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Opinion of the CIT General Secretariat
Legal implications of Covid-19 in the relation with the passengers

À / Geht an /to

Pour votation
Zur Abstimmung
To be voted on

Members of the CIT / Membres du CIT / Mitglieder des CIT

Pour consultation
Zur Konsultation
For your comments

Pour information
Zur Kenntnisnahme
For your information



Dear Colleagues,

The CIT General Secretariat (hereinafter “the CIT GS”) advises the following legal measures regarding the Covid-19. These are only considerations coming from the CIT GS and they not bind the members of the CIT.

Information to the passenger

According to Annex II PRR, railway undertakings have the obligation to inform before the journey the passenger about any activities likely to disrupt or delay services and also procedures for the submission of complaints; during the journey, the passenger should be informed about security and safety issues.

On that basis, it is important that railway undertakings inform the passenger that:

- 1) The service might not run, if the government decides to stop the traffic for safety reasons or if the railway undertaking decides unilaterally to stop the service.
- 2) The passenger should also be informed about the procedure in case of interruption of the service (after sales).

Interruption of the traffic

The first question is:

- 1) Who took the decision to interrupt the traffic?
 - Is it due to the authorities (like in the TI train travelling to Austria and stopped at the border by the Austrian customs)? Then we should consider that this is a force majeure case (act of authority, quarantine restrictions, epidemic)
 - Is it a decision of the railway undertaking? Then if it is a unilateral decision of the railway undertaking, the latter should be liable towards the passenger, as in case of the cancellation of a service. Nevertheless, we could consider that in case of life-threatening health risks or medical emergencies necessitating the interruption or deviation of the train concerned, this is a force majeure case.
- 2) What to do if the traffic is interrupted when the train was still running?
 - Passenger should be granted meals and beverages
 - Quarantine measures if needed → Depending on the measures required from the State
 - Transport from the train to the railway station, to the alternative departure point or to the final destination of the service if physically possible
 - Accommodation if needed and physically possible
- 3) What if a passenger is infected on board the train?
 - Quarantine measures if needed → Depending on the measures required from the State

After-sales

Several questions can be raised:

- What about a passenger, who experienced an interruption of the traffic? Indemnification depending:
 - Decision to interrupt the service independent from the railway undertaking: Force majeure case, which excludes the liability of the railway undertaking. BUT ECJ Case C-509/11 stating that no exoneration for compensation for delays in case of force majeure (article 17 PRR), so this should be compensated and maybe also assistance provided (article 18 PRR), according to the arguments of the ECJ.
 - Decision to interrupt the service taken by the railway undertaking: If this is a unilateral decision of the railway undertaking, then the passenger should be entitled to all the rights in case of cancellation of the service, with the only exception of the railway undertaking taking this measure because of life-threatening health risks or medical emergencies, which would be considered as a force majeure case and would follow the same logic as in case of interruption of the service by the authorities (see previous point). To avoid any litigation, we would advise to do a commercial gesture in that case and to indemnify.
- What about a passenger, who does not want anymore to travel, even if the service is still running?
 - Was it a non-refundable ticket? Then, there is no obligation to reimburse, but as a commercial gesture, depending on the situation, the railway undertaking can decide to compensate.
 - Was it a refundable ticket? If it is a refundable ticket, then the ticket should be refunded. If there are some conditions for refunding, then those conditions should be fulfilled; otherwise a commercial gesture can be done.

Yours sincerely,



Secrétaire général
Generalsekretär
Secretary General



Sandra Dobler
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