Basic information

2008/0246(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Rights of passengers when travelling by sea and inland waterway; coordination between national authorities Amending Regulation (EC) No 2006/2004 2003/0162(COD) See also 2005/0241(COD) See also 2008/0237(COD) See also 2000/0145(COD) See also 2001/0305(COD) See also 2004/0049(COD) See also 2005/0007(COD) See also 2006/0130(COD) **Subject** 3.20.03 Maritime transport: passengers and freight 3.20.04 Inland waterway transport 4.60.06 Consumers' economic and legal interests 7.30 Police, judicial and customs cooperation in general	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
TRAN Transport and Tourism		
	Shadow rapporteur WORTMANN-KOOL Corien (PPE) BILBAO BARANDICA Izaskun (ALDE) LICHTENBERGER Eva (Verts/ALE) EPPINK Derk Jan (ECR) TOUSSAS Georgios (GUE/NGL)	

Former committee responsible	Former rapporteur	Appointed
TRAN Transport and Tourism	TEYCHENNÉ Michel (PSE)	08/12/2008

Former committee for opinion	Former rapporteur for opinion	Appointed
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	

	JURI Legal Affairs	PAPASTAMKOS Georgios (PPE-DE)	19/01/2009

Council of the European Union

Council configuration	Meetings	Date
Competitiveness (Internal Market, Industry, Research and Space)	3035	2010-10-11
Transport, Telecommunications and Energy	3001	2010-03-11
Transport, Telecommunications and Energy	2964	2009-10-09
Transport, Telecommunications and Energy	2935	2009-03-30

European Commission

Commission DG	Commissioner
Mobility and Transport	KALLAS Siim

Key events

Date	Event	Reference	Summary
04/12/2008	Legislative proposal published	COM(2008)0816	Summary
18/12/2008	Committee referral announced in Parliament, 1st reading		
30/03/2009	Debate in Council		Summary
31/03/2009	Vote in committee, 1st reading		Summary
02/04/2009	Committee report tabled for plenary, 1st reading	A6-0209/2009	
22/04/2009	Debate in Parliament		
23/04/2009	Decision by Parliament, 1st reading	T6-0280/2009	Summary
23/04/2009	Results of vote in Parliament		
11/03/2010	Council position published	14849/3/2009	Summary
25/03/2010	Committee referral announced in Parliament, 2nd reading		
01/06/2010	Vote in committee, 2nd reading		Summary
11/06/2010	Committee recommendation tabled for plenary, 2nd reading	A7-0177/2010	
05/07/2010	Debate in Parliament		
06/07/2010	Decision by Parliament, 2nd reading	T7-0257/2010	Summary
11/10/2010	Act approved by Council, 2nd reading		
24/11/2010	Final act signed		
24/11/2010	End of procedure in Parliament		
17/12/2010	Final act published in Official Journal		

Technical information	
Procedure reference	2008/0246(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EC) No 2006/2004 2003/0162(COD) See also 2005/0241(COD) See also 2008/0237(COD) See also 2000/0145(COD) See also 2001/0305(COD) See also 2004/0049(COD) See also 2005/0007(COD) See also 2006/0130(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 100-p2 Treaty on the Functioning of the European Union TFEU 091-p1
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/7/01244

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE418.200	27/01/2009	
Committee opinion	JURI	PE419.965	10/03/2009	
Amendments tabled in committee		PE420.079	10/03/2009	
Committee report tabled for plenary, 1st reading/single reading		A6-0209/2009	02/04/2009	
Text adopted by Parliament, 1st reading/single reading		T6-0280/2009	23/04/2009	Summary
Committee draft report		PE440.138	14/04/2010	
Amendments tabled in committee		PE441.013	11/05/2010	
Committee recommendation tabled for plenary, 2nd reading		A7-0177/2010	11/06/2010	
Text adopted by Parliament, 2nd reading		T7-0257/2010	06/07/2010	Summary

Council of the EU

Document type	Reference	Date	Summary
Council statement on its position	06979/2010	05/03/2010	
Council position	14849/3/2009	11/03/2010	Summary
Draft final act	00032/2010/LEX	24/11/2010	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2008)0816	04/12/2008	Summary
Document attached to the procedure	SEC(2008)2950	04/12/2008	
Document attached to the procedure	SEC(2008)2951	04/12/2008	
Commission response to text adopted in plenary	SP(2009)3507	25/06/2009	
Commission communication on Council's position	COM(2010)0120	24/03/2010	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2010)0519	23/09/2010	Summary
Follow-up document	COM(2016)0274	24/05/2016	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1198/2009	16/07/2009	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2010/1177
OJ L 334 17.12.2010, p. 0001 Summary

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

2008/0246(COD) - 24/05/2016 - Follow-up document

The Commission presents a report on the application of Regulation (EU) No 1177/2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004.

