Preamble

The Conciliation Body for Public Transport – söp_Schlichtungsstelle für den öffentlichen Personenverkehr – is an independent and impartial conciliation body, which is EU-notified and recognised by the German Federal Government. The purpose of söp is the out-of-court settlement of disputes between transport companies and passengers as their customers across all modes of transport.

§ 1 Scope

The following rules take account of the regulations laid down in the German Act on Alternative Dispute Resolution in Consumer Matters (VSBG) and apply if a complainant pursues his/her matter (subject of complaint) against the respondent within the scope of a conciliation procedure.

Concerning air passenger rights the regulations of §§ 57, 57b LuftVG and §§ 2-16 subparagaph 1 and 3 LuftSchlichtV apply additionally to the söp rules of procedure.

In case of conflicting provisions, the above mentioned regulations override the söp rules of procedure.

§ 2 Admissibility

(1) The söp can be invoked if
   a) the passenger’s own or, in case of valid representation, another person’s matters are being pursued,
   b) the matter is connected to a contract for transportation and
   c) the transport company, to which the matter is addressed, is a member of the board of trustees (Trägerverein).

(2) The söp only processes the subject of complaint if the complainant has already addressed his/her matter to the respondent and the respondent was given the opportunity to comment on the issue within a reasonable period of time or the legally specified period of time.

(3) A conciliation procedure does not take place
   a) if the subject of complaint exceeds the value of 30.000 Euro - the German civil procedure rules (Zivilprozessordnung - ZPO) apply for the value assessment
   b) as long as the subject of complaint is pending at or has been conclusively dealt with by a court or another recognised and responsible consumer conciliation body, except when a court, under consideration of the söp procedure, orders the other process to be paused according to § 278 a (2) ZPO

(4) The söp observes the admissibility of the matter during all stages of the conciliation procedure. In case of doubts about the admissibility, the parties will be given the possibility to comment.
§ 3 Conciliation request

(1) The conciliation procedure begins with the conciliation request to söp which is usually made online. However, the request can also be made in any other appropriate form.

(2) The söp acknowledges the receipt of the conciliation request and informs the complainant about the further course of the procedure.

(3) The complainant shall bring his/her matter forward in a clear and distinct manner. He/she shall disclose all facts that are relevant for the examination of the case and enclose all necessary documents. In case of incomplete documentation, additions may be requested.

(4) The söp helps the complainant with specifying his/her conciliation request. It can also turn to the respondent for clarification of the relevant facts and circumstances.

(5) The language of the procedure is German unless the söp, the complainant and the respondent agree on another language of proceedings.

§ 4 Representation

Within the legal boundaries, the complainant as well as the respondent may choose a representative at his/her own expense during all stages of the conciliation procedure.

§ 5 Participation of the respondent

(1) The respondent is given the opportunity to deliver a statement on the matter within a set or appointed period of time. This period may be extended if the respondent makes sufficient excuses for failure to comply with the deadline.

(2) The söp forwards the conciliation request to the address that was named by the respondent.

(3) The söp can refrain from requesting a statement if
   - the conciliation request is inadmissible according to § 2 of these rules of procedure,
   - the conciliation request can be assessed on the basis of the documents already submitted by the complainant and/or the request for conciliation is obviously unfounded,
   - the request is improper.

§ 6 Basis of valuation

(1) All decisions and recommendations within the conciliation procedure are made independently and impartially within the boundaries of law and statute.

(2) The contents of the procedure are the facts and circumstances presented by the parties. Obviously evident matters of fact can be included.

(3) The söp clarifies the facts and circumstances during all stages of the conciliation procedure if necessary and appropriate for the decision-making process.

(4) If one of the parties delivers a delayed statement before the procedure has been completed, it will be considered only if the delay is excused and it does not detain the progress of proceedings.

(5) If a conciliation request is related to competition-relevant data, this data has to be displayed in a verifiable manner with all necessary information in a separate attachment which is intended for the söp exclusively.
§ 7 Unsuitable conciliation request

(1) The söp may refuse dealing with the conciliation request if it would seriously impair effective operations of the conciliation body or other reasons for refusal from § 14 (1) VSBG are at hand. The decision for refusal will be made within three weeks of receiving the request.

