

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2022/1036

of 29 June 2022

amending Regulation (EU) 2020/1429 of the European Parliament and of the Council, as regards the extension of the reference period*(Text with EEA relevance)*

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2020/1429 of the European Parliament and of the Council of 7 October 2020 establishing measures for a sustainable rail market in view of the COVID-19 outbreak ⁽¹⁾, and in particular Article 5(2) thereof,

Whereas:

- (1) The COVID-19 pandemic has led to a sharp drop in rail traffic because of a significant fall in demand and direct measures taken by the Member States to contain the pandemic.
- (2) Those circumstances are beyond the control of railway undertakings, that have continuously faced considerable liquidity problems, major losses and in some cases are risking insolvency.
- (3) In order to counteract the negative economic effects of the COVID-19 pandemic and support railway undertakings, Regulation (EU) 2020/1429 enables Member States to authorise infrastructure managers to reduce, waive or defer charges for accessing rail infrastructure. That possibility had been granted for a limited reference period that was lastly extended by Regulation (EU) 2022/312 of the European Parliament and of the Council ⁽²⁾ until 30 June 2022.
- (4) Limitations imposed on mobility during the period of the pandemic had a significant impact on the use of rail passenger services. Rail freight services were also impacted in a more limited way. On the basis of the data provided by Union rail infrastructure managers, the pandemic hit the passenger service segment hardest. The most affected was the commercial passenger service segment, with a significant reduction of its offer across all Member States, which is not yet back to 2019 levels.
- (5) There was a recovery as regards the number of freight trains circulating on the network, with 2021 levels only 0.1% lower when compared to 2019. The number of public service obligation ('PSO') passenger trains circulating on the network in 2021 was 2% higher than in 2019, while in 2020 it was 5.1% lower when compared to 2019. However, given that the number of passengers both in 2020 and 2021 did not reach two thirds of the number of passengers travelling in 2019, the reduced impact of the pandemic and the following recovery were likely helped by the continued financial support of the competent authorities under the PSO contracts. In fact, in 2021, the number of passenger commercial trains was still 18.2% lower when compared to the number in 2019. In 2020 it was 22.9% lower when compared to 2019, hence showing no significant recovery.

⁽¹⁾ OJ L 333, 12.10.2020, p. 1.

⁽²⁾ Regulation (EU) 2022/312 of the European Parliament and of the Council of 24 February 2022 amending Regulation (EU) 2020/1429 as regards the duration of the reference period for the application of temporary measures concerning the levying of charges for the use of railway infrastructure (OJ L 55, 28.2.2022, p. 1).

- (6) Similar trends can be observed when traffic is expressed in train-km. Train-km run by freight trains circulating on the network showed signs of recovery, at levels just 0.5% lower in 2021 when compared to 2019. Passenger PSO services expressed in train-km were 1.1% higher in 2021 when compared to 2019. However, in 2021 passenger commercial services expressed in train-km remained 18.7% lower than 2019 levels, a slight improvement when compared to 2020.
- (7) Therefore it is evident that there is a persistent reduction in the level of rail traffic resulting from the impact of the COVID-19 pandemic on the passenger segment, which in 2018 represented around 80% of all traffic expressed in train-km.
- (8) The World Health Organisation data shows that the number of daily recorded cases of COVID-19 in Europe sharply increased at the beginning of 2022 to levels never reached before in the pandemic. Moreover, the number of daily cases reported remains very high.
- (9) A persistent negative impact of the pandemic on rail traffic is likely and railway undertakings' difficult financial situation is equally likely to persist until end 2022.
- (10) It is therefore necessary to extend the reference period established in Article 1 of Regulation (EU) 2020/1429 until 31 December 2022.
- (11) If the European Parliament and the Council were to scrutinise this Regulation for the full period of objection provided for in Article 6(6) of Regulation (EU) 2020/1429, this Regulation would only enter into force after the end of the reference period currently envisaged in Article 1 of Regulation (EU) 2020/1429. In order to avoid legal uncertainty this Regulation should be adopted under the urgency procedure provided for in Article 7 of Regulation (EU) 2020/1429, and should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1 of Regulation (EU) 2020/1429 is replaced by the following:

'Article 1

This Regulation lays down temporary rules on the levying of charges for the use of railway infrastructure as set out in Chapter IV of Directive 2012/34/EU. It applies to the use of railway infrastructure for domestic and international rail services covered by that Directive, during the period from 1 March 2020 until 31 December 2022 ("the reference period").

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 29 June 2022.

For the Commission
The President
Ursula VON DER LEYEN