The Regulation aims to ensure the basic protection of passengers who travel by sea and inland waterway using passenger services or cruises, became applicable on 18 December 2012.

The report is based partly on quantitative and qualitative input from national authorities' reports on the enforcement of the Regulation **in 2013-2014** and consultation of stakeholders representing passengers and the industry at European level.

To recall, the Regulation requires Member States to designate national enforcement bodies (NEBs) to enforce it and to lay down effective, proportionate and dissuasive penalties in their national law to sanction operators that breach it. Passengers may submit complaints about alleged infringements of the Regulation to the carrier, the port terminal operator or directly to the NEB.

Assessment of the operation of the Regulation: the Commission **has not detected any deliberate, severe or systematic non-compliance with the Regulation.** Most individual complaints of which it is aware relate to the lack of compensation or proper assistance in the event of delay or cancellation. From the NEB reports, it seems that **many such complaints fall outside the scope of the Regulation** or are unfounded.

Despite the overall positive picture, the Commission identified the following obstacles to more efficient application of the Regulation:

- passengers and operators **are not sufficiently aware of their rights** and obligations;
- enforcement is **lagging behind in some Member States**: at the end of 2015, Belgium, Greece, Spain and Luxembourg still did not have fully operational NEBs or comprehensive systems of penalties for non-compliance with the Regulation;
- some provisions in the Regulation have been **interpreted differently** by NEBs and operators.

The Commission took measures to address the issues identified:

- in June 2013, it launched a two-year information campaign on passenger rights for all modes of transport, including waterborne;
- it launched infringement proceedings against all Member States that failed to take the necessary measures to apply the Regulation;
- it provided clarification on the practical application of several provisions in the Regulation, thus contributing to its uniform application throughout the EU.

Conclusions and next steps: the Commission considers that overall implementation of the Regulation is **satisfactory**, and that the latter appears to be sufficiently flexible to accommodate improvement **without the need for amendments at this stage**. This is also the stakeholders' view, although they feel that work remains to be done by operators and NEBs and that other measures should be taken to ensure the rights of persons with disability and reduced mobility.

In order to overcome the remaining obstacles that passengers face in enjoying their rights or having them enforced, the Commission:

- will launch its **third (two-year) passenger rights information campaign** in 2016, focusing on social media. It invites NEBs, the industry, passenger rights organisation and other stakeholders to join its efforts or to launch similar activities at their level;
- will continue the ongoing **infringement procedures** against the Member States concerned until they have operational NEBs and penalty systems in place that allow them to penalise any breach of the Regulation;
- invites NEBs to: (i) carry out **visits on board ships and in terminals**, inter alia to verify how the Regulation is applied in practice and to educate operators about their obligations under the Regulation; (ii) **check carriers' homepages** to ensure inter alia that they contain information on passenger rights and that general contract terms are in line with the Regulation;
- encourages those Member States that currently do not offer an **alternative dispute resolution mechanism** for passenger rights to put such a mechanism in place in accordance with Directive 2013/11/EU;
- will continue to organise regular meetings with NEBs and stakeholders' representatives to reach a **common understanding** on the interpretation and implementation of the Regulation;
- will, if the need arises, **publish general interpretative guidelines** in order to provide more clarity and/or good practice documents on specific issues (e.g. how to respond better to the specific needs of persons with disability or reduced mobility).

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

2008/0246(COD) - 30/03/2009

During a public deliberation, the Council took note of the Presidency progress report on a draft Regulation concerning the rights of passengers when travelling by sea and inland waterway. In addition, it held a policy debate focusing on the scope of this proposal on the basis of a Presidency questionnaire.

During the debate, all member states welcomed the Commission proposal and reaffirmed their commitment to strengthening passenger rights.

