u> Station managers and infrastructure managers shall make real-time data relating to trains, including those operated by other railway undertakings available to railway undertakings and ticket vendors, in a non-discriminatory manner.</p>	<p><u>Article 9(4)</u> Station managers and infrastructure managers shall, <u>where available</u>, make <del>real-time</del> data relating to <u>real-time trains-movements within the meaning of Annex II</u>, including those operated by other railway undertakings available to railway undertakings and ticket vendors, in a non-discriminatory manner.</p>

Recommendation

- **Data on real-time train movements within the meaning of Annex II shall be provided where available by station managers and Infrastructure managers.**

Justification

*EIM expresses serious concerns with regard to Paragraph (4) of Article 9. First and foremost, it is not clear which data exactly would fall within the scope of the new provision. This uncertainty would consequently result in a problem of confidentiality regarding those data – for, according to the proposal, any other railway undertaking will receive the information by the infrastructure/manager station manager.*

*Following this further, for the purposes of legal clarity and to avoid ambiguity in fulfilling the obligations of the station and Infrastructure managers, EIM proposes a clear reference to the ‘data relating to train movements within the meaning of Annex II’ that is to be provided on a non-discriminatory basis to railway undertakings and ticket-vendors. EIM believes this achieves the intended purpose of including paragraph 4 of article 9 in the recast, which is to clarify the data to be made available by Infrastructure Managers to Railway Undertakings. This is also aligned to the European Commission’s clarification as referenced in section 3.1.1 ‘real-time information’ on the Commission communication Interpretative Guidelines on Regulation (EC) No 1371/2007 of the European Parliament and of the Council on rail passenger’s rights and obligations.*

**Right of Redress – Article 19**

As newly drafted provision in the Recast Regulation, Article 19 foresees that – when compensation has been paid and obligations under the Regulation have been met – the RU would be granted the right to seek reimbursement (i.e. redress) from a third party with whom the very same RU has a contract. As a consequence, the RU may eventually seek reimbursement from the station manager or the infrastructure manager, under the condition that the latter is deemed responsible for the event which triggered the compensation.

EC Proposal	EIM Amendment(s)
<p><u>Article 19</u></p> <p>Where a railway undertaking pays compensation, or meets its other obligations in accordance with this Regulation, no provision of this Regulation or national law may be interpreted as restricting its right to seek compensation for costs from any person, including third parties, in accordance with the law applicable. In particular, this Regulation shall in no way restrict the railway undertaking's right to seek reimbursement from a third party, with whom it has a contract and which contributed to the event which triggered compensation or other obligations. No provision of this Regulation may be interpreted as restricting the right of a third party, other than a passenger, with whom a railway undertaking has a contract, to seek reimbursement or compensation from the railway undertaking in accordance with applicable relevant laws.</p>	<p><u>Article 19</u></p> <p><del>Where a railway undertaking pays compensation, or meets its other obligations in accordance with this Regulation, no provision of this Regulation or national law may be interpreted as restricting its right to seek compensation for costs from any person, including third parties, in accordance with the law applicable. In particular, this Regulation shall in no way restrict the railway undertaking's right to seek reimbursement from a third party, with whom it has a contract and which contributed to the event which triggered compensation or other obligations. No provision of this Regulation may be interpreted as restricting the right of a third party, other than a passenger, with whom a railway undertaking has a contract, to seek reimbursement or compensation from the railway undertaking in accordance with applicable relevant laws.</del></p>

## Recommendations

**The whole Article 19 shall be deleted.**

### Justification

*EIM is highly concerned by the proposal for a new Article 19 and we strongly recommend the removal of the entire provision. As first consideration, we point out that passengers do not have any direct contact with a third party such as the infrastructure managers, therefore the redress mechanism the proposal is attempting to set up is flawed to its very base.*

*Furthermore, the proposed Article seems to entail the introduction of a right of redress for domestic passengers traffic into national law – even if, at national level, such right is not foreseen<sup>1</sup>. This may also lead to a situation when the third party – e.g. the infrastructure manager – is obliged to pay a compensation according to another national law than his own. (I.e. Passengers would claim for damages to the railway undertaking on the basis of his/her national law. The RU would afterwards exercise its right of regress to the third party – e.g. the infrastructure manager – possibly established in another country and thus subject to another national law).*

