

Methodical Manual for a Set of Transport Regulations in Railway Passenger Transport

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Abstract: The European Union is the first and only region worldwide where passengers have comprehensive and integrated fundamental rights on all modes of transport. The rights are based on the principles of non-discrimination, accurate, timely and accessible information as well as prompt and adequate assistance. There is also a specific code of transport regulating conditions under which a carrier transports persons, baggage, animals and goods on the rail network. The actual creation of such transport regulations should follow from a certain methodology. Thus, the paper's objective is to propose methodical procedures that would be related to a set of regulations in railway passenger transport. The manual proposed will respect relevant legislation, which determines minimum requirements for developing transport regulations, and obligations of carriers as well. As the code of transport is part of public proposals for concluding transport contracts of the carriage of passengers, the methodical manual will contribute to making regulations in passenger transport to be better suited to practical requirements. In general, it may be argued that the manual will ensure establishing transport regulations which will be concise, clear, comprehensible, and which, in particular, will comply with the legislation and requirements of the transport service ordering party. It should therefore contain certain points to be followed when developing transport rules.

Keywords: Transport regulations, legislation, rights and obligations, principles, set, passengers

1. Introduction

Under the common transport policy, it is important to protect the rights of passengers in rail transport and to improve the quality and efficiency of rail passenger services in order to contribute to increasing the percentage of using rail transport in comparison with other modes of transport [1,2]. The EU transport policy is also about helping and protecting people while traveling. In this

respect, one of its results was ensuring and protecting the rights of passengers who also have the right to information and are aware of the fact that they may request it from carriers. Additionally, passengers with disabilities or reduced mobility are entitled to special attention [3,4]. In rail transport, passengers are the weaker party of carriage contracts and their rights must be protected in this respect, including information about rail services before and during journeys. Where possible, railway companies and ticket sellers should provide this information in advance and as soon as possible [5-7]. Different railway companies should cooperate to facilitate the transfer of rail passengers from one operator to another by providing direct tickets wherever possible. In general, passenger transport by rail should benefit citizens. Disabled persons and persons with reduced mobility due to disability, age, etc. should therefore have their rail travel options comparable to those of other citizens, and have the same rights to free movement, freedom of choice and non-discrimination. Apart from that, particular attention should also be drawn to providing information on the accessibility of rail services, wagons and on-board equipment for disabled persons and persons with reduced mobility. In order to provide correct information on delays for passengers with sensory impairment, appropriate visual and sound systems should be used [8,9].

2. Data and Methods

A scientific methodology will be used to solve the issue previously mentioned in the introduction. It is divided into several parts and its main objective is to propose a manual for efficient development of transport regulations in railway passenger transport. The manual is in accordance with the national as well as current European legislation. Individual points regarding the topic will be used to achieve the scientific method. The first part describes the issue observed, which is related to the current requirements for the content of transport regulations and to general principles of a particular set of transport regulations resulting from weighty rules. The first analytical part concerns a legislative modification of transport regulations. In the second analytical part, there is a description of the legal nature of transport relations in passenger transport and a particular impact of technological conditions on the given set of transport regulations in passenger transport. Collected information, complexity and depth of surveyed indicators were the basis for creating a research plan which exactly identified individual phases, methods and procedures. Based on the analyses performed, it is possible to propose the discussed manual. In the next part, output bases for the set of transport regulations are identified. The last part deals with suggestions for a structure of the given regulations and procedures for their effective development. The methodology is a sequence of steps to ensure support for the correct development of the regulations, which must be in accordance

with the applicable legislation and which are clear and comprehensible to participants in the transport process.

3. Characteristics of Transport Regulations

Transport regulations have the nature of business conditions and are part of draft contracts on the carriage of passengers in passenger transport. Regulations of carriers in the Slovak Republic must be issued on the basis of Act No. 514/2009 Coll., On Railway Transport [10]. Legal relations associated with the transport of persons in domestic transport, which are not regulated by transport regulations, are considered in accordance with provisions of the Commercial Code or the Civil Code [11,12].