Three issues were examined:

(1) Type of passenger services: a majority of delegations considered that the scope of the proposed Regulation should include all types of services with the exception of tourist and sightseeing services.

(2) Territorial application: a majority of delegations considered that the draft Regulation should apply to passenger travelling between Community ports as well as to those travelling between Community and third country ports.

(3) Type of ship: a majority of delegations stated that the proposal should not apply to ships operated mainly for the carriage of cargo.

The Council invited its preparatory bodies to continue work on this proposal with the aim of reaching an agreement in June 2009.

The Commission presented its proposal in December 2008. The European Parliament should adopt its first-reading opinion in April 2009.

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

2008/0246(COD) - 23/04/2009 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 587 votes to 8, with 19 abstentions, a legislative resolution amending, under the first reading of the codecision procedure, the proposal for 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) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws.

The main amendments were as follows:

Aim: Parliament clarified that the Regulation shall apply to the commercial transport of passengers travelling by sea and inland waterway by passenger ship.

Scope: Member States shall be authorised to exclude urban and suburban transport services from the scope of this Regulation if they give assurances that the aims of this Regulation can be achieved by means of regulatory measures and guarantee a level of passenger rights comparable to that required by this Regulation.

Definitions: Members amended some of the definitions and added some, notably for “passenger”, “ticket price” and “force majeure”.

Derogations and special conditions: Members want to make it clear that carriage may not be refused on the grounds of a person's disability, but only on the grounds that the vessel's physical characteristics are potentially incompatible with the carriage of disabled passengers or passengers with reduced mobility. For persons with restricted mobility and passengers in general, a number of new provisions are proposed to ensure that their rights cannot be denied on grounds worded more precisely than in the Commission's proposal. For example, the circumstances in which a disabled person may be refused permission to board a vessel are specified more clearly. Parliament felt also that safety considerations ought not to be valid grounds for refusing carriage in the case of maritime transport services, where the structure of the vessel is the most important criterion.

Accessibility and information: carriers, their ticket vendors or tour operators shall ensure that all relevant information concerning the conditions of carriage, journey information, information on accessibility of services and written confirmation of the provision of assistance is available in accessible formats for disabled persons and persons with reduced mobility including online booking and information.

Right to assistance at ports: Parliament deleted the provision obliging carriers to separate the accounts of their activities relating to the assistance provided to disabled persons from the accounts of their other activities. It added that the managing body of a port shall be responsible, where necessary, for ensuring it is accessible to disabled persons and persons with reduced mobility.

Conditions under which assistance is provided: the carrier, the ticket vendor or the tour operator with which the ticket was purchased must be notified of the person’s need for such assistance when the reservation is made or at least 48 hours before the assistance is needed, unless a shorter notification period is agreed between the assistance provider and the passenger, with the exception of cruise journeys, where the need for assistance should be notified at the time of reservation. The passenger shall **receive a confirmation**, stating that the assistance needs have been notified.

In the case of cruises, disabled passengers must be present at a time stipulated by the carrier, which shall not be more than 60 minutes before the check-in time.

Quality standards: carriers shall publish their quality standards in accessible formats.

Compensation in respect of wheelchairs and mobility equipment: Parliament emphasised that replacement equipment must be suitable to the needs of the passenger concerned.

Assistance: in the case of a delay with a stay of one or more nights, the additional accommodation and transport costs borne by the carrier may not exceed twice the price of the ticket.

Compensation of the ticket price: Members add that if the carrier has announced the cancellation or postponement of the crossing or an increase in the crossing time three or more days before the scheduled departure, there shall be no entitlement to compensation. With regard to the obligations of carriers in the event of interrupted travel, Members state that these shall not apply in cases of force majeure hindering the performance of the transport service. **Further claims**: compensation awarded under the Regulation may be deducted from any additional compensation granted.

National enforcement bodies: these bodies must be independent of commercial interests, not just carriers. Parliament proposes that no more than one such organisation should be designated by each Member State .