*Moreover, EIM stresses that Article 19 would be legally inconsistent with the Convention on International Carriage by Rail (COTIF) and its Appendices. We recall, in this regard, that Regulation 1371/2007 builds on the pre-existing COTIF and full coherence between the two texts has been thoroughly sought by the law-makers – Appendix A to the COTIF had been transposed into the Regulation in Annex I.*

*Article 19 would be notably inconsistent with Appendix E “Uniform Rules concerning the Contract of Use of Infrastructure in International Rail Traffic”<sup>2</sup> (hereinafter: CUI UR). Accordingly, Article 8(1) of the CUI UR currently provides for the railway undertaking’s right of redress towards the infrastructure manager related to the damages paid by the railway undertaking to passengers on the basis of CIM<sup>3</sup> – Appendix B to COTIF (Art. 40) and CIV<sup>4</sup> – Appendix A to COTIF (Art. 51). Nonetheless, the CUI measure is foreseen uniquely for International rail traffic, as the scope of application of the COTIF and the CUI UR is only International carriage.*

*Therefore, we firmly question Article 19 going beyond the scope of the COTIF and its coherent and harmonized legal system, particularly as regards the liability regime.*

*Finally, EIM is worried of Article 19 potentially jeopardising the financial equilibrium of infrastructure managers, ensured by the obligation imposed by EU law on Member States. The IM is subject to tight regulation on prices on the basis of EU law<sup>5</sup>. Consequently, the IM is unable to incorporate the operational risks in its prices, as a regular company would do. This is especially true with regards to Regulation (EU) 1371/2007, which imposes the payment of compensation to passengers on the RU – in case of delay or cancellation, etc. – as a percentage of the ticket price. The RU is free to set the ticket price and also to set a higher price in order to include the cost of any operational risk. The infrastructure manager has no influence on the price policy of a RU, therefore it has no influence on the amount of compensation either.*

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<sup>1</sup> In certain Member States, there is a right of regress for international traffic, which is also stated in the network statement of the IMs. The general principle of those network statement is however that financial damages are not subject to compensation (only in certain specified situations). According to national laws on indemnification, financial damages are only compensated where a criminal act has taken place.

<sup>2</sup> The CUI governs the contract for the use of the rail infrastructure between the infrastructure manager and the carrier (i.e. the railway undertaking).

<sup>3</sup> Uniform Rules concerning the Contract of International Carriage of Goods by Rail (CIM – Appendix B to COTIF).

<sup>4</sup> Uniform Rules concerning the Contract of International Carriage of Passengers by Rail (CIV – Appendix A to COTIF).

<sup>5</sup> As a principle, the price for the use of the infrastructure is the costs directly incurred as a result of operating the train service.

Article 19 would therefore risk making the infrastructure manager dependent on RUs' price policies. The infrastructure manager has therefore no control over (and may not even be aware of) the amount of this compensation that it might have to bear.

## Information to persons with disabilities and persons with reduced mobility – Article 21(1)

The revised first Paragraph of Article 21 extends to station managers the obligation to provide PRM with information on the accessibility of different elements related to the journey, including notably rail services and rolling stock as well as on-board facilities.

EC Proposal	EIM Amendments
<p><u>Article 21(1)</u> Upon request, a station manager, a railway undertaking, a ticket vendor or a tour operator shall provide persons with disabilities and persons with reduced mobility with information, including in accessible formats in accordance with the accessibility requirements laid down in Regulation (EU) No 454/2011 and Directive XXX, on the accessibility of the station and associated facilities, rail services and on the access conditions of rolling stock in accordance with the access rules referred to in Article 20(1) and shall inform persons with disabilities and persons with reduced mobility about facilities on board.</p>	<p><u>Article 21(1)</u> Upon request, a station manager <u>shall provide person with disabilities and persons with reduced mobility with information on the accessibility of the station and associated facilities. Upon request,</u> a railway undertaking, a ticket vendor or a tour operator shall provide persons with disabilities and persons with reduced mobility with information, <del>including in accessible formats in accordance with the accessibility requirements laid down in Regulation (EU) No 454/2011 and Directive XXX, on the accessibility of the station and associated facilities,</del> <u>on</u> rail services and on the access conditions of rolling stock <del>in accordance with the access rules referred to in Article 20(1)</del> and shall inform persons with disabilities and persons with reduced mobility about facilities on board. <u>All type of information shall be provided in accordance with the access rules referred to in Article 20(1) and include accessible formats in accordance with the accessibility requirements laid down in Regulation (EU) No 454/2011 and Directive XXX</u></p>

### Recommendation

- **Station managers shall uniquely provide information on the accessibility of the station and associated facilities**

### Justification

EIM fully agrees with the importance of providing information to people with disabilities and persons with reduced mobility in accessible formats. Accordingly, this is something which has been already carried out by most infrastructure managers across the EU.

