

Rights of passengers in bus and coach transport; cooperation between national authorities

2008/0237(COD) - 31/03/2009

The Committee on Transport and Tourism adopted the report drawn up by Gabriele ALBERTINI (EPP-ED, IT) amending, under the first reading of the codecision procedure, the proposal for a regulation of the European Parliament and of the Council on the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws.

The main amendments are as follows:

Subject matter: MEPs clarify that the Regulation establishes rules concerning barrier-free access for disabled persons and persons with reduced mobility travelling by bus or coach.

Scope: Member States must have the possibility to exempt them from the specific requirements of this Regulation if they take alternative measures providing for a similar level of passenger rights.

Liability for death and injury of passengers: an amendment aims to avoid misunderstandings and to clarify that not strict liability ("force majeure") but tortious liability shall be unlimited. MEPs also believe it is necessary to introduce an overall limit for strict liability per accident, which is set at EUR 5 million according to Directive 2005/14/EC. Moreover, provision should be made for exoneration from liability if a third party is at fault.

Damages: MEPs believe it would be unfair for the transport undertaking automatically to be obliged to take immediate remedial action before it is established exactly where the responsibility lies, unless there is evidence of its direct responsibility.

Liability for lost and damaged luggage: bus and/or coach undertakings cannot be held liable across the board if the loss or damage has been caused by circumstances not connected with the operation of bus and coach transport services and which the bus and/or coach undertaking could not have avoided or if the loss or damage is the fault of the passenger or caused by his negligence.

Derogations and special conditions: under the proposal, bus and/or coach undertakings may refuse, on the grounds of disability or reduced mobility, to accept a reservation in order to meet applicable safety requirements established by international or Community law. Given that there is no existing legislation requiring a bus operator to restrict the carriage of disabled persons due to safety concerns, MEPs believe it would be dangerous to open up for the adoption of such legislation. However, derogations shall apply if the vehicle or the infrastructure at the place of departure or arrival or on the route is not fitted out in such a way as to guarantee the safe transport of disabled persons and persons with reduced mobility.

Accessibility and information: the rules on non-discriminatory access that apply to the transport of disabled persons and persons with reduced mobility should be established in co-operation with representative organisations. Moreover, international, Community or national law establishing the safety requirements, on which non-discriminatory access rules are based, must be provided in accessible formats for passengers with disabilities. All information concerning the conditions of carriage should be available to persons incapable of travelling without assistance because of their elderly or young age and accompanying persons.

Assistance: according to MEPs, it is crucial for the dignity and independence of each passenger to only receive assistance that corresponds to his or her particular needs. The passenger should be the one to decide what assistance he or she needs.

Right to assistance at terminals: where use of a recognised assistance dog is required, this shall be granted provided that the bus and/or coach undertaking, ticket vendor or tour operator were notified in accordance with applicable national rules covering the carriage of assistance dogs.

Conditions under which assistance is provided: MEPs consider that some flexibility in the notification system must be permitted. Therefore, the need for assistance should be notified at least 24 hours (instead of 48 hours) before the assistance is needed, unless a shorter notification period is proposed by the assistance provider, or agreed between the assistance provider and the passenger. The passenger shall receive a confirmation, stating that the assistance needs have been notified.

MEPs also believe it is necessary to ensure that the designated points and the information they provide are totally recognisable and accessible to disabled persons and persons with reduced mobility.

Compensation in respect of wheelchairs and mobility equipment: where necessary, every effort shall be undertaken to rapidly provide replacement equipment with similar technical and functional features to that lost or damaged. Once again, a bus and/or coach undertaking shall not be liable if the loss or damage has been caused by circumstances not connected with the operation of bus and coach transport services and which the bus and/or coach undertaking could not have avoided or if the loss or damage is the fault of the passenger or was caused by the passenger's negligence. The amount of compensation payable shall be equivalent to the actual loss suffered.

Responsibility in the event of cancellations and long delays: bus and/or coach undertakings shall also be liable for overbookings. They shall be liable only for cancellations and delays resulting from circumstances within their control. That liability shall not cover delays as a result of traffic congestion and border and/or vehicle checks. Alternative services in the event of cancellation and long delays should be offered for free.

Compensation (in addition to full reimbursement) should not be more than **50% of the ticket price**. Where the passenger chooses to accept the alternative transport services offered, they have the right to compensation amounting to 50% of the ticket price.

In the event of cancellations and long delays, passengers should also be offered: (i) meals and refreshments in line with the waiting time; (ii) hotel or other accommodation and transport between the terminal and the place of accommodation in case an overnight stay becomes necessary before the trip can be continued; (iii) transport from the location of the inoperational vehicle to a suitable waiting point and /or terminal from where continuation of the journey becomes possible (where the bus and/or coach becomes inoperable).

Bus and/or coach undertakings shall be liable for delays at arrival of more than two hours, where the delay is due to the driver's negligence and fault or a technical failure of the vehicle. In such events the passengers concerned shall at least have the right to compensation amounting to 50% of the ticket price and be offered assistance.

A bus and/or coach undertaking shall be exonerated from this liability if the cancellation or delay can be attributed to circumstances not connected with the operation of bus and coach transport services and which the bus and/or coach undertaking could not have avoided.

In the event of delay, the information shall be provided in accessible formats for persons with disabilities and persons with reduced mobility.

Cooperation: carriers shall cooperate in order to adopt arrangements at national or European level. Priority care should be provided for those passengers with special needs owing to disability, reduced mobility, illness, elderly age, pregnancy and extending to young children, and accompanying passengers. In the event of long delays and interruption or cancellation of travel, care shall focus on providing passengers with medical assistance and food and drink as necessary, regular information updates, and, where appropriate, alternative travel arrangements and accommodation.

Complaints: bus and/or coach undertakings shall issue annually a report containing the number and subject matter of complaints received, the average number of days required to answer them and corrective actions taken.

Entry into force: the coach and bus fleet needs some more time to adapt to the requirements of this Regulation. That is why MEPs propose that the Regulation should apply with effect from two years (instead of one year) after its entry into force.