

# ECF Policy Brief

## Four spaces become the new statutory minimum: Bicycles and the new Regulation on rail passengers' rights and obligations (Art. 6 of Regulation (EU) 2021/782)

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### Introduction

From the perspective of cycling, the update of the regulation on rail passengers' rights and obligations in 2021 is worth celebrating: the new provision, as set out in Regulation (EU) 2021/782<sup>1</sup>, is a major upgrade from the old one. While the old Article 5 established the right of bicycle carriage but offered rail companies so many loopholes that it became meaningless, the new Article 6 firmly strengthens the right to bicycle carriage by introducing a mandatory minimum of four places for bicycles for new and renovated rolling stock. However, existing rolling stock that is not being renovated is not affected by the Regulation (see paragraph 3).

### General remarks

As this provision is part of an EU regulation, it will apply in the entire EU without Member States first having to transpose it into national law (as would be the case for a directive). Put simply, it will apply and be enforced just like a national law. The regulation will also override any national laws that are in conflict with it. Starting from **7 June 2023**, the old regulation (Regulation (EC) No 1371/2007) is replaced by the new one and will no longer have legal value, though a number of provisions remain the same or similar. Article 6(4) will enter into force two years later, on 7 June 2025.

Article 2(6) and (8) limit the scope of the regulation regarding bicycle transport by allowing Member States to exempt urban and suburban services from the provisions of Article 6. Additionally, Member States can also exempt rail services that are only operated for touristic or historical use under Article 2(2).

<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R0782>

## **Article 6 – Bicycles**

### **Passengers' rights (paragraph 1)**

When comparing the old text to the new one, it is clear that passengers are now entitled to take bicycles onto the train, which was not clear from the wording of the old regulation. “Bicycles” in the context of the regulation refer only to assembled bicycles that can be ridden immediately upon arrival. If assembly is needed, for example when transporting the bicycle in a bag or box, the regulation rightfully treats the bicycle as a piece of luggage (see Recital 18 in the Annex). In the case of unjustified refusal to carry a bicycle for which a reservation was made, the regulation now affords the passenger the same rights to re-routing or reimbursement, compensation and assistance that they would be granted if they were personally refused carriage or if the train were delayed.

**Annex II Part I** includes the availability of capacity and access conditions in the minimum pre-journey information that must be provided by railway undertakings and ticket vendors.

### **Limitations (paragraph 3)**

The entitlement does not come without an asterisk, however, as railway operators are permitted to limit bicycles during peak hours or, crucially, when rolling stock does not permit it. In effect, this means that until paragraph 4 applies, and all rolling stock is upgraded accordingly, this exception may potentially still enable railway undertakings to refuse the carriage of bicycles for years to come. Bicycle carriage can also be limited by weight and dimensions, potentially excluding certain types of bicycles (such as cargo bikes or tandems). Railway undertakings are required to publish their conditions of carriage and up-to-date information on availability on their websites.

### **Passengers' obligations (paragraph 2)**

In turn, passengers are required to use the dedicated spaces where available. Where they are not, passengers are required to watch their bicycles and take care they do not cause harm to any other passengers or items.

### **Minimum requirements for train compositions (paragraph 4)**

Starting from **7 June 2025**, railway undertakings are required to ensure that train compositions are equipped with bicycle spaces when procuring new rolling stock or performing major upgrades. To that end, railway undertakings are to determine the adequate number of bicycle places themselves by drawing up bicycle transport plans (see below), taking into consideration the size of train compositions, the type of service and the demand for the transport of bicycles.

The minimum set forth in the regulation is four places per train composition, though railway operators can determine lower numbers appropriate in their plans if justified by the circumstances. Recital 17 of the regulation is clear that this should be limited to trains operating in winter service where there is demonstrably low demand. The minimum also does not apply to dining, couchette or sleeping cars, despite the growing popularity of sleeper trains.

To encourage more ambitious goals, Member States are allowed to diverge from the regulation in their national laws by setting higher minimum standards.

### **Setting a minimum of 8 bicycles places – international best practices**

This is already the case in France, where the legally required minimum has been eight bicycle places for most newly procured or renovated trains since March 2021.<sup>2</sup> National law in Belgium also stipulates that newly procured trains must be equipped with a minimum of eight places and renovated trains with four from 2025.<sup>3</sup> Other than requirements in hard law, national railway companies such as the German<sup>4</sup> and Polish<sup>5</sup> railways already consider a minimum of eight places in procuring certain types of new rolling stock.