However, EIM remarks that it is unreasonable to expect a station manager to provide information about rolling stock access conditions and on-board facilities. Indeed, these are elements which are under the

sole control of the RU. Therefore, this is information that the station manager is not party to and it would constitute an unfair expectation for the station manager to provide such information to passengers.

### Assistance in railway stations – Article 22(4)

In the proposal, Article 22 has been complemented with a new Paragraph (4) setting forth that station managers and railway undertakings shall provide continued assistance to disable people and people with reduced mobility “during all times” when rail services are in operation.

EC Proposal	EIM Amendment(s)
<p><u>Article 22(4)</u></p> <p>1. On departure from, transit through or arrival at, a staffed railway station of a disabled person or a person with reduced mobility, the station manager shall provide assistance free of charge in such a way that that person is able to board the departing service, or to disembark from the arriving service for which he or she purchased a ticket, without prejudice to the access rules referred to in Article (1).</p> <p>2. In the absence of staff at a station, railway undertakings and station managers shall make all reasonable efforts to enable disabled persons or persons with reduced mobility to have access to travel by rail.</p> <p>3. In unstaffed stations, railway undertakings and station managers shall ensure that easily accessible information, including in accessible formats in accordance with the accessibility requirements laid down in Directive XXX, is displayed in accordance with the access rules referred to in Article (1) regarding the nearest staffed stations and directly available assistance for disabled persons and persons with reduced mobility.</p> <p>4. Assistance shall be available in stations during all times when rail services operate.</p>	<p><u>Article 22(4)</u></p> <p>1. On departure from, transit through or arrival at, a staffed railway station of a disabled person or a person with reduced mobility, the station manager shall provide assistance free of charge in such a way that that person is able to board the departing service, or to disembark from the arriving service for which he or she purchased a ticket, without prejudice to the access rules referred to in Article (1).</p> <p>2. In the absence of staff at a station, railway undertakings and station managers shall make all reasonable efforts to enable disabled persons or persons with reduced mobility to have access to travel by rail.</p> <p>3. In unstaffed stations, railway undertakings and station managers shall ensure that easily accessible information, including in accessible formats in accordance with the accessibility requirements laid down in Directive XXX, is displayed in accordance with the access rules referred to in Article (1) regarding the nearest staffed stations and directly available assistance for disabled persons and persons with reduced mobility.</p> <p><del>(4) Assistance shall be available in stations during all times when rail services operate</del></p>

#### Recommendation

- **The new Paragraph (4) shall be deleted.**

#### Justification

*EIM points out the inconsistency between the new Paragraph (4) and the rest of Article 22. Accordingly, on the one hand Paragraph (4) introduces the requirement for the assistance available at stations all the time, on the other hand Paragraphs (2) and (3) regulate situations which do not necessarily foresee the presence of personnel at stations.*

*Furthermore, assistance being mandatorily available “during all times” would lead to disproportionate costs for the station managers and railway undertakings.*

## Conditions under which assistance is provided– Article 24(a)

In the proposal of the European Parliament, Article 24 (a) states that no-prenotification is needed in stations where daily traffic exceeds 10 000 passengers per day.