Provisions of the transport regulations must not be in conflict with provisions of the Slovak Republic's valid legislation stipulating specific conditions for the creation of transport regulations, or conditions of transport (e.g. Act No. 514/2009 Coll., On Railway Transport, Civil Code, Commercial Code, Price Act, Decree of the Transport Authority, Regulation No. 1371/2007 on Passenger Rights and Obligations, Consumer Protection Act, etc.). The aforementioned conditions apply to transport contracts, reservations and other contracts (courier waybill, luggage check, etc.) concluded in accordance with specified carriage regulations of a particular carrier only to the extent that no specific regulation of rights and obligations of contracting parties is specifically agreed in particular contracts. According to the Act on Railway Transport, carriers are obliged to inform customers about transport conditions upon their request and at the same time are obliged to publish the conditions on their website [10,13].

4. Basic Requirements for the Content of Transport Regulations in the Slovak Republic

By concluding a contract of carriage in rail passenger transport, there is a legal relationship between particular parties concerned and at the same time the parties stated in the contract confirm their acceptance of conditions of carriage. The above Act No. 514/2009 Coll. determines basic requirements for transport regulations in the Slovak Republic, which particularly include the following:

- identification of the type of transport services provided by the carrier,
- a range of the carrier's transport obligations,
- conditions of concluding the contract of carriage,
- methods of reservation and sale of tickets at stations, stops and rail vehicles; rules of validity and invalidity of tickets and identification and possibilities of compensation for the loss of tickets,

- a range of passengers' rights and obligations prior to, during and immediately after the carriage as well as in the event of non-performance, non-completion or delay and procedures for claiming non-compliance with the conditions,
- a range of rights and obligations of disabled passengers, passengers with reduced mobility due to their disability or age, and other groups of passengers, including accompanying persons,
- conditions for the carriage of hand luggage, baggage, live animals and motor vehicles,
- conditions for the transport of dogs with special training which provide assistance to passengers with severe disabilities,
- a range of rights and obligations of consignors and consignees, particularly requirements for the carriage of different types of goods, other goods and live animals, and the rules for wagon loading and unloading,
- procedures for inspecting tickets, rights and obligations of persons authorized to inspect tickets and passengers without valid tickets,
- rights and obligations of the carrier, the extent of its liability for damage to human and animal health and goods, baggage or other things, and the extent of resulting claims made by passengers, consignors and recipients of compensation or discounts,
- complaints procedure, and
- fares in public passenger transport [10].

The carrier may draw up a set of regulations if it, alone or jointly with other carriers, provides transport services as an integrated transport system, or if it provides transport services within public transport in cities or towns and also operates public bus transport as a single public transport system. Complaints concerning the fulfillment of obligations stated in the transport regulations and their handling by the carrier are examined by the Slovak Trade Inspection at the initiative of passenger(s).

4.1. Recommended Structure of Transport Regulations

Transport regulations structure is not regulated by any legal standard, but it is dependent exclusively on the carrier itself who is authorized to establish such rules. Their actual content and principles must then be followed by the carrier. The structure may be as follows:

- *Cover page* (definitions of factual, temporal and territorial validity and notes on authors of transport regulations).
- *Basic provisions* (information on who proclaims the regulations, validity, definitions of basic terms, list of abbreviations, etc.).

- *Conditions of conclusion and termination of the contract of carriage.*
- *Rights and obligations of the carrier.*
- *Rights and obligations of passengers.*
- *Transport of persons with special rights.*
- *Transport of baggage and animals.*
- *Articles excluded from carriage.*
- *Responsibilities and relations between the carrier and passengers.*
- *Travel documents, their types and returns.*
- *Inspection of travel documents.*
- *Outstanding situations during carriage.*
- *Information on lost and found objects.*
- *Returns policy (under the Rail Transport Act and the Consumer Protection Act).*
- *Table of rates (provided this is part of transport regulations).*
- *Final provisions.*

5. Principles for Establishing Transport Regulations

When creating, announcing and using transport regulations nationwide, they must comply with the following principles: *simplicity and clarity* (Consumer Protection Act, Civil Code [12]), *legality* (entire legislative framework), *publicity* (Act on Railway Transport [10]), *equality* (Decree of the Transport Authority/Civil Code/Regulation 1371 [10-13]), *uniformity* (Integrated Transport System).