More ambitious goals are useful, especially because public procurement proceedings usually take a considerable amount of time and rolling stock is ideally used for many years.

### **Bicycle transport plans (paragraphs 5 and 6)**

Railway undertakings are required to produce bicycle transport plans that set forth how they plan to increase and improve the transport of bicycles, also regarding the combined use of the train and the bicycle. However, they can choose not to adopt such a plan, in which case the minimum of four in the regulation or higher requirements in national laws apply.

Where services are provided under public service contracts, the plans may also be established by the public authorities tasked with the oversight of the railway operator. Member States may require that bicycle transport plans are established by the competent authorities or by railway undertakings operating on their territory.

The bicycle plans are subject to public consultation and are to be published online.

### **Conclusion**

The provision is a major step forward for cyclists' rights, with the statutory minimum number of four bicycle spaces when initiating procurement procedures for new and renovated rolling stock taking effect in June 2025. But it will likely take years, if not decades, for the rolling stock of railway operators to fully catch up with this statutory minimum. Until then, the strengthening of cyclists' legal rights will remain in part theoretical in nature, as it is perfectly legal for carriers to refuse the transport of a bicycle if there are no spots on the train, unless national legislation stipulates otherwise. France and Belgium have set the way forward.

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<sup>2</sup><https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043015340#:~:text=%C2%AB%20L'acc%C3%A8s%20des%20v%C3%A9los%20peut,%C3%AAtre%20exig%C3%A9%20par%20l'exploitant>

<sup>3</sup> <http://www.ejustice.just.fgov.be/eli/loi/2022/11/10/2022042863/justel>

<sup>4</sup> <https://ecf.com/news-and-events/news/deutsche-bahn%E2%80%99s-new-ice-4-high-speed-trains-include-bicycle-spaces>; <https://www.deutschebahn.com/de/kundenkomfort-6876730>

<sup>5</sup> <https://ecf.com/news-and-events/news/polish-rail-operator-follows-european-parliaments-ambitious-position-bicycle-0>; <https://www.rynek-kolejowy.pl/wiadomosci/umowa-na-produkcje-dwunastu-flirtow-dla-pkp-intercity-podpisana-93192.html>

**Further reading:**

ECF (2016): Bikes and Trains: 7 Basic Services That Give Cyclists a Smile.  
[https://ecf.com/sites/ecf.com/files/ECF%20Report\\_Bikes%20and%20trains-%207%20basic%20services%20that%20give%20cyclists%20a%20smile.pdf](https://ecf.com/sites/ecf.com/files/ECF%20Report_Bikes%20and%20trains-%207%20basic%20services%20that%20give%20cyclists%20a%20smile.pdf)

ECF (2021): Cyclists love trains – An analysis of the bicycle friendliness of European railway operators.  
[https://ecf.com/system/files/Cyclists\\_love\\_trains\\_report.pdf](https://ecf.com/system/files/Cyclists_love_trains_report.pdf)

## Annex: Relevant bicycle provisions in Regulation (EU) 2021/782

### Recitals

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(16) The increasing popularity of cycling across the Union has implications for overall mobility and tourism. An increase in the use of both railways and cycling in the modal split reduces the environmental impact of transport. Therefore, railway undertakings should facilitate the combination of cycling and train journeys as much as possible. In particular, when acquiring new rolling stock or making a major upgrade to existing rolling stock, they should provide an adequate number of places for bicycles unless the acquisition or upgrade concerns restaurant cars, sleeping cars or couchette cars. In order to avoid a negative impact on the safety performance of the existing rolling stock, that obligation should only apply in cases of a major upgrade requiring a new vehicle authorisation for placement on the market.

(17) The adequate number of bicycle places for a train composition should be determined taking into consideration the size of train composition, the type of service and the demand for transport of bicycles. Railway undertakings should have the possibility to establish plans with concrete numbers of bicycle places for their services, after consulting the public. Where railway undertakings choose not to establish plans, a statutory number should apply. That statutory number should also serve as guidance by railway undertakings when establishing their plans. A number which is below the statutory number should be considered adequate only where it is justified by special circumstances such as operation of rail services in winter time where there is clearly no or low demand for the transport of bicycles. Furthermore, in some Member States demand for the transport of bicycles is particularly high as regards certain types of services. Therefore, Member States should have the possibility to determine the minimum adequate numbers of bicycle places for certain types of services. These numbers should prevail over the concrete numbers as mentioned in any plans of the railway undertakings. This should not impede the free movement of railway rolling stock within the Union. Passengers should be informed of the space available for bicycles.