EP Proposal	EIM Amendments
<p><u>Article 24(a)</u></p> <p>Assistance in stations shall be provided during times rail services operate on condition that the railway undertaking, the station manager, the ticket vendor or the tour operator with which the ticket was purchased is notified of the person’s need for such assistance at least 12 hours before the assistance is needed. In stations where daily traffic exceeds 10 000 passengers per day, no pre-notification is needed, however, the person in need of assistance shall be at the respective station at least 30 minutes before the departure of the train. In stations where daily traffic is between 2 000 and 10 000 passengers per day, the notification shall be reduced to maximum three hours. The requests of assistance notified by email shall be calculated excluding the hours during which stations do not operate. Where a ticket or season ticket permits multiple journeys, one notification shall be sufficient provided that adequate information on the timing of subsequent journeys is provided. Such notifications shall be forwarded to all other railway undertakings and station managers involved in the person’s journey</p>	<p><u>Article 24(a)</u></p> <p><i>Assistance in stations shall be provided during times rail services operate on condition that the railway undertaking, the station manager, the ticket vendor or the tour operator with which the ticket was purchased is notified of the person’s need for such assistance at least 12 hours before the assistance is needed. In stations where daily traffic exceeds 10 000 passengers per day, no pre-notification is needed, however, the person in need of assistance shall be at the respective station at least 30 minutes before the departure of the train. In stations where daily traffic is between 2 000 and 10 000 passengers per day, the notification shall be reduced to maximum three hours. The requests of assistance notified by email shall be calculated excluding the hours during which stations do not operate. Where a ticket or season ticket permits multiple journeys, one notification shall be sufficient provided that adequate information on the timing of subsequent journeys is provided. Such notifications shall be forwarded to all other railway undertakings and station managers involved in the person’s journey. <u>Railway undertakings, station managers, ticket vendors and tour operators shall meet the requirements of article 24(c) within two years following the date of compliance of this regulation.</u></i></p>

### Justification

*EIM would like to emphasise the primary function of the mobility assistance service provided at stations is to ensure a safe, punctual and high quality service for all rail passengers with reduced mobility and EIM reaffirm its committed to delivering such a service. In a Europe of longer life expectancy, aging citizens and increasing passenger use of European railways, it is imperative that any changes to existing legislation do not negatively impact a station manager’s ability to deliver a safe, punctual and high quality mobility assistance service.*

*EIM would therefore like to highlight that in times of financial constraint and limited resources for station managers the success of an efficient and fully resourced “no pre-notification” mobility assistance service, as proposed in article 24(c) is -wholly- conditional on an implementation period which provides sufficient time for station managers to phase in the changes required for providing mobility assistance with “no pre-notification”. EIM recognise the importance of working towards a “no pre-notification” mobility assistance service so that passengers of reduced mobility can enjoy the same freedom of rail travel equal to that of all other passengers. However, without significant investment and a sufficient implementation period, station*

managers would be unable to meet the demand for “no-pre notification” mobility assistance services which in turn would adversely affect the quality, punctuality as well as compromise the safety of the mobility assistance service provided to passengers.

To highlight the challenges faced by station managers in providing mobility assistance services, it is important to note the EU 28’s population is aging and is projected to increase to a peak of 528.6 million around 2050.<sup>6</sup> In 2017, 19.4% of the total EU 28 population accounted for persons aged 65 or over. Furthermore, recent data suggests, that 48.8% of people whom travel in the EU 28 are aged 65 or over and it is estimated this number will rise in the future.<sup>7</sup> The European Commission reports that one in six people in the EU aged 15 or over live with some kind of disability including “long-term physical, mental, intellectual or sensory impairment,” and as the population ages, this number is expected to rise significantly.

Although it is unlikely that all of these will require assistance travelling by rail, with continued IM focus on rail improvements, policy initiatives to promote multimodality and now the introduction of a “no pre-notification” mobility assistance service as proposed in the recast, it is reasonable to predict that assistance services are likely to become more in demand.

EIM would therefore like to call upon an implementation period of 2 years following the entry into force of the recast regulation to allow rail station managers sufficient time to facilitate the changes required to provide a “no pre-notification” mobility assistance service without compromising on the quality and punctuality of the mobility assistance service provided as well as the safety of passengers and railway staff.

### Compensation in respect of mobility equipment, other specific equipment or assistive devices – Article 25(3)

Article 25 sets forth the liability of station managers (and railway undertakings), and the related obligation of compensation, if they cause the loss or damage of mobility equipment used by people with disabilities or PRM. In addition, the new Paragraph (3) stretches the obligation even further by entrusting the station manager with the temporary replacement of the lost/damaged mobility equipment.

