

# Office of Rail Transport

<https://utk.gov.pl/en/new/15270,EU-Court-of-Justice039s-verdict-with-regard-to-platform-fees.html>  
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## EU Court of Justice's verdict with regard to platform fees

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The Court of Justice of the European Union (CJEU) in its verdict of 10 July 2019 has ruled that the fee for the access to station platforms remains within the scope of the minimal access to the railway infrastructure. The mechanism of qualification of the platform infrastructure is of key importance due to the regulations concerning the collection of access fees from the railway carriers.

The CJEU's verdict in the case C-210/18 has been reached following an inquiry submitted by the Schienen Control Kommission (an administrative body of the Austrian railway regulation entity). The verdict legally binds only the proceeding's parties. However one of the tasks of the CJEU is to ensure uniform interpretation of law within the European Union.

The verdict is essential for the railway market participants due to the limit of fees as to the use of passenger platforms. Rules governing the setting of fees for the use of railway infrastructure differ from those for the use of service facilities. Fees for the minimal access package, i.e. fees for the access to railway infrastructure, should correspond with the costs born directly for the passage of a train<sup>[1]</sup>. Whereas fees for the access to the railway tracks within service facilities and providing services at these facilities should not exceed the costs of provision of those services, plus a reasonable profit<sup>[2]</sup>. This means that fees for the use of service facilities may be higher than fees for the use of railway infrastructure within the minimal access package.

Currently in Poland station platforms are qualified as service facilities, however the collection of access fees differs depending on the facility operator. PKP Polskie Linie Kolejowe (Polish main infrastructure operator) has withdrawn from calculating the fees for stopping at platforms, however collects a monthly fee for the access to space when it comes to information placed on the platforms by the carriers. Polskie Koleje Państwowe (Polish main railway operator) manages platform infrastructure on three stations and collects fees for access to them in the framework of access to passenger stations. A similar solution has been introduced by PKP Szybka Kolej Miejska in Tricity (local railway operator in the cities of Gdańsk, Gdynia and Sopot). And the Lower Silesian Roads and Railways' Service (local infrastructure operator in the Lower Silesia voivodship) does not apply any fees for train stoppings, but collects monthly fees for the rent of

space used for placing of additional commercial information.

The aforementioned verdict has been reached following a motion regarding the fees for the use of station platforms, which was submitted to the Schienen Control Kommission. The carrier WESTbahn Management had questioned fees for access to station platforms, imposed by the infrastructure manager ÖBB-Infrastruktur. In the opinion of WESTbahn Management such fees should be part of the minimal access package and the manager should not apply any additional costs on the part of the carrier. In order to solve the matter Schienen Control Kommission had sent two preliminary ruling requests to the Court of Justice of the European Union.

Schienen Control Kommission had aimed to establish whether Annex II to the Directive 2012/34/EU should be interpreted in a way that “passenger platforms”, as mentioned in Annex I to the Directive, constitute an element of the railway infrastructure, the use of which remains part of the minimal access package, or they remain a service facility as part of a passenger station.

CJEU, while analysing the matter, not only considered the wording of the Directive 2012/34/EU, but also the overall context and the goals of the regulation. On 10 July 2019 the Court had ruled that Annex II to the Directive should be interpreted in such a way that “passenger platforms” constitute an element of railway infrastructure, the use of which remains part of the minimal access package, in line with par. 1 c of the aforementioned Annex II.

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[1] Par. 31 pt. 3 of the Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32012L0034&from=PL#d1e2198-32-1>)

[2] Par. 31 pt. 7 of the Directive 2012/34/EU.