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

2008/0246(COD) - 04/12/2008 - Legislative proposal

PURPOSE: to establish the rights of domestic and international maritime passengers, including those who are disabled or persons with reduced mobility, and amending Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

CONTENT: over the last thirty years, there has been a boom in mobility in Europe. This phenomenon is due to a number of factors, but above all to economic growth, the completion of the internal market, lower travel costs and progress towards a European “area without internal frontiers”. 398 million people passed through the ports of the EU in 2006. The importance of maritime passenger transport is also reflected in the number of operators involved. There are nearly 300 operators on the European ferry and RoRo markets, and Europe has approximately 800 passenger ports. Maritime passenger transport is evenly spread throughout Europe, with a similar number of routes carrying more than one million passengers per year in each of the three coastal zones of the European Union (Baltic Sea, North Sea, and Mediterranean Sea).

The purpose of this proposal is to establish the rights of domestic and international maritime passengers, including those who are disabled or persons with reduced mobility, in order to improve the attractiveness of and confidence in maritime transport, as well as to achieve a level playing field for carriers from different Member States and for other modes of transport.

Essentially, the proposal lays down provisions on the following:

- accessibility, non-discrimination and assistance to disabled persons and persons with reduced mobility;
- obligations for carriers when travel is interrupted in the event of cancellation or delay;
- obligation to inform passengers travelling by sea and inland waterways of their rights;
- handling of complaints;
- general rules of enforcement.

Rights of persons with reduced mobility: disabled passengers and passengers with reduced mobility are often prevented from travelling by bus and ship due to lack of accessibility of these services and the inexistence of necessary assistance for their needs. The proposals address these problems by forbidding any discrimination on grounds of disability or reduced mobility with regard to booking a journey or boarding a vehicle or ship. Assistance is provided free of charge on condition that the passenger has notified a need for it in advance and arrives at the terminal or port at a predetermined time prior to the scheduled departure. Personnel of companies and staff of bus terminals or ports should have appropriate knowledge with regard to provision of assistance to disabled persons.

Compensation and assistance to passengers when their journey is interrupted: in case of interrupted or cancelled journeys, companies are obliged to provide passengers with adequate information, proper assistance and reasonable alternative services. Companies failing to meet these requirements ought to pay a compensation calculated on the basis of the ticket price.

Liability for death and injury of passengers: the proposals set out the rules on companies' liability for passengers and their luggage. Passengers will be entitled to uniform compensation levels and will benefit from harmonised rules on liability. Moreover, under certain conditions companies may not contest damages up to a certain amount in case of an accident. Passengers suffering an accident are entitled to advance payments in order to address economic difficulties that they or their families may face as a consequence of death or injury.

Treatment of complaints and means of redress: the opening of the market has not raised quality standards and services as was expected, including better enforcement of passenger rights, user-friendly means of settling disputes and means of redress to be used by all companies. The lack of common procedures isolates passengers, having to cope with different procedures and deadlines.

EU countries will have to set up enforcement bodies responsible for ensuring the implementation of these regulations on their territory. If a bus or ship passenger considers that any of these rights have not been respected, he can bring the matter to the attention of the company. If he is not satisfied with the response, a complaint can be made to the national enforcement body designated by the country concerned.

Exclusion of waiver: obligations pursuant to the regulation may not be limited or waived, inter alia by a derogation or restrictive clause in the contract of carriage.

However, carriers may offer contract conditions that are more favourable for the passenger than the conditions laid down in the proposals.

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 amendment 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 thatevery 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.

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

2008/0246(COD) - 09/10/2009

In public deliberation, the Council reached a **political agreement** on a draft regulation designed to improve the rights of passengers when travelling by sea and inland waterway. The Parliament adopted its first reading opinion in April 2009.

On the basis of this agreement, the Council will prepare its common position, which will be forwarded to the European Parliament for a second reading under the co-decision procedure.

The draft regulation lays down rules on non-discrimination, accessibility and assistance for passengers with disabilities or reduced mobility. It also contains provisions for all passengers, dealing with assistance, information and compensation in the event of cancellation or delay of their travel as well as with handling of complaints.

Discussing the **outstanding issues**, ministers agreed the following solutions:

- **scope of the draft regulation**: ships with not more than 36 passengers should be excluded. Also excluded are ships with not more than three crew members, passenger services over a distance of less than 500 meters one way as well as excursion and sightseeing tours other than cruises. In addition, for 2 years from the date of application, the regulation should not apply to seagoing ships of less than 300 gross tons operated in domestic transport, provided the rights of passengers are adequately ensured under national law;
- **exemptions from carriers' assistance and compensation obligations in the case of cancellation or delays**: (a) no compensation should be due if the passenger is aware of the cancellation or delay before the purchase of the ticket or if the cancellation or delay is caused by a fault of the passenger; (b) if the cancellation or delay is caused by bad weather conditions or extraordinary circumstances, the compensation rules will not apply. However passengers will have the right to receive snacks, meals or refreshments and accommodation in the case of extraordinary circumstances, while in the case of bad weather conditions the assistance will not include accommodation.