EC Proposal	EIM Amendment(s)
<p><u>Article 25(3)</u> Where necessary, railway undertakings and station managers shall make every reasonable effort rapidly to provide temporary replacements for specific equipment or assistive devices, which shall, where possible, have technical and functional features equivalent to those lost or damaged. The person with disabilities or reduced mobility shall be permitted to keep the temporary replacement equipment or device until the compensation referred to in paragraphs 1 and 2 has been paid.</p>	<p><u>Article 25(3)</u> <del>Where necessary, railway undertakings and station managers shall make every reasonable effort rapidly to provide temporary replacements for specific equipment or assistive devices, which shall, where possible, have technical and functional features equivalent to those lost or damaged. The person with disabilities or reduced mobility shall be permitted to keep the temporary replacement equipment or device until the compensation referred to in paragraphs 1 and 2 has been paid.</del></p>

<sup>6</sup> [https://ec.europa.eu/eurostat/statistics-explained/index.php/Population\\_structure\\_and\\_ageing](https://ec.europa.eu/eurostat/statistics-explained/index.php/Population_structure_and_ageing)

<sup>7</sup> <https://ec.europa.eu/eurostat/cache/infographs/elderly/index.html>

Recommendation

- **Paragraph (3) of Article 25 shall be deleted.**

Justification

*EIM welcomes the rather flexible approach in the wording of new Paragraph (3). However, we consider the consequences stemming from the obligations enshrined in Article 25(3) as unreasonably burdensome for the station managers.*

*According to the provision at stake, the station managers – who is already compelled to compensate monetarily the passenger for the loss or damage – will be additionally expected to provide for a temporary replacement for the lost/damaged equipment which, most likely, would have to be purchased by the station manager itself in order to have technical features that match.*

**Staff Training – Article 26**

According to the proposal, station managers (together with railway undertakings) would have the obligation to provide training on the needs of persons with disabilities among all personnel working at the station and dealing directly with the travelers. This obligation would be extended also to include all new employees, who shall receive disability-related training. Notably, the draft provision at stake envisages that not only people with reduced mobility should be provided with direct assistance, but also people with “*mental and intellectual impairments*”.

<u>EC Proposal</u>	<u>EIM Amendment(s)</u>
<p>Railway undertakings and station managers shall:</p> <p>a) ensure that all personnel, including those employed by any other performing party, providing direct assistance to persons with disabilities and persons with reduced mobility, know how to meet the needs of persons with disabilities and of persons with reduced mobility, including those with mental and intellectual impairments;</p> <p>b) provide training to raise awareness of the needs of persons with disabilities among all personnel working at the station who deal directly with the travelling public;</p> <p>c) ensure that, upon recruitment, all new employees receive disability-related training and that personnel attend regular refresher training courses.</p> <p>d) accept upon request the participation, in the training, of employees with disabilities, passengers with disabilities and with reduced mobility, and/or organisations representing them.</p>	<p><i>Railway undertakings and station managers shall:</i></p> <p><i>a) ensure that all personnel, including those employed by any other performing party, providing direct assistance to persons with disabilities and persons with reduced mobility, know how to meet the needs of persons with disabilities and of persons with reduced mobility, including those with mental and intellectual impairments;</i></p> <p><i>b) provide training to raise awareness of the needs of persons with disabilities among all personnel working at the station who deal directly with the travelling public;</i></p> <p><i>c) ensure that, upon recruitment, all new employees receive disability-related training and that personnel attend regular refresher training courses.</i></p> <p><i>d) Accept, <u>where appropriate</u>. <del>upon request</del> the participation, in the training, of employees with disabilities, passengers with disabilities and with reduced mobility, and/or organisations representing them.</i></p>

Recommendations

- **The definition of “mental and intellectual impairments” in Paragraph (1) should be carefully specified.**
- **The wording “upon request” in Paragraph (4) shall be replaced with “where appropriate”.**

Justification

*EIM fully acknowledges the need for training station managers’ personnel in order for them to provide direct assistance to people with physical and mental/intellectual impairments. However, EIM considers that the definition of “mental and intellectual impairments” seems to be excessively broad.*

*A situation involving a person with mental and intellectual impairments would require station’s personnel who is appropriately trained to deal with a precise impairment medical typology. It goes without saying, this would be in the crucial interest of the traveler who would be able to be directly assisted in the best viable way. On the contrary, the proposed wording seems to embrace all typologies of mental and intellectual impairments. As a consequence, the station manager may not be able to identify which specific training its personnel would need – and how much resources to commit on the training itself.*

*Eventually, on Paragraph (4), EIM considers that if participation in the training of employees with disabilities, PRMs and their representatives was to be accepted automatically upon mere request, there is the risk for the station manager to be overwhelmed by applications. The proposed alternative wording “where appropriate” would give the station manager the necessary flexibility without diminishing the right of the passenger or his/her representative.*

