Rights of passengers when travelling by sea and inland waterway; coordination between national authorities

2008/0246(COD) - 24/03/2010 - Commission communication on Council's position

The Commission considers its proposal to have been substantially modified by the Council in some of its parts.

Firstly, the Council position aims to exclude ships carrying up to 36 passengers, up to 3 crew members, or offering journeys up to 500 meters in length from the **scope of the proposal**. Moreover, an additional temporary exemption -two years after application- was introduced for ships of less than 300 gross tons for domestic transport, with the condition that national law provides adequate protection of passenger rights. Only cruises exceeding two overnight stays on board would be covered. All these elements would represent a significant limitation of the scope of application.

Secondly, some of the **conditions for assistance** imposed by the Council position have the effect of somewhat reducing the rights of persons with reduced mobility (PRMs) and to impose some specific requirements on them. Moreover, the Council compromise, when referring to the obligation of providing accommodation at no charge to stranded passengers in case of cancellations and delayed departures, introduces a new distinction between weather conditions endangering the safe operation of the ship (which are liable to exclude the obligation of providing such assistance) and extraordinary circumstances (which, on the contrary, do not exclude the obligation to provide full assistance).

Other forms of assistance (i.e. snacks, meals and refreshments) would remain unconditionally compulsory for carriers in all circumstances -even in case of the abovementioned weather conditions or extraordinary circumstances- unless the passenger is made aware of the situation when buying the ticket. At the same time the Council position includes a new maximum amount of €120 per passenger if accommodation is to be provided in case of delay or cancellation of a trip..

The amendments of the European Parliament accepted by the Commission and included completely or partly in the Council position aim to:

- introduce a provision for the safety of PRMs when travelling in relation to Article 8 which concerns derogations and special conditions;
- make reference to the conditions to impose accompanying persons of PRMs;
- streamline the wording of the proposal and reinforcing information rights for passengers;
- delete the obligation for carriers to have separate accounts for activities relating to assistance provided to PRMs;
- introduce a clarification regarding assistance to persons with reduced mobility;
- amend the article regarding compensation.

The amendments of the European Parliament accepted by the Commission but not included in the Council position concern the following issues:

- the introduction of a new recital which clarifies the relationship between this proposed Regulation and other international, Community or national law regarding PRMs;
- the suggestion that the Commission should propose rules for passenger rights at points of transfer of passengers between land and water-based transport;

- a new Recital suggesting a horizontal legislative approach on all modes of transport for the future;
- a linguistic clarification of the Article on the scope of application;
- the introduction of an exclusion from the scope of application of urban and suburban transport if the aims of the regulation are ensured and a comparable level of passenger rights is guaranteed;
- clarification of the definition of transport contract, the inclusion of 'retailer' in the definition of tour operator (amendment 16), and new definitions for 'accessible formats', 'passenger' and 'ticket price';
- improved accessibility information and assistance to PRMs;
- the clarification of the conditions on which assistance to PRMs is to be provided, and reinforcement of information rights;
- specification of the conditions on which assistance is provided for PRMs when travelling on cruises;
- clarification on the timing of transmission of information to a third party;
- compensation in respect of wheelchairs and mobility equipement;
- the reinforcement of the information obligations of the carrier in case of interrupted travel;
- the reimbursement of the ticket price if a delay or cancellation occurs;
- the compensation for cruise passengers;
- the introduction of the notion of force majeure;
- the deduction of compensation in cases when additional compensation is granted under any other applicable legislation;
- the designation and competences of the National Enforcement Bodies;
- the content of the enforcement report;
- the types of penalties;
- the reinforcement of PRM rights.

The Commission is deeply concerned about the very substantial modifications introduced by the Council as compared to the initial proposal of the Commission and to some amendments of the European Parliament, to the extent that they **considerably reduce the scope of application** of the draft Regulation and hence the level of protection of EU passengers. The Commission takes note of the position adopted by the Council by unanimity and considers that the **level of ambitions should be constructively raised again** in the framework of further inter-institutional debate in view of the final adoption of the Regulation.