The principle of clarity means to create the regulations in a form that is understandable and unambiguous to all units concerned. The legality principle indicates that the regulations (as a lower legal standard) apply only if their provisions do not contradict the provisions of higher legal standards, particularly of laws and decrees. They are also valid if the provisions are negotiated and approved by all participating carriers. The principle of publicity denotes that the carrier is obliged to publish the regulations on its website and in any other appropriate manner as well. If no other date of validity is specified, the regulations' content shall form part of a proposal for concluding the contract of carriage from the date of its publication and availability. The principle of equality signifies that the provisions must be applied equally to all customers. It is not possible to agree on individual transport conditions for selected customers (except for services in the public interest).

The principle of uniformity involves regulations in the integrated transport system, where, when servicing a selected territory by specific carriers, such regulations must meet uniform transport conditions of all participating carriers in relation to passengers.

6. Legal Nature of Transport-legal Relations in Passenger Transport

A particular *transport-legal relation* in passenger transport arises in principle by the conclusion of a contract of carriage of persons between the carrier and the passenger. The contract of carriage of persons (hereinafter referred to as the “contract of carriage”) is a contract stipulated in the provisions of § 760 et seq. of Act No. 40/1964 Coll., as amended (hereinafter referred to as the “Civil Code”) [12]. The published transport regulations are part of the carrier's proposal to conclude a contract of carriage and having concluded it, its content is part of the contractual rights and obligations of the parties stated in the contract. Thus, from a legal point of view, the *transport-legal relation in carriage of persons* is a private-law obligation. ”The contractual obligation is one of the types of civil relations in which one entity has the status of a creditor, i.e. one who has the right to demand something from the other, and the other has the status of a debtor, i.e. one who is obliged to provide the creditor with what the creditor is entitled to demand from him/her.”

It can be inferred from the notion of obligation that it is binding. The contracting parties can therefore withdraw from it only if it is stipulated by law or if the parties stated in the contract have agreed to do so. The obligation under the contract of carriage is complex. For such a relationship, its entities cannot be described as merely creditors or debtors, but their status as creditors and debtors results from their particular creditor-debtor relationship. The debtor is the entity of the contractual relationship that has a duty to behave in a certain way, and the creditor is the entity with the subjective right to demand it from him/her. This means that in the same legal relationship, the same entity may be both a creditor and a debtor in relation to the other entity. Under the contract of carriage, the passenger has the right to be carried by the carrier to his/her destination soundly and in a timely manner. Thus, in this case, the passenger has the status of a creditor and the carrier has the status of a debtor. Under Section 760 of the Civil Code, the passenger is obliged to pay the fare. The carrier also has the right to be paid the fare. Thus, in this case, the passenger has the status of a debtor and the carrier has the status of a creditor. Similarly, as for the other rights and obligations of the carrier and the passenger, if one party (debtor) has an obligation to behave in a certain way, the other party (creditor) has a subjective right to demand this behaviour. This shall also apply if one of the Contracting Parties has a designated right. It follows that if the contract of carriage or a generally binding law designates one of the contracting parties (the debtor) to behave in a certain way, the other contracting party (the creditor) has the subjective right to demand such behaviour, even if this right is not explicitly stated either in the contract of carriage or in a generally binding legal regulation. The reverse is also true, that is to say, where the contract of carriage or the binding law give one contractual party subjective rights, the other contracting party (the debtor) has an

obligation to ensure the exercise of those rights without such an obligation being explicitly mentioned in the contract of carriage, or in the generally binding legal regulation.

The contract of carriage is a consumer contract in relation to § 52 of the Civil Code. The operation of transport services for the purpose of transporting foreign persons shall, in principle, be reserved to professionally competent persons who do so in the course of their commercial or other business activities. The carrier is the supplier here, while the passenger is the consumer.

7. Influence of Technological Conditions on the Set of Transport Regulations

A specific part of the transport regulations also includes a way of concluding a given transport contract, and hence it is necessary to also briefly deal with the passenger dispatch as a part of the transport technology. "The passenger's dispatch shall, as a rule, consist of two basic dispatch operations, namely the acquisition of the ticket and the indication of its validity. These two dispatch operations are carried out either separately or together in individual transport departments" [14]. A selected method of passenger dispatch has an influence on the moment at which the transport contract is concluded.