**Article 28 – Complaints-Handling**

The proposal sets forth that, within six months from the incident, passengers would have the possibility to submit a complaint also to the station manager, the infrastructure manager and the ticket vendor – besides the railway undertaking. Accordingly, the obligation to set-up a complaint-handling mechanism would be broadened to station managers and infrastructure managers of stations handling more than 10,000 passengers/per day on average over one year. Finally, the complaint handlers (station managers, IMs, RUs and ticket vendors) will have to keep the incident data – necessary to assess the complaint – for two years and made them available to the National Enforcement Bodies upon request.

EC Proposal	EIM Amendment(s)
<p><u>Article 28</u></p> <p>1. All railway undertakings, ticket vendors, station managers and infrastructure managers of stations handling more than 10 000 passengers per day on average over a year shall each set up a complaint-handling mechanism for the rights and obligations covered in this Regulation in their respective field of responsibility. They shall make their contact details and working language(s) widely known to passengers.</p> <p>2. Passengers may submit a complaint to any railway undertaking, ticket vendor, railway station or infrastructure manager involved. Complaints shall be submitted within six months of the incident that is the subject of the complaint. Within one month of receiving the complaint, the addressee shall either give a reasoned reply or, in justified cases, inform the passenger by what date within a period of less than three months from the date of receipt of the complaint a reply can be expected. Railway undertakings, ticket vendors, station managers and infrastructure managers shall keep the incident data</p>	<p><u>Article 28</u></p> <p>1. All railway undertakings, ticket vendors, station managers <del>and infrastructure managers</del> of stations handling more than 10 000 passengers per day on average over a year shall <del>each</del> set up a complaint-handling mechanism for the rights and obligations <del>covered in this Regulation</del> <u>related to security and quality of service</u>, in their respective field of responsibility. They shall make their contact details and working language(s) widely known to passengers.</p> <p>2. Passengers may submit a complaint to any railway undertaking, ticket vendor, <del>or railway station manager or infrastructure manager</del> involved. <u>Complaints shall be submitted within six months of the incident that is the subject of the complaint. Within one month of receiving the complaint, the addressee shall either give a reasoned reply or, in justified cases, inform the passenger by what date within a period of less than three months from the date of receipt of the complaint a reply can be expected. Railway undertakings, ticket vendors, <u>and</u> station managers.</u></p>

<p>necessary to assess the complaint for two years and make them available to NEBs upon request.</p> <p>3. Details of the complaint handling procedure shall be accessible to persons with disabilities and with reduced mobility.</p>	<p><del>and infrastructure managers shall keep the incident data necessary to assess the complaint for two years and make them available to NEBs upon request.</del></p> <p>3. Details of the complaint handling procedure shall be accessible to persons with disabilities and with reduced mobility.</p>
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### Recommendations

- The reference to “infrastructure manager” in Paragraphs (1) and (2) shall be **deleted**.
- The obligation for all parties to set up – “each” – individual complaints-handling mechanisms shall be **removed**.
- The complaints submitted to station managers shall concern passengers’ rights and obligations related **only** to security and quality of service.
- The obligation, for station managers, to keep the incident data necessary to handle the complaint for two years should be clarified.

### Justification

*EIM firmly questions the fact that the draft text of the Recast Regulation makes mention of the “infrastructure managers”. As a matter of fact, infrastructure managers are not providing a service to the passengers directly and, in addition, they do not hold any contract (i.e. ticket) with the passenger.*

*Furthermore, passengers must be enabled to deal with a simple complaints-handling process, starting with knowing easily to whom exactly submitting their complaints. However – assuming the purpose of the Recast Regulation being the establishment of an efficient complaint-handling mechanism – the involvement of an actor such as the infrastructure manager, with no responsibility nor legally-defined role in the procedure, does not seem to answer those passengers’ demands for clarity and simplicity.*

*In the light of providing passengers with the best possible services, EIM advocates the removal of the obligation for station managers, Rus and ticket vendors to set up separate complaints-handling mechanisms – to this extent, recommend the removal of the wording “each” from the first sentence of the Article. Therefore, if all parties have previously agreed on a one-stop-shop (OSS) for complaints-handling, the latter would not be jeopardized by the establishment of unnecessary individual mechanisms.*