Moreover, it was decided that the carrier may limit the cost of accommodation to **EUR 120 per passenger**.

The proposal forms part of the EU's general policy to ensure equal treatment of passengers, irrespective of the mode of transport they use for travel. Similar legislation has already been adopted in the field of air and rail transport, and has been proposed for bus and coach services.

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

2008/0246(COD) - 24/11/2010 - Final act

PURPOSE: to establish the rights of domestic and international maritime passengers, including those who are disabled or persons with reduced mobility;

LEGISLATIVE ACT: Regulation (EU) No 1177/2010 of the European Parliament and of the Council concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004.

CONTENT: following a first-reading agreement reached with the European Parliament, the Council adopted this Regulation establishing rules for sea and inland waterway transport as regards the following:

- non-discrimination between passengers with regard to transport conditions offered by carriers;
- non-discrimination and assistance for disabled persons and persons with reduced mobility;
- the rights of passengers in cases of cancellation or delay;
- minimum information to be provided to passengers;
- the handling of complaints;
- general rules on enforcement.

Scope: the regulation applies to **ships carrying more than 12 passengers and with a crew of more than three persons**. Passenger services over a very short distance (less than 500 metres one way) are excluded from the scope of the regulation, as are historical ships and excursion and sightseeing tours other than cruises. In addition, Member States may, for a period of 2 years from 18 December 2012, exempt from the application of this Regulation seagoing ships of less than 300 gross tons operated in domestic transport, provided that the rights of passengers under this Regulation are adequately ensured under national law.

Rights of disabled persons and persons with reduced mobility: 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.

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: (a) 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; (b) where the design of the passenger ship or port infrastructure and equipment, including port terminals, makes it impossible to carry out the embarkation, disembarkation or carriage of the said person in a safe or operationally feasible manner.

In the event of a refusal to accept a reservation or to issue or otherwise provide a ticket on the grounds referred to above, carriers, travel agents and tour operators shall make all reasonable efforts to propose to the person concerned an acceptable alternative transport on a passenger service or a cruise operated by the carrier.

Where 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**.

Compensation and assistance:the Regulation stipulates that ship passengers will benefit from enhanced rights to compensation and assistance when their journey is cancelled or delayed. Passengers with disabilities or reduced mobility will be protected against discrimination when booking a journey and will receive appropriate assistance at embarkation and disembarkation as well as on board.

In the event of **cancellation or delays**, passengers have to be informed **no later than 30 minutes after the scheduled time of departure**. They have a right to assistance and to rerouting or reimbursement when departure is delayed for more than 90 minutes; in this case, the carrier has to provide snacks, meals or refreshments and, where necessary, accommodation up to a cost of EUR 80 per night for a maximum of three nights. Depending on the scheduled duration of the journey, compensation amounting to a quarter or half of the ticket price may also be due in the event of delayed arrival.

However, the right to accommodation does not apply if the delay or cancellation is caused by bad weather; likewise, no compensation for late arrival will be paid if weather conditions or extraordinary circumstances hindered the performance of the service.

Passengers with disabilities or reduced mobility will be given assistance providing they inform the carrier **at the latest 48 hours in advance** about the assistance needed. 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. Persons needing assistance shall receive confirmation of such assistance by any means available, including electronic means or Short Message Service (SMS). If the disabled passenger needs to be accompanied, the accompanying person will be carried free of charge. **Loss of or damage to mobility equipment caused by the carrier or by a shipping incident will be compensated**.

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 2 months** from the receipt of a complaint.

Report: the Commission shall report to the European Parliament and to the Council by 19 December 2015 on the operation and the effects of this Regulation. The report shall be accompanied where necessary by legislative proposals implementing in further detail the provisions of this Regulation, or amending it.

ENTRY INTO FORCE: 06/01/2011.

APPLICATION: from 18/12/2012.

