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REPORT

on 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
(COM(2008)0816 – C6-0476/2008 – 2008/0246(COD))

Committee on Transport and Tourism

Rapporteur: Michel Teychenné

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- *** Assent procedure
majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on 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 (COM(2008)0816 – C6-0476/2008 – 2008/0246(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0816),
 - having regard to Article 251(2) and Articles 71(1) and 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0476/2008),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Legal Affairs (A6-0209/2009),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Amendment 1

Proposal for a regulation – amending act Recital 4

Text proposed by the Commission

(4) In the light of Article 9 of the United Nations Convention on the Rights of Persons with Disabilities and in order to give disabled persons and persons with reduced mobility opportunities for maritime and inland waterway travel comparable to those of other citizens, rules for non-discrimination and assistance during their journey should be established. Those persons should therefore be accepted

Amendment

(4) In the light of Article 9 of the United Nations Convention on the Rights of Persons with Disabilities and in order to give disabled persons and persons with reduced mobility opportunities for maritime and inland waterway travel comparable to those of other citizens, rules for non-discrimination and assistance during their journey should be established. Those persons should therefore be accepted

for carriage and not refused transport on the grounds of their disability or lack of mobility, ***except for reasons which are justified on the grounds of safety and prescribed by law***. They should enjoy the right to assistance at ports, and at embarkation / disembarkation points where no port exists, as well as on board passenger ships. In the interests of social inclusion, the persons concerned should receive this assistance free of charge. Carriers should establish accessibility rules, using preferably the European standardisation system.

for carriage and not refused transport on the grounds of their disability or lack of mobility. They should enjoy the right to assistance at ports, and at embarkation / disembarkation points where no port exists, as well as on board passenger ships. In the interests of social inclusion, the persons concerned should receive this assistance free of charge. Carriers should establish accessibility rules, using preferably the European standardisation system.

Justification

The safety argument applies in the same way to all passengers, not just persons with reduced mobility.

Amendment 2

Proposal for a regulation – amending act Recital 5

Text proposed by the Commission

(5) In deciding on the design of new ports and terminals if any, and as part of major refurbishments, managing bodies of ports and carriers that will operate them should, ***where necessary***, take into account the needs of disabled persons and persons with reduced mobility. Similarly, carriers should, ***where necessary***, take such needs into account when deciding on the design of new and newly refurbished passenger ships in accordance with Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships.

Amendment

(5) In deciding on the design of new ports and terminals if any, and as part of major refurbishments, managing bodies of ports and carriers that will operate them should take into account the needs of disabled persons and persons with reduced mobility. Similarly, carriers should take such needs into account when deciding on the design of new and newly refurbished passenger ships in accordance with Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships.

Justification

Taking account of the needs of disabled persons should be a requirement in connection with the design and building of transport infrastructure. It is always necessary, therefore.

Amendment 3

Proposal for a regulation – amending act Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) The provisions governing the embarkation of disabled persons or persons with reduced mobility shall be without prejudice to the general provisions applicable to the embarkation of passengers laid down by the international, Community or national rules in force.

Justification

This amendment draws attention to the fact that all passengers, without distinction, are covered by general rules.

Amendment 4

Proposal for a regulation – amending act Recital 14

Text proposed by the Commission

Amendment

(14) Passengers should be fully informed of their rights under this Regulation, so that they can effectively exercise those rights. Rights of maritime and inland waterway passengers should include the receipt of information regarding the service before and during the journey. All essential information provided to maritime and inland waterway passengers should also be provided in ***alternative*** formats accessible to disabled persons and persons with reduced mobility.

(14) Passengers should be fully informed of their rights under this Regulation, so that they can effectively exercise those rights. Rights of maritime and inland waterway passengers should include the receipt of information regarding the service before and during the journey. All essential information provided to maritime and inland waterway passengers should also be provided in formats accessible to disabled persons and persons with reduced mobility.

Justification

The wording of the proposal should be consistent throughout.

Amendment 5

Proposal for a regulation – amending act
Recital 15

Text proposed by the Commission

(15) Passenger should be able to exercise their rights by means of appropriate complaint procedures implemented by carriers or, as the case may be, by the submission of complaints to the body **or bodies** designated to that end by the relevant Member State.

Amendment

(15) Passenger should be able to exercise their rights by means of appropriate complaint procedures implemented by carriers or, as the case may be, by the submission of complaints to the body designated to that end by the relevant Member State.

Justification

Consistency with Amendment 33 in the draft report. It would simplify matters if there were only one designated body per Member State, rather than several.

Amendment 6

Proposal for a regulation – amending act
Recital 16

Text proposed by the Commission

(16) Complaints concerning assistance given at a port or an embarkation / disembarkation point should be addressed to the body **or bodies** designated for the enforcement of this Regulation by the Member State where the port is situated. Complaints concerning assistance given by a carrier at sea should be addressed to the body **or bodies** designated for the enforcement of this Regulation by the Member State which has issued the operating licence to the carrier. The body designated for the enforcement of this Regulation should have the power and capacity to investigate individual complaints and to facilitate out of court dispute settlements.