*Following this further, EIM remarks that Article 28 falls under the Chapter “Security, complaints and quality of the service”. Therefore, we recommend in Paragraph ()1 to specify unambiguously that the complaints addressing station managers (and others) concern passengers’ rights and obligations related to security and quality of service.*

*Finally, EIM requires a clarification with regard to the last sentence of Paragraph 2, setting the obligation for station managers to keep the incident data for two years. According to EIM’s interpretation, the obligation at stake would be only applicable to the data being available at the time the complaints is submitted – e.g. certain CCTV footages may be kept by companies only for a limited amount of time, and be therefore not available once a complaint is filled.*

## **Article 29 – Service Quality Standards**

The present provision has been amended so as to enlarge the scope for the obligations of establishing service quality standards – implementing a quality management system to maintain service quality – and of performance monitoring to the station managers. The service quality standards would therefore cover

at least the following elements (listed in Annex III of the Recast Regulation): 1) information and tickets; 2) general principles to cope with service disruptions; 3) description of measures in place to ensure cleanliness of station facilities; 4) customer satisfaction survey.

EC Proposal	EIM Amendment(s)
<p><u>Article 29</u></p> <p>1. Railway undertakings and station managers shall establish service quality standards and implement a quality management system to maintain service quality. The service quality standards shall at least cover the items listed in Annex III.</p> <p>2. Railway undertakings and station managers shall monitor their own performance as reflected in the service quality standards. Railway undertakings shall each year publish a report on their service quality performance together with their annual report. Railway undertakings shall publish the reports on service quality performance on their website. In addition, these reports shall be made available on the website of the European Union Agency for Railways.</p>	<p><u>Article 29</u></p> <p>1. Railway undertakings <del>and station managers</del> shall establish service quality standards and implement a quality management <del>system</del> <u>procedures</u> to maintain service quality. The service quality standards shall at least cover the items listed in Annex III.</p> <p>2. Railway undertakings <del>and station managers</del> shall monitor their own performance as reflected in the service quality standards. Railway undertakings shall each year publish a report on their service quality performance together with their annual report. Railway undertakings shall publish the reports on service quality performance on their website. In addition, these reports shall be made available on the website of the European Union Agency for Railways.</p>

#### Recommendation

- The reference to “station managers” in Paragraphs (1) and (2) shall be **deleted**.
- The reference to “system” in the text shall be changed to “procedures”.

#### Justification

*EIM remarks that legislating the obligation for station managers to set up a “quality management system” may be unjustifiably onerous. Station managers have usually other schemes/processes already in place in order to assess the quality of the services provided at the stations and monitor their own performance. Moreover, these processes normally cover most of the elements listed in Annex III. The establishment of a new “quality management system” may overrule the currently existing processes, which are detailed such that they are adaptable to be effectively customer focused; Legislating a set requirement (as suggested in Annex III) may lead to criteria which are no longer fit for purpose in driving real service improvement. Therefore, to avoid unnecessary cost for station managers, and to ensure good regulation which provides flexibility to drive service quality, a burdensome ‘management system’ should be avoided.*

*As far as Paragraph (2) is concerned, for consistency reasons, EIM recommends removing the reference to “station managers” as it is linked to the “service quality standards” in Paragraph (1).*

### **Annex III – Minimum Service Quality Standards**

EC Proposal	EIM Amendment(s)
<p><u>Requirements concerning station managers and infrastructure managers.</u></p> <p>The service quality reports shall include information on at least the following:</p> <p><b>(1) Information and tickets</b></p>	<p><u>Requirements concerning station managers and infrastructure managers.</u></p> <p>The service quality reports shall include information on at least the following:</p> <p><b>(1) Information and tickets</b></p>