If the dispatch system is selected where travel documents are purchased in advance and outside of the vehicle and without a marked period of validity, the contract of carriage is concluded by boarding the vehicle and validating the travel document. This dispatch system is predominant in urban public transport in large cities. In railway transport, the transport contract is concluded by purchasing a ticket, or by validating it on the train. In suburban bus transport and urban bus transport in smaller cities, tickets are usually purchased from the driver and the transport contract is concluded by purchasing a ticket, i.e. by paying and printing it. If the passenger uses an electronic device (an electronic wallet) to pay for the travel and the ticket is not printed, the contract is entered in the electronic system.

8. Legislative Requirements for the Content and Creation of Transport Regulations

From the legal point of view, transport regulations form a part of a public proposal for the conclusion of a contract of carriage pursuant to Section 760 of the Civil Code. The transport rules therefore contain the commercial (transport) conditions of the carrier necessary for the conclusion of the contract. The Civil Code does not specifically regulate the regulations' content.

The summary of legislation to be respected in the transport regulations established in passenger transport is as follows: REGULATION (EC) No 1782/2003 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL 1371/2007 from 23 October 2007 on rail passengers' rights and obligations, 40/1964 Coll. (Civil Code), 514/2009 Coll. Railway Transport Act, 18/1996 Coll. Price

Act, 250/2007 Coll. Consumer Protection Act, 222/2004 Coll. - Value Added Tax Act, 18/2018 Coll. Personal Data Protection Act, Revenues and measures of the Transport Authority in the Slovak Republic, 300/2005 Coll. (Criminal Code – in the event of a traffic accident), 351/2010 Coll. Railway Ordinance, 8/2009 Coll. Road Traffic Act (in the case of an integrated transport system).

All rights and obligations arising from the applicable legislation do not have to be stated in the regulations. Those listed must be in accordance with the applicable legislation - they must not be changed and modified. The rights and obligations not mentioned in the regulations apply equally to both parties, even if they are not previously mentioned. The carrier refers to the wording of higher legislation. The obligation of the carrier to publish the regulations on its website and in any other appropriate manner implies that the rules of carriage must be in writing. As the transport regulations are not generally binding legal regulations, they must be in accordance with the law of the Slovak Republic. The carrier must therefore base its drafting on effective legislation and may deviate only from certain legal provisions if the legal requirements are met. Such a legal prerequisite is particularly included in the provision of § 52, Section 2 of the Civil Code, according to which "the provisions on consumer contracts, as well as any other provisions governing the legal relations to which the consumer is a party, shall be applied wherever this is for the benefit of the contracting party that is a consumer." This provision, as well as provisions whose content or purpose is to circumvent the cited provision of the Civil Code, are penalized by invalidity.

The contractual relationship between the carrier and the passenger is governed particularly by the Civil Code, the Act on Railway Transport and Act No. 250/2007 Coll., On Consumer Protection, and amendment of the Slovak National Council's Act No. 372/1990 Coll., On Offenses, as amended (hereinafter the "Consumer Protection Act"), the Road Transport Act No. 18/1996 Coll., On Prices, as amended (the "Act on Prices"), Decree of the Transport Authority on Regulations of Rail Transport Fare, as amended.

The transport regulations as part of a public proposal for the conclusion of a contract of carriage must be based on the above legislation.

9. Initial Documents for the Compilation of Transport Regulations in the Slovak Republic

The actual development of the regulations should be based on a certain methodology. In general, the methodology should ensure the regulations to be brief, clear, comprehensible and, in particular, comply with the law and requirements for the aforementioned transport services. The methodology should therefore include certain points that should be followed when developing the regulations [15]>

- The entity responsible for creating the transport regulations (General Conditions of Carriage),
- Delimitation of the territory served by the carrier,
- Determination of the mode of transport,
- Determination of the dispatch system and method of control,
- Types of travel documents,
- Determination of technical and operational standards,
- Respecting the provisions of the legislation that must be observed when creating the regulations.

