

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

2008/0246(COD) - 06/07/2010 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a legislative 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 when travelling by sea and inland waterway and amending Regulation (EC) N°2006/2004.

Parliament adopted its position at second reading under the ordinary legislative procedure (formerly known as the codecision procedure). The amendments adopted in plenary are the result of a compromise reached between the European Parliament and the Council. They amend the Council's position at first reading as follows:

Scope: as requested by the Parliament, this Regulation shall not apply in respect of passengers travelling on ships certified to carry up to **12 passengers**. It shall not apply in respect of passengers on ships not propelled by mechanical means as well as original, and individual replicas of, historical passenger ships designed before 1965, built predominantly with the original materials, certified to carry up to 36 passengers. Member States may exempt from the application of this Regulation passenger services covered by public service obligations, public service contracts or integrated services provided that the rights of passengers under this Regulation are comparably guaranteed under national law.

Definitions: the compromise clarified definitions for “carrier” and “tour operator”. The latter shall be taken to mean an organiser or retailer, other than a carrier, within the meaning of Directive 90/314/EEC.

Rights to transport of disabled persons: at the Parliament's request the amended text clarifies that carriers, travel agents and tour operators shall not refuse to accept a reservation, to issue or otherwise provide a ticket or to embark persons on the grounds of disability or of reduced mobility as such. Reservations and tickets shall be offered to disabled persons and persons with reduced mobility **at no additional cost** under the same conditions that apply to all other passengers.

Exceptions and special conditions: by way of derogation, carriers, travel agents and tour operators may refuse to accept a reservation from, to issue or otherwise provide a ticket to or to embark a disabled person or person with reduced mobility, notably in order to meet applicable safety requirements established by international, Union or national law or in order to meet safety requirements established by the competent authorities. Moreover, if this is **strictly necessary**, carriers, travel agents and tour operators may require that a disabled person or person with reduced mobility be accompanied by another person who is capable of providing the assistance required by the disabled person or person with reduced mobility. When carriers, travel agents and tour operators have recourse to these measures, they shall immediately inform the disabled person or person with reduced mobility of the specific reasons therefor. On request, those reasons shall be notified to the disabled person or person with reduced mobility in writing, no later than five working days after the request.

Accessibility and information: in cooperation with organisations representative of disabled persons or persons with reduced mobility, carriers and terminal operators shall, where appropriate through their organisations, establish, or have in place, non-discriminatory access conditions for the transport of disabled persons and persons with reduced mobility and accompanying persons. The access conditions shall upon request be communicated to national enforcement bodies. The access conditions shall be made

publicly available by carriers and terminal operators physically or on the Internet, in accessible formats on request, and in the same languages as those in which information is generally made available to all passengers. Particular attention shall be paid to the needs of disabled persons and persons with reduced mobility. Persons needing assistance shall receive confirmation of such assistance by any means available, including electronic means or SMS.

Right to assistance in ports and on board ships: carriers and terminal operators shall, within their respective areas of competence, provide assistance free of charge to disabled persons and persons with reduced mobility, including embarkation and disembarkation, and on board ships. The assistance shall, if possible, be adapted to the individual needs of the disabled person or person with reduced mobility.

Conditions under which assistance is provided: assistance shall be provided on the condition that the carrier or the terminal operator is notified, by any means available, including electronic means or SMS, of the person's need for such assistance **at the latest 48 hours** before the assistance is needed, unless a shorter period is agreed between the passenger and the carrier or terminal operator. It must also be provided where the disabled persons presents himself if no embarkation time is stipulated, no later than 60 minutes before the published departure time, unless a shorter period is agreed between the passenger and the carrier or terminal operator.

The passenger shall receive a confirmation stating that the assistance needs have been notified as required.

Quality standards for assistance: an amendment states that in setting quality standards, full account shall be taken of internationally recognised policies and codes of conduct concerning facilitation of the transport of disabled persons or persons with reduced mobility, notably the International Maritime Organisation's Recommendation on the design and operation of passenger ships to respond to elderly and disabled persons" needs.

Training and instructions: carriers and, where appropriate, terminal operators shall establish disability-related training procedures, including instructions, and ensure that: their personnel, including those employed by any other performing party, providing direct assistance to disabled persons and persons with reduced mobility are trained or instructed; their personnel who are otherwise responsible for the reservation and selling of tickets or embarkation and disembarkation, including those employed by any other performing party, are trained or instructed. Certain categories of personnel should maintain their competences, for example through instructions or refresher training courses when appropriate.

Compensation in respect of mobility equipment or other specific equipment:the text stipulates that every effort shall be undertaken to rapidly provide temporary replacement equipment which is a suitable alternative.

Assistance in case of cancelled or delayed departures: where a carrier reasonably expects the departure of a passenger service or a cruise to be cancelled or delayed for **more than 90 minutes** beyond its scheduled time of departure, passengers departing from port terminals shall be offered free of charge snacks, meals or refreshments in reasonable relation to the waiting time, provided they are available, or can reasonably be supplied. For each passenger, the carrier may limit the total cost of accommodation ashore, not including transport to and from the port terminal and place of accommodation, to **EUR 80 per night**, for a maximum of three nights.

Where a carrier reasonably expects a passenger service to be cancelled or delayed in departure from a port terminal for more than 90 minutes, the passenger shall immediately be offered the choice between re-routing or reimbursement of the ticket price. Re-routing to the final destination must be offered at **no additional cost**.

If the passenger agrees, the full reimbursement may also be paid in the form of vouchers and/or other services in an amount equivalent to the price for which the ticket was purchased, provided the conditions are flexible, particularly regarding the period of validity and the destination.

Exemptions: assistance measures shall not apply to passengers: (a) with open tickets as long as the time of departure is not specified, except for passengers holding a travel pass or a season ticket; (b) if the passenger is informed of the cancellation or delay before the purchase of the ticket or if the cancellation or delay is caused by the fault of the passenger; (c) where the carrier proves that the cancellation or delay is caused by weather conditions endangering the safe operation of the ship; (d) where the carrier proves that the cancellation or delay is caused by weather conditions endangering the safe operation of the ship or by extraordinary circumstances hindering the performance of the passenger service, which could not have been avoided even if all reasonable measures had been taken

Complaints: carriers and terminal operators shall set up or have in place an accessible complaint handling mechanism for rights and obligations covered by this Regulation. The time taken to provide the final reply shall **not be longer than two months** from the receipt of a complaint.

National enforcement bodies: each body shall, in its organisation, funding decisions, legal structure and decision-making, be independent of commercial interests. Any passenger may submit a complaint, in accordance with national law, to the competent body. The competent body shall provide passengers with a substantiated reply to their complaint within a reasonable period of time.