<p>(i) procedure for handling information requests at the station;</p> <p>(ii) procedure and means for providing information about train schedules, tariffs and platforms; quality of the information;</p> <p>(iii) display of information on rights and obligations under the Regulation and on contact details of national enforcement bodies;</p> <p>(iv) ticket-buying facilities;</p> <p>(v) availability of staff at the station to provide information and sell tickets;</p> <p>(vi) provision of information to persons with disabilities or reduced mobility;</p> <p><u>(2) General principles to cope with service disruptions.</u></p> <p>(i) number of passengers to whom care and assistance were provided;</p> <p>(ii) cost of this care and assistance provision;</p> <p><u>(3) Description of measures in place to ensure cleanliness of station facilities (toilets, etc.)</u></p> <p>(i) cleaning intervals;</p> <p>(ii) availability of toilets;</p> <p><u>(4) Customer satisfaction survey</u></p> <p><u>Minimum categories to be included:</u></p> <p>(i) information for passengers in the event of delay;</p> <p>(ii) accuracy, availability and accessibility of information on train times/platforms;</p> <p>(iii) level of security in the station;</p> <p>(iv) time taken to respond to information requests at stations;</p> <p>(v) availability of good quality toilets in the station (including accessibility);</p> <p>(vi) cleanliness and maintenance of stations;</p> <p>(vii) accessibility of station and station facilities.</p> <p>(viii) number of incidents and quality of assistance provided to persons with disabilities and persons with reduced mobility at the station.</p>	<p><i>(i) procedure for handling information requests at the station;</i></p> <p><i>(ii) procedure and means for providing information about train schedules, tariffs and platforms; quality of the information;</i></p> <p><i>(iii) display of information on rights and obligations under the Regulation and on contact details of national enforcement bodies;</i></p> <p><i>(iv) ticket-buying facilities;</i></p> <p><i>(v) availability of staff at the station to provide information and sell tickets;</i></p> <p><i>(vi) provision of information to persons with disabilities or reduced mobility;</i></p> <p><del><i>(2) General principles to cope with service disruptions.</i></del></p> <p><del><i>(i) number of passengers to whom care and assistance were provided;</i></del></p> <p><del><i>(ii) cost of this care and assistance provision;</i></del></p> <p><u><i>(3) Description of measures in place to ensure cleanliness of station facilities (toilets, etc.)</i></u></p> <p><i>(i) cleaning intervals;</i></p> <p><i>(ii) availability of toilets;</i></p> <p><u><i>(4) Customer satisfaction survey</i></u></p> <p><u><i>Minimum categories to be included:</i></u></p> <p><i>(i) information for passengers in the event of delay;</i></p> <p><i>(ii) <del>accuracy,</del>—availability and accessibility of information on train times/platforms;</i></p> <p><i>(iii) level of security in the station;</i></p> <p><del><i>(iv) time taken to respond to information requests at stations;</i></del></p> <p><i>(v) availability of good quality toilets in the station (including accessibility);</i></p> <p><i>(vi) cleanliness and maintenance of stations;</i></p> <p><i>(vii) accessibility of station and station facilities.</i></p> <p><del><i>(viii) number of incidents and</i></del> <i>quality of assistance provided to persons with disabilities and persons with reduced mobility at the station.</i></p>
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#### Recommendations

- Requirement (2) “General principles to cope with service disruptions” shall be **deleted**.
- The “accuracy” of information on train times/platform shall **not** be assessed in the “Customer satisfaction survey” – Requirement (4).
- “Number of incidents” shall **not** be taken into account by “Customer satisfaction survey” – Requirement (4).

#### Justification

*EIM points out the meaninglessness of the information to be provided under “General principles to cope with service disruption”. Arguably, it appears totally unclear what would be expected from station managers to be achieved by disclosing this information.*

*First and foremost, EIM would like to stress that – in the unfortunate situation of a disruption – the main focus of all actors involved, including the station manager, would be to restore normal service as quickly and safely as possible. Therefore, the obligation on station managers to report on the number of passengers being assisted during the disruption seems to be irrationally burdensome – and it may divert the effort of the station manager from the safe reactivation of normal service. Secondly, reporting on the “costs” of care and assistance provided seems, in general, rather inappropriate.*

*Following this further, EIM considers that the “customer satisfaction survey” should not consider the “accuracy” of train times/platforms. “Accuracy” is a quite broad, ambiguous concept which may end up being highly opinionated, jeopardising the value of the survey.*

*Eventually, EIM would like to argue that the “number of incident”, related to the “customer satisfaction survey” and linked to the quality of assistance provided to people with disabilities, seems to be out of place.*

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EIM, the association of European Rail Infrastructure Managers, was established in 2002 to promote the interests and views of the independent infrastructure managers in Europe, following the liberalisation of the EU railway market. It also provides technical expertise to the appropriate European bodies such as the EU Agency for Railways. EIM’s primary goal is promoting growth of rail traffic and the development of an open sustainable, efficient, customer orientated rail network in Europe.

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