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

2008/0246(COD) - 23/09/2010 - Commission opinion on Parliament's position at 2nd reading

The European Parliament's opinion at second reading of 6 July 2010, has brought the Council position closer to that of the Commission's proposal in terms of broadening of the scope (exclusion limited to vessels carrying up to 12 passengers rather than 36 passengers), as improving the protection of the rights of passengers with reduced mobility and disabled passengers (accessible formats, reducing exceptions to the right to travel, shortening notification periods) as well as raising the level of protection of passengers travelling by sea and inland waterways in general (lowering compensation thresholds, raising levels of assistance).

The Parliament's position is a result of a compromise obtained at the last informal trialogue held on 15 June 2010 and which was discussed and approved on 23 June 2010 in Council.

The Commission accepts the modification of its proposal according to the above described compromise text of the Council and the Parliament.

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.

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

2008/0246(COD) - 11/03/2010 - Council position

Although the Council agrees with the Commission as regards the objective of the proposal, the Council's approach involved major adaptations of the original proposal. With respect to the amendments proposed by the European Parliament, the Council observes that a considerable number of amendments have – in spirit, partially or fully – already been included in its first-reading position.

Scope of application

- Geographical scope: the Council's first-reading position clarifies the Commission's proposal: it distinguishes between passenger services where the port of embarkation is situated in the territory of a Member State, on the one hand, and passenger services where the port of embarkation is situated outside the territory of a Member State, but the port of disembarkation is situated in the territory of a Member State, on the other. In the latter case, the Regulation will apply only if the service is operated by a Union carrier.

However, the definition of Union carrier should be interpreted as broadly as possible in order to cover most passenger services between EU and non-EU ports. As for cruises, the Regulation will apply only to cruises where the port of embarkation is situated in the territory of a Member State.

- Exemptions from the scope: the Council agrees to exclude from the scope passengers travelling with ships certified to carry up to 36 passengers, with ships with a crew of not more than three persons or with an overall passenger service of less than 500 meters one way. Furthermore, excursion and sightseeing trips (other than cruises) are also excluded.

In addition to this, the Member States may exempt, for a period of two years from the date of application of the Regulation, seagoing ships of less than 300 gross tons operated in domestic transport. If a Member State chooses to do so, it must however adequately ensure the rights of passengers under national law. Member States may also exempt passenger services covered by public service obligations, public service contracts or integrated services, provided that the rights of passengers are adequately guaranteed under national law.

The European Parliament followed in principle the Commission approach, but added a possibility for Member States to exempt urban and suburban services. The Council does not take this amendment into account, but the exemptions from the scope proposed by the Council will in practice mean that many services of that kind will be excluded.

- Rights of disabled persons and persons with reduced mobility: the Council therefore follows the Commission proposal closely, except for certain simplifications and clarifications.

- Concerning the exceptions to the right of transport, the Commission had proposed that a disabled person could be denied transport with reference to safety requirements or the
- structure of the passenger ship. To this, the Council has added health requirements, in order to take into account cases where the medical state of the passenger is such, that his
- or her safe transport cannot be guaranteed. In this respect, the European Parliament had proposed a deletion of any references to safety requirements and the addition of a reference to transportation in a safe, dignified and operationally feasible manner. As for this latter amendment, the Council integrated it into its first-reading position, except for the word "dignified". The Council considers that nobody, except the disabled person or person with reduced mobility, can decide what a dignified manner of transportation is and that such a decision should not be taken by the carrier.
- According to the initial proposal, the carrier could require a disabled person or person with reduced mobility to be accompanied by another person who is capable of providing assistance. According to the Council's first-reading position, if the carrier makes such a request with respect to a passenger service, the accompanying person shall be carried free of charge.
- As for the assistance to disabled persons and persons with reduced mobility, such assistance will be provided on the condition that the person concerned notifies the carrier or the terminal operator at the latest two working days in advance (the Commission had proposed 48 hours) and is present in the port or at a designated point at least 60 minutes before the embarkation or departure time.Furthermore, if the person has specific needs of accommodation or seating or for bringing medical equipment, the passenger should notify the carrier of such needs at the time of reservation, if the need is known at that time.