Amendment

(16) Complaints concerning assistance given at a port or an embarkation / disembarkation point should be addressed to the body designated for the enforcement of this Regulation by the Member State where the port is situated. Complaints concerning assistance given by a carrier at sea should be addressed to the body designated for the enforcement of this Regulation by the Member State which has issued the operating licence to the carrier. The body designated for the enforcement of this Regulation should have the power and capacity to investigate individual complaints and to facilitate out of court dispute settlements.

Justification

Designating a single body per Member State for the enforcement of the regulation would simplify the administrative process and improve accountability.

Amendment 7

Proposal for a regulation – amending act Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) The Commission should propose clear rules for passengers' rights in relation to responsibility, liability, accessibility, rights of persons with disabilities or with reduced mobility at points of transfer of passengers between land and sea or inland waterway transport.

Amendment 8

Proposal for a regulation – amending act Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) In the event of a future legislative initiative relating to passenger rights, a horizontal legislative approach covering all means of transportation would be sensible, in light of the need to use combined transportation.

Amendment 9

Proposal for a regulation – amending act Article 2 – paragraph 1

Text proposed by the Commission

Amendment

1. This Regulation shall apply to commercial ***passenger maritime*** and inland waterway ***services***, including cruises, between or at ports or any embarkation / disembarkation point situated in the territory of a Member State to which the Treaty applies.

1. This Regulation shall apply to ***the*** commercial ***transport of passengers travelling by sea*** and inland waterway ***by passenger ship***, including cruises, between or at ports or any embarkation / disembarkation point situated in the territory of a Member State to which the

Treaty applies.

Justification

The need to make a distinction between ships and passenger ships is not sufficiently highlighted in the regulation. Reference is made to passenger ships in the regulation so that should also be made clear in relation to the scope of the regulation.

Amendment 10

Proposal for a regulation – amending act

Article 2 – paragraph 2 a (new)

Regulation

Text proposed by the Commission

Amendment

2a. 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.

Justification

Urban and suburban transport services should be excluded from the scope of the regulation, provided that a comparable level of rights is guaranteed.

Amendment 11

Proposal for a regulation – amending act

Article 3 – point a

Text proposed by the Commission

Amendment

(a) "disabled person" or "person with reduced mobility" means any person whose mobility when using transport is reduced as a result of any physical disability (sensory or locomotor, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or as a result of age, and whose situation needs appropriate attention and adaptation to his particular

(a) "disabled person" or "person with reduced mobility" means any person whose mobility when using transport is reduced as a result of any physical disability (sensory or locomotor, permanent or temporary), intellectual ***or psychosocial*** disability or impairment, or any other cause of disability, or as a result of age, and whose situation needs appropriate attention and

needs of the service made available to all passengers;

adaptation to his particular needs of the service made available to all passengers;

Justification

For the regulation to be properly interpreted, it is important explicitly to include psychosocial disabilities (also known as psychiatric or mental disorders) in the definition, as this group tends to be forgotten when ensuring assistance to persons with disabilities and when providing disability-awareness training.

Amendment 12

**Proposal for a regulation – amending act
Article 3 – point f**

Text proposed by the Commission

(f) "performing carrier" means a person other than the carrier and the tour operator, who actually performs the whole or a part of the carriage;

Amendment

(f) *(Does not affect English version.)*

Justification

(Does not affect English version.)

Amendment 13

**Proposal for a regulation – amending act
Article 3 – point i**

Text proposed by the Commission

(i) "ship" means a seagoing or **rivergoing** vessel, excluding an air-cushion vehicle;

Amendment

(i) "ship" means a seagoing or **inland waterway** vessel, excluding an air-cushion vehicle;

Justification

'Inland waterway vessel' is a more appropriate term than 'rivergoing vessel'.

Amendment 14

Proposal for a regulation – amending act Article 3 – point j

Text proposed by the Commission

(j) 'transport contract' means a contract of carriage between a carrier ***or its authorised ticket vendor*** and a passenger for the provision of one or more transport services;

Amendment

(j) 'transport contract' means a contract of carriage between a carrier and a passenger for the provision of one or more transport services, ***irrespective of whether the ticket was purchased from a carrier, a tour operator, a ticket vendor or on the Internet;***

Justification

It is the carrier that enters into a transport contract with the consumer, not his authorised ticket vendor. Ticket vendors are intermediaries, and do not conclude transport contracts or make sales on their own behalf. They simply play a role in the conclusion of transport contracts between carriers and passengers.

Amendment 15

Proposal for a regulation – amending act Article 3 – point l

Text proposed by the Commission

(l) 'ticket vendor' means any ***retailer of*** maritime transport services ***concluding transport contracts and selling tickets*** on behalf of a carrier or ***for its own account***;

Amendment

(l) 'ticket vendor' means any ***intermediary selling*** maritime transport services on behalf of a carrier or ***tour operator, including services sold as part of a package;***

Justification

Retailers do not conclude transport contracts or sell tickets on their own account. The definition should also cover maritime transport services which are sold as part of a package deal.