In particular, the standards affect the content of the provisions regarding the carriage of baggage, the way passengers are informed and the communication devices inside the vehicle. The standards affect the content of the provisions by specifying whether vehicles should allow the carriage of wheelchairs, strollers, bicycles and whether and under what conditions baggage will be carried outside of the passenger compartment in an integrated passenger transport system. The provisions related to passenger information can be affected by the standards by specifying how passengers are informed and the timeframe for informing passengers about planned changes to the transport rules, including tariffs and timetables, or how passengers are informed at stations, stops and in vehicles [16]. The standards also affect the content of the provisions on the communication equipment inside the vehicle by determining what types of equipment the vehicle should be equipped with (e.g. a signalling button for exit at a signal stop, exit with a stroller, etc.).

10. Preparation of Transport Regulations

Once all the documents have been obtained, the transport regulations can be established. Similar to any other contract, the regulations should be clear and unambiguous, should not circumvent the law, nor be contrary to the law and its purpose or contrary to good morals. Additionally, they must have all the essentials specified in § 7, Section 1 of the Railway Transport Act. Since the regulations are part of a public proposal for the conclusion of a contract of carriage, which is a consumer contract, it must be stressed that it must also fulfil the conditions imposed on consumer contracts in the Civil Code and the Consumer Protection Act.

It is necessary to transpose and elaborate, in particular, the provisions of the legal regulations mentioned in chapter 8 regulating the content requirements for the transport rules, rights and obligations of the carrier and passengers, liability issues, complaints procedure. However, it is not necessary to take over the obligations of a carrier which is not directly involved in the transport process (e.g. the obligation of the carrier in bus transport under § 7 (e) of the Road Transport Act):

Nor is it necessary to transpose into the transport regulations the provisions of legislation rarely applied to practice, since they are still binding on the carrier and on the passenger. (e.g. to take over all the provisions of the Civil Code on liability for personal injury and damage to hand luggage). If a carrier wishes to grant a passenger more rights than prescribed by law, he/she must specifically regulate these rights in the regulations. It is also desirable for the carrier to regulate the rights and obligations related to certain operational specificities of the integrated system in the regulations. It is also advisable to incorporate rights and obligations of the passenger arising from the legal order, but it is not assumed that the passenger has knowledge of these rights and obligations from the generally binding legal regulations (.e.g. pursuant to § 33 (1) (b), the second point of the Ordinance on the Rail Traffic Regulations, a passenger wishing to get off at a stop at a signal, is obligated to give a signal to the driver in due time by the internal communication equipment of the train.)

When developing the regulations concerned, it should be borne in mind that a failure to mention any passenger's rights or obligations of the carrier resulting from the generally binding legal regulations in the transport rules does not relieve these rights and obligations of the carrier or the passenger. It should also be stressed that if the carrier modifies the rights or obligations related to himself/herself or those of the passenger in such a way that they are in conflict with the law, the provisions are invalid [17-18].

11. Conclusion

Strengthening the rights of rail passengers should be based on the existing system of international law in this area, which is stipulated in the provisions of European regulations. However, it is necessary to extend the scope of international law and to protect not only passengers in international transport but also in national rail transport.

Rail passengers should be able to make a complaint to any railway undertaking concerned regarding the rights and obligations arising from the transport regulations established and the right to receive a response within a reasonable time.

The passenger has the right to be informed about the contents of the regulations. Not being aware of the provisions does not justify or is not a reason to forgive or reduce the reimbursement and fare for traveling without a valid ticket. A passenger with a valid travel document has a right for transportation from the departure station to the destination station in the wagon class and type of train for which his/her travel document is valid and to lodge a complaint as well.

The passenger is obliged to observe the provisions of the transport regulations. The carrier is obliged to make the contents of the regulations available to the passenger at least on the carrier's

website, or in any other way decided by the carrier itself, e.g. by publishing them at the passenger's request, notice boards in the station building, notice boards on the train, etc.

Acknowledgments

The paper was supported by the VEGA Agency, Grant No. 1/0019/17 "Evaluation of regional rail transport in the context of regional economic potential with a view to effective use of public resources and social costs of transport", at Faculty of Operations and Economics of Transport and Communication, University of Žilina, Slovakia.

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