(2) If the respondent is able to plausibly demonstrate that the subject of complaint deals with a legal issue of fundamental importance and a court procedure shall be achieved (model case), the respondent may request that söp refrains from processing the conciliation procedure. In this case, the respondent has to assure the complainant to cover the first instance court costs and attorney’s fees, regardless of the outcome of the court procedure.

§ 8 Duration of procedure

(1) The söp ensures rapid handling of the conciliation request in every possible way. Generally, the duration of the procedure amounts to a maximum of 90 days after all necessary documents have been submitted.

(2) To speed up the procedure, with the request for a statement the söp may inform the respondent about first suggestions for a conciliation recommendation according to § 9 (5). The respondent has to comment on the suggestions within the time period in line with § 5. The complainant will be informed about substance and result.

§ 9 Conclusions of the procedure

(1) If the conciliation request is inadmissible according to § 2, the procedure is concluded with respective information to the parties within a time limit of three weeks after receiving the request.

(2) If the conciliation request has to be refused according to § 7, the procedure is concluded with respective information to the parties within a time limit of three weeks after receiving the request.

(3) If the respondent, according to Art. 13 (4) LuftSchlichtV, fully agrees to pay the amount of money claimed by the complainant in his or her conciliation request, the söp informs the complainant respectively and closes the case („Sofortiges Anerkenntnis“).

(4) If the conciliation request can already be evaluated by the documents available and/or is clearly unfounded (cf. § 5 (3)), the procedure is concluded with respective information to the parties involved ("rejection").

(5) In all other cases, after having examined the facts and circumstances as well as the legal situation, the söp prepares a conciliation recommendation which is thought to be suitable for settling the dispute. The involved parties will be informed respectively. The conciliation procedure ends with the message by söp about the result (binding agreement between the parties or failure of the conciliation procedure).

(6) Otherwise the conciliation procedure ends if the complainant objects to the further pursuit of the procedure or withdraws the complaint. The söp also assumes the withdrawal of the conciliation request if the complainant does not attend his duty of contribution following § 3 subparagraph 3. If the conciliation request is resolved for reasons outside of the sphere of the conciliation procedure, the parties to the procedure have to inform söp thereof immediately.

(7) Ending the conciliation procedure according to (1) to (6) shall be done in written form and be provided with reasons.
§ 10  Binding effect

(1) The conciliation recommendation by söp is not binding for the parties involved. However, after delivering an appropriate statement, it is at the discretion of the transport companies to accept a binding effect against themselves.

(2) If both parties to the procedure mutually agree to settle the dispute based on the conciliation recommendation, the declarations submitted by the parties become contractually binding between the parties.

(3) With the submission of the conciliation recommendation the parties involved are informed about the legal consequences of accepting the recommendation as well as the fact that the recommendation can differ from the result of a lawsuit.

(4) The complainant may choose to pursue legal action at every stage of the procedure.

§ 11  Suspension of the statute of limitations

(1) During the course of the whole procedure the statute of limitations is suspended regarding disputed claims of the complainant (§ 204 Abs. 1 Nr. 4a, Abs. 2 BGB). The same is true for preclusive time limits.

(2) As far as delinquency procedures or collection orders have already been initiated against the complainant, söp encourages the respondent to intermit such procedures for the course of the conciliation procedure. The complainant must not be charged any additional costs (dunning costs, collection costs or default charges) during the course of the suspension.

§ 12  Costs

(1) The conciliation procedure is free of charge for the complainants. The complainant merely bears his/her own costs (e.g. for postage, copies, telephone).

(2) The costs of the conciliation procedure are borne by the participating transport companies following the membership fee regulation of the board of trustees (Trägerverein).

§ 13  Reticence/confidentiality

(1) Staff members of söp are obliged to maintain confidentiality about all circumstances affecting the parties of which they gain knowledge within the scope of the conciliation procedure.

(2) Business secrets named as such by the respondent are not revealed to the other parties involved. However, the söp takes them into account when considering the legal situation and circumstances of the case.

(3) Conciliation recommendations will only be published anonymised.

§ 14  Apprehension of bias

(1) A conciliator must not take action in a dispute if there is good cause which may justify distrust in his/her impartiality. In this case, a representative will be acting on his/her behalf in the conciliation procedure.

(2) If a conciliator is declined by one of the parties for reasons of suspected partiality, a representative decides about this rejection.
(3) If a conciliator suspects circumstances which could justify a rejection due to apprehended impartiality, he or she must instantly report this to the söp management and the parties involved in the conciliation procedure.