Several of the European Parliament's amendments concerned information in formats accessible to disabled persons and persons with reduced mobility. These were taken on board by the Council. The same applies to the Parliament's amendments concerning changing from "assistance animal" to "assistance dog".

- Obligations of carriers and terminal operators in the event of interrupted travel: the Council agrees with the principle that carriers and terminal operators should take care of their passengers, and it has extended this principle to include all cases of cancellations.

- The Council's first-reading position therefore introduces the concept of port terminals, i.e. manned terminals in a port with certain facilities and staff (such as check in, ticket counters or lounges). Certain obligations of carriers and terminal operators only apply to passengers departing from such port terminals. This is the case of information and assistance and, to a certain extent, of re-routing and reimbursement.
- Another consideration underlying the Council's first-reading position is that of maritime safety. In order to avoid that carriers, for economic reasons, set to sea or speed in weather conditions endangering the safe operation of the ship, an exemption has been introduced to the obligation of providing accommodation or compensation of the ticket price in such cases. Furthermore, the concepts of bad weather conditions and extraordinary circumstances are explained in a non-exhaustive manner in two recitals.

- Further exemptions to the right to assistance and compensation have been introduced when the passenger is informed of the cancellation or delay before buying the ticket or when the passenger causes the cancellation or delay. Finally, the carrier has been given the possibility to limit the cost for accommodation to 120 euro and to introduce a minimum threshold under which payments for compensation will not be paid (tickets costing 10 euro or less).

The European Parliament had suggested exemptions in case of force majeure or if cancellation or delay is announced beforehand. The spirit of these amendments has been taken on board by the Council. Furthermore, the Parliament had proposed a limit for the cost of accommodation to twice the ticket price.

- Complaint handling and national enforcement bodies: the Council, though agreeing in principle with the proposal, in particular that carriers should reply to complaints from their customers, introduces more flexibility into the system in order to avoid any unforeseen consequences for the Member States' legal systems or administrative structures.

The European Parliament suggested that each Member State should designate only one national enforcement body and that the Member States, not the carriers, should set up an independent complaint handling mechanism. However, for the reasons of flexibility explained above, the Council does not consider it appropriate to limit the Member States' margin of manoeuvre in such a way. In addition, the Parliament proposed that the national enforcement bodies should be independent of all commercial interests. The Council's first-reading position specifies that these bodies should be independent of carriers, tour operators and terminal operators.

- Date of application of the Regulation: the Council's first-reading position provides that the whole of the Regulation will apply from three years after its publication.

It should be noted that **further amendments not included** in the Council's first-reading position concern:

- taking into account the needs of disabled persons and persons with reduced mobility in all cases when ports, terminals and passenger ships are designed or refurbished, without the qualification "when necessary";
- the provisions governing the embarkation of disabled persons and persons with reduced mobility without prejudice to the general provisions applicable to embarkation of passengers;
- the invitation to the Commission to propose clear rules for passengers' rights at points of transfer between land and sea or inland waterway transport;
- a horizontal legislative approach covering all means of transportation in the event of a future legislative initiative relating to passenger rights;
- the inclusion of psychosocial disability in the definition of a disabled person or person with reduced mobility;
- changes to the definition of "transport contract" and "ticket vendor";
- the proposed definitions of "accessible formats", "passenger", "arrival", "departure", "ticket price" and "force majeure";
- the access rules for carriage of disabled persons and persons with reduced mobility, which should be established under the supervision of the national enforcement bodies and that these rules should include accompanying persons and the accessibility of fitted assistive equipment;
- the written confirmation to be given for the provision of assistance to disabled persons and persons with reduced mobility;
- assistance adapted to the individual needs of disabled persons or persons with reduced mobility;
- the responsibility of the managing body of a port to ensure that the port is accessible to disabled persons or persons with reduced mobility;
- the possibility of agreeing on a shorter notification period for assistance between the assistance provider and the passenger;
- the need to ensure that the passenger receives a confirmation of the notification of his or her assistance needs;
- the obligation of the carrier to provide replacement equipment suitable to the needs of the passenger concerned when mobility equipment is damaged during the journey;
- in case of delay, a passenger should only be offered reimbursement of the ticket price if he or she decides not to travel with the carrier;
- any compensation awarded under the Regulation, which may be deducted from any additional compensation granted;
- the penalties applicable to infringements of the Regulation, which could include ordering the payment of compensation.