(18) The rights and obligations regarding carriage of bicycles on trains should apply to bicycles that can be readily ridden prior to and after the rail journey. Carriage of bicycles in packages and bags, as applicable, is covered by the provisions of this Regulation relating to luggage.

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### Article 2 - Scope

1. This Regulation shall apply to international and domestic rail journeys and services throughout the Union provided by one or more railway undertakings licensed in accordance with Directive 2012/34/EU of the European Parliament and of the Council (10).

2. Member States may exempt from the application of this Regulation services which are operated strictly for historical or touristic use. That exemption does not apply in relation to Articles 13 and 14

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6. Subject to paragraph 8, Member States may exempt the following services from the application of this Regulation:

- (a) urban, suburban and regional rail passenger services;
- (b) international rail passenger services of which a significant part, including at least one scheduled station stop, is operated outside the Union.

7. Member States shall inform the Commission of exemptions granted pursuant to paragraphs 2, 4, 5 and 6 and shall present the reasons for those exemptions.

8. Exemptions granted in accordance with point (a) of paragraph 6 shall not apply in relation to Articles 5, 11, 13, 14, 21, 22, 27 and 28.

Where those exemptions concern regional rail passenger services, they shall also not apply in relation to Articles 6 and 12, Article 18(3) and Chapter V.

Notwithstanding the second subparagraph of this paragraph, exemptions concerning regional rail passenger services to the application of Articles 12(1) and 18(3) may apply until 7 June 2028.

## **Article 6 - Bicycles**

1. Subject to the limitations set out in paragraph 3, and where appropriate for a reasonable fee, passengers shall be entitled to take bicycles on board the train.

On trains for which a reservation is required, it shall be possible to make a reservation for the carriage of a bicycle. Where a passenger has made a reservation for a bicycle and the carriage of that bicycle is refused without a duly justified reason, the passenger shall be entitled to re-routing or reimbursement in accordance with Article 18, compensation in accordance with Article 19 and assistance in accordance with Article 20(2).

2. Where designated places for bicycles are available on board the train, passengers shall stow their bicycles in such places. Where such places are not available, passengers shall keep their bicycles under supervision, and shall make all reasonable efforts to ensure that their bicycles cause no harm or damage to other passengers, mobility equipment, luggage or rail operations.

3. Railway undertakings may restrict the right of passengers to take bicycles on board the train for safety or operational reasons, in particular as a result of capacity limits applicable during peak hours, or where rolling stock does not permit it. Railway undertakings may also restrict the carriage of bicycles based on the weights and dimensions of the bicycles concerned. They shall publish their conditions for the transport of bicycles, including up-to-date information on the availability of capacity, by using the telematics applications referred to in Regulation (EU) No 454/2011 on their official websites.

4. When initiating procurement procedures for new rolling stock, or when performing a major upgrade of existing rolling stock resulting in the need for a new vehicle authorisation for placing on the market pursuant to Article 21(12) of Directive (EU) 2016/797 of the European Parliament and of the Council (12), railway undertakings shall ensure that train compositions, in which that rolling stock is used, are equipped with an adequate number of places for bicycles. This subparagraph shall not apply in relation to restaurant cars, sleeping cars or couchette cars.

Railway undertakings shall determine an adequate number of places for bicycles taking into consideration the size of train composition, the type of service and the demand for transport of bicycles. The adequate number of places for bicycles shall be defined in plans referred to in paragraph 5. Where there are no such plans or the plans do not determine such a number, each train composition shall have at least four places for bicycles. Member States may set a number higher than four as the minimum adequate number for certain types of services, in which case that number shall apply instead of the number identified in accordance with the second subparagraph.

5. Railway undertakings may establish, and keep up-to-date, plans on how to increase and improve the transport of bicycles, and on other solutions encouraging combined use of railways and bicycles.

The competent authorities, as defined in point (b) of Article 2 of Regulation (EC) No 1370/2007 of the European Parliament and of the Council (13), may establish such plans for services provided under public service contracts. Member States may require that such plans are established by those competent authorities or by railway undertakings operating on their territory.

6. The plans referred to in paragraph 5 shall be established following consultation of the public and relevant representative organisations. Those plans shall be published on the website of the railway undertaking or the competent authority, as appropriate.

## **ANNEX II - MINIMUM INFORMATION TO BE PROVIDED BY RAILWAY UNDERTAKINGS AND TICKET VENDORS**

### **Part I: Pre-journey information**

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Availability of capacity and access conditions for bicycles...

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