

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

2008/0237(COD) - 06/07/2010 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a resolution on the Council position at first reading for adopting a regulation of the European Parliament and of the Council concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004.

The main amendments are as follows:

Scope: Members state that it should not be possible to exclude regional services from the scope of the Regulation. This is in line with Parliament's position at first reading but that position is modified. Member States would not have to prove, as a condition for their exemption, that they are covered by public service contracts ensuring a comparable level of passenger rights. When identifying urban or suburban transport, Member States should be allowed to refer to their domestic and local situation.

Furthermore, the Parliament **deletes the exemption for domestic regular services from the application of this Regulation**. It also deletes the exemption for particular regular services because a significant part of the regular service, including at least one scheduled stop, is operated outside the Union.

Exemptions must be notified to the Commission within three months from the date of application of the Regulation.

Definitions: Members clarified definitions for "tour operator" and "carrier".

Liability for death and injury of passengers: the Council position waters down significantly the provisions on liability as compared to both the original Commission proposal and the Parliament's position at first reading. The amendment aims to restore the Parliament's position at first reading. The text states that carriers shall be liable for the loss or damage resulting from the death of, or personal injury to, passengers, caused by accidents arising out of the operation of bus and coach transport services and occurring while the passenger is in, entering or leaving the vehicle. The non-contractual liability of carriers for damages shall not be subject to any financial limit, be it defined by law, convention or contract.

For any claim up to the amount of EUR 220 000 per passenger, a carrier shall not exclude or limit its liability by proving that it has taken the care required pursuant to the terms of the Regulation), unless the total amount of the resulting claim exceeds the amount for which compulsory insurance is, in conformity with Second Council Directive 84/5/EEC, required under the national legislation of the Member State in which the bus or coach is normally based. In such a situation, liability shall be limited to that amount.

A carrier shall not be liable: (a) if the accident has been caused by circumstances not connected with the operation of bus and coach transport services or which the carrier could not have avoided, in spite of having taken the care required in the particular circumstances of the case, or the consequences of which it was unable to prevent; (b) to the extent that the accident is the fault of the passenger or caused by his negligence.

Nothing in this Regulation shall: (a) imply that a carrier is the sole party liable to pay damages; or (b) restrict any rights of a carrier to seek redress from any other party in accordance with the applicable law of a Member State.

Damages: a reinstated clause states that in the event of the death of a passenger, the damages in respect of the liability provided for above shall comprise: a) any necessary costs following the passenger's death, in particular the cost of transporting the body and the funeral expenses; (b) if the death does not occur at once, the damages provided for below.

In the event of personal injury or any other physical or mental harm to a passenger, the damages shall comprise : (a) any necessary costs, in particular those for treatment and for transport; (b) compensation for financial loss, due to total or partial incapacity to work, or to increased needs.

If, through the death of the passenger, a person whom the passenger had, or would have had, a legal duty to maintain is deprived of support, such persons shall also be compensated for that loss.

Immediate practical and economic needs of passengers: the text now states that assistance shall include, where necessary, first aid, accommodation, food, clothes, transport and funeral expenses. In the event of death or personal injury, the carrier shall in addition make advance payments to cover immediate economic needs on a basis proportional to the damage suffered, provided that there is prima facie evidence of causality attributable to the carrier. Any payments made, or assistance provided shall not constitute recognition of liability. The original proposal as well as Parliament's position at first reading provides for non-returnable advance payments in the event of personal injury and death to meet immediate economic needs of the victims.

Liability for lost and damaged luggage: Council deleted this Article and included provisions on compensation for lost and damaged luggage with those on liability for death and personal injury. These provide a lower level of protection for passengers. Therefore the amendment restores Parliament's position at first reading. The maximum compensation for luggage shall amount to EUR 1 800 per passenger, and the maximum compensation shall amount to EUR 1 300 per passenger.

Exceptions and special conditions: the text states that if a **disabled person or a person of reduced mobility** is refused to access on his or her own because of his disability or reduced mobility, he or she should have the right to be accompanied by another person. The same holds true for cases where the carrier cannot provide the assistance on board required according to Annex Ib.

Accessibility and information: it is important that the information is provided in accessible formats and that particular attention is paid to the needs of disabled persons and the person of reduced mobility. The amendment is based on the text adopted by Parliament at first reading.

Upon request the carriers shall immediately make available copies of the international, Union or national laws establishing the safety requirements, on which non-discriminatory access rules are based. These must be provided in accessible formats.

Right to assistance at designated terminals and on board buses and coaches: obligations to provide assistance according to the Annex of the Regulation should not be made subject to access conditions, which are defined by carriers and terminal managing bodies themselves. the person's need for such assistance is notified to carriers, terminal managing bodies, travel agents or tour operators at the latest **24 hours before the assistance is needed (as opposed to 2 working days)**. Moreover, assistance shall be provided on condition that the person concerned presents himself at the designated point at the time stipulated in advance by the carrier which shall be no more than 60 minutes before the published departure time unless a shorter period is agreed between the carrier and the passenger.

Compensation in respect of wheelchairs and other mobility equipment: carriers and terminal managing bodies should always have to compensate the damage or loss of such equipment, in case they are responsible for it and not only if it is resulting from the provision of assistance. The resolution amends Council's wording accordingly.

Exemptions: Parliament deleted the provision stating that Member States may exempt domestic regular services from the application of all or some of the provisions of the Chapter on the rights of disabled persons, provided that they ensure that the level of protection of disabled persons and persons with reduced mobility under their national rules is at least the same as under this Regulation. It notes that the provisions concerning rights of disabled persons and persons with reduced mobility have already been limited by the Council when compared to those in the original Commission proposal and Parliament's position at first reading. It would therefore be unacceptable to provide in addition for the possibility of exempting domestic services from the application of those provisions.

Continuation, re-routing and reimbursement: Members state that the Regulation should also offer passengers adequate rights in the case of overbooking. Re-routing should be at no additional costs. Furthermore, in addition to normal reimbursement passengers must, have the right to compensation amounting to 50% of the ticket price if the carrier fails to offer continuation or re-routing to the final destination. The compensation shall be paid within one month after the submission of the request for compensation. Where the bus or coach becomes inoperable, passengers shall be offered transport from the location of the inoperable vehicle to a suitable waiting point or terminal from where continuation of the journey becomes possible. For a journey of a scheduled duration of more than three hours the carrier shall, in case of cancellation or delay in departure from a terminal of **more than one hour**, offer the passenger free of charge (and not two hours as laid down by the Council).

Assistance in case of cancelled or delayed departures: passengers have the right to a **hotel room or other accommodation**.

Additional measures in favour of passengers: a re-instated article specifies that carriers shall cooperate in order to adopt arrangements at national or European level with the involvement of stakeholders, professional associations and associations of customers, passengers and disabled persons. These measures shall be aimed at improving care for passengers, especially in the event of long delays and interruption or cancellation of travel with a particular focus on passengers with special needs due to disability, reduced mobility, illness, elderly age, pregnancy and including accompanying passengers and passengers travelling with young children.

Right to travel information: this must be provided in accessible format and according to a common conceptual model for public transport data and systems.

Complaints: complaints handling mechanism should cover all passenger rights pursuant to this Regulation. The time taken to provide the final reply shall **not be longer than two months** (instead of 3 months) from the receipt of the complaint.