Functioning and application of established rights of people travelling by air

2011/2150(INI) - 11/04/2011 - Document attached to the procedure

In accordance with Regulation (EC) No 1107/2006 concerning the rights of disabled persons and persons with reduced mobility (PRIM) when travelling by air, the Commission launched in 2009 two studies on the implementation of Regulation – the first evaluated the functioning of the Regulation in general, while the second study looked more specifically at the penalties applied in Member States to violations of the obligations under this Regulation. This report summarises the studies and draws the necessary conclusions in order to improve the functioning of the existing regulatory instruments.

Main conclusions of the studies: the report states that the legal framework set out in the Regulation and the principal assistance obligations have indeed been implemented in the Member States. This single protection scheme is now operational in Europe. As a result, there is a detailed list of specific assistance services that must be made available to the persons concerned free of charge. There is a clear division of tasks between airports and air carriers. Furthermore, the Regulation has seen establishment of a network of National Enforcement Bodies (NEB) in all Member States and genuine cooperation with the Commission but also with other bodies through the exchange of information and good practices.

Nonetheless, despite these positive aspects, the Commission also found certain problem areas. The adoption of the new rules varies from Member State to Member State and from one airport and one air carrier to another. The main difficulty is the lack of harmonisation and sometimes consistency concerning the different interpretations. The report identifies the following problems:

Difficulties related to the obligations of airports: the report notes that the quality of the service provided and its adaptation to PRMs' individual needs is sometimes insufficient. The information provided to passengers is often considered insufficient, and this remains one of the weakest points of implementation of the Regulation. The handling of mobility equipment is another source of concern.

Difficulties related to the obligations of air carriers: the studies and the complaints both indicate that air carriers have particular difficulties in applying the Regulation when it comes to refusing to accept reservations from or to embark PRMs owing to safety concerns. There seems to be some confusion over the definition of the safety criteria authorising derogations from the principle of non-discrimination. Whilst harmonising safety rules is a complex task that calls for the cooperation of the competent national authorities, nonetheless, the Commission here sets out simple principles for the derogations provided in the Regulation.

It goes on to discuss other problems encountered in relation to the obligations of air carriers, including issues related to in-flight assistance, problems related to mobility equipment, where the definition of mobility equipment that must be carried free of charge has resulted in conflicting interpretations, and problems related to insufficient information provided to PRMs about their rights when making a reservation or if denied boarding.

Difficulties related to the obligations of the national authorities: the report notes that difficulties have been identified concerning the uniform interpretation of the Regulation as well as the handling of passenger complaints and the application of penalties. There are great disparities between Member States. Another problem is that these authorities do not harmonise their actions sufficiently.

Other difficulties identified: the report goes on to discuss disagreements over the amount of and the method of calculating charges,

the difficulty in interpreting certain important definitions (e.g whether pregnant women, overweight people or young children are included

in the definition of persons with reduced mobility) and transporting and supplying medical oxygen. The Regulation does not provide a solution to the latter problem, but the use of medical oxygen on board is nonetheless an issue that must be resolved rapidly, as the present situation is unsatisfactory. The transport and use of medical oxygen must be harmonised in the EU.

Proposals for the future: overall the implementation of the Regulation is satisfactory and will continue to improve in the future, despite certain significant differences between air carriers and Member States and despite the fact that the public is not yet sufficiently well acquainted with the text. However, work still remains to be done. Therefore the Commission proposes a number of axes of improvement within the existing framework.

First axis: uniform interpretation of the Regulation. The Commission will:

- propose that the NEB network be formally established as a group of experts from the national enforcement bodies;
- discuss with this group the guidelines for interpreting the Regulation, guidelines that it will adopt in a Commission document in order to enable as uniform an interpretation as possible of the provisions of the Regulation;
- ensure that a special effort is made to adopt a common interpretation of safety requirements that can be used to justify denial of reservation or boarding, acting with the European Aviation Safety Agency (EASA);
- see to it that a consolidated list common to all Member States of the reasons that can serve as a basis for refusing to transport PRMs or for requiring the presence of an accompanying person is drawn up and made public.

Second axis: improving how the regulatory instruments work in practice. The Commission will:

- see to it that an active information policy aimed at the public concerned by the Regulation is conducted at all times, especially among those who do not consider themselves handicapped but who are nonetheless covered by the definition of PRM;
- encourage the establishment of training programmes together with organisations representing PRMs in order to improve service and strive to apply the relevant European rules more efficiently;
- propose that the group of experts from the national enforcement bodies adopt measures so that notification of the need for assistance is requested already when the reservation is made and that documentary evidence thereof is provided.

Third axis: strengthening the efficacy of the penalties and their supervision by national authorities. The Commission and the group of regulators will discuss the possibility of establishing a common database to follow up the handling of complaints and the administrative and judicial decisions concerning the implementation of the Regulation. The Commission will also:

- aim to introduce an action plan that is harmonised at the EU level and includes a detailed list of the actions national authorities should undertake (regular audits of operators, inspections in the field, etc.);
- encourage airlines to appoint a person that would be in charge of dispute resolution on the spot and would be authorised to immediately take the decisions necessary to settle a dispute with a passenger;
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- with the NEBs, discuss the possibility of publishing a list of the penalties imposed and the operators concerned in order to reinforce the dissuasive nature of the penalties.

Fourth axis: handling the issue of medical oxygen. The Commission will encourage negotiations about a voluntary commitment among all parties concerning the use of medical oxygen on board. Failing this, it will consider adopting a general approach, either by a non-binding act or, if it is considered appropriate, by laying down binding rules. Any solutions should target the following three principal elements, in particular:

- establishing certification schemes for the air transport of certain types of equipment that are allowed on board, on condition that the maintenance requirements are met;
- setting a maximum fixed fare applicable throughout Europe for the supply of oxygen on board;
- providing passengers with clear and detailed information on the conditions of supplying medical oxygen on board.