Amendment 16

Proposal for a regulation – amending act Article 3 – point m

Text proposed by the Commission

(m) "tour operator" means an organiser **or retailer**, other than a carrier, within the meaning of Article 2(2) **and (3)** of Directive 90/314/EEC;

Amendment

(m) "tour operator" means an organiser, other than a carrier, within the meaning of Article 2(2) of Directive 90/314/EEC;

Justification

A retailer is an intermediary who is not party to the contract concluded between the tour operator and the consumer. Retailers are already covered by the definition of 'ticket vendor' set out in Article 3(l).

Amendment 17

Proposal for a regulation – amending act Article 3 – point p

Text proposed by the Commission

(p) **"ro-ro passenger ship" means a ship carrying more than 12 passengers, having roll-on/roll-off cargo spaces or special category spaces, as defined in regulation II-2/A/2 of the 1974 International Convention for the Safety of Life at Sea, as amended ;**

Amendment

deleted

Justification

As the term 'ro-ro passenger ship' is not mentioned later in the regulation, there is no need to define these vessels.

Amendment 18

Proposal for a regulation – amending act Article 3 – point r a (new)

Text proposed by the Commission

Amendment

(ra) 'accessible formats' means that all passengers can access the same

information using text, Braille, audio, video and/or electronic formats. Examples of accessible formats include, but are not limited to and may vary according to technological developments, pictograms, vocal announcement and subtitling.

Amendment 19

Proposal for a regulation – amending act Article 3 – point r b (new)

Text proposed by the Commission

Amendment

(rb) “passenger” means any person travelling under a contract of carriage other than those persons accompanying vehicles, trailers or goods that are being carried as freight or commercial goods.

Justification

As it stands freight drivers would be treated as passengers under this Regulation. It is not intended that this legislation applies to freight drivers.

Amendment 20

Proposal for a regulation – amending act Article 3 – point r c (new)

Text proposed by the Commission

Amendment

(rc) “arrival” means the actual time the vessel is secured at the arrival berth.

Justification

There is currently no definition of what constitutes arrival. On “secured on arrival berth” – same rationale as above.

Amendment 21

Proposal for a regulation – amending act
Article 3 – point r d (new)

Text proposed by the Commission

Amendment

(rd) “departure” means the actual time at which the vessel is secured for sea.

Justification

There is currently no definition of what constitutes departure. Secured for sea means the vessel is fully ready to leave the berth.

Amendment 22

Proposal for a regulation – amending act
Article 3 – point r e (new)

Text proposed by the Commission

Amendment

(re) “ticket price” means the cost paid for the transport and accommodation on board. It excludes the costs of meals, other activities and any on-board purchases.

Justification

To clarify what any compensation will be based on.

Amendment 23

Proposal for a regulation – amending act
Article 3 – point r f (new)

Text proposed by the Commission

Amendment

(rf) “Force Majeure” is an event or circumstance, which could not have been prevented, even if all appropriate measures had been taken, such as war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities,

nationalisation, government sanction, blockage, embargo, labour dispute, strike, lockout or interruption or failure of electricity or acts of God, including fire, flood, earthquake, storm, hurricane or other natural disasters. Cases of force majeure can also be caused by extreme tidal conditions, strong winds, significant wave heights being exceeded and ice formation.

Amendment 24

Proposal for a regulation – amending act Article 6 – paragraph 2

Text proposed by the Commission

Amendment

2. Reservations and tickets shall be offered to disabled persons and persons with reduced mobility at no additional cost.

(Does not affect English version.)

Justification

(Does not affect English version.)

Amendment 25

Proposal for a regulation – amending act Article 7 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Notwithstanding the provisions of Article 6, carriers, ticket vendors or tour operators may refuse, ***on the grounds of disability or of reduced mobility***, to accept a reservation from or to issue a ticket to or to embark a disabled person or a person with reduced mobility:

1. Notwithstanding the provisions of Article 6, carriers, ticket vendors or tour operators may refuse to accept a reservation from or to issue a ticket to or to embark a disabled person or a person with reduced mobility:

Justification

It must be made clear that carriage may not be refused on the grounds of a person's disability per se, 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.

Amendment 26

Proposal for a regulation – amending act Article 7 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) in order to meet applicable safety requirements established by international, Community or national law or in order to meet safety requirements established by the authority that issued the operator's certificate to the carrier concerned; ***deleted***

Justification

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.

Amendment 27

Proposal for a regulation – amending act Article 7 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) where the structure of the passenger ship makes the embarkation or carriage of the disabled person or person with reduced mobility physically impossible.

(b) where the structure of the passenger ship makes the embarkation or carriage of the disabled person or person with reduced mobility physically impossible **and where they cannot be afforded the normal level of service in a safe, dignified and operationally feasible manner.**

Justification

The exception from the general obligation to carry a disabled person – when to do so would be “physically impossible” – is too narrowly drawn. It will almost always be possible to carry the person, but it may be unsafe, uncomfortable, or discriminatory because of the different conditions from those of other passengers. Such additional wording would take account of issues such as whether evacuation of the passenger is possible in the event of an emergency.

Amendment 28

Proposal for a regulation – amending act Article 7 – paragraph 1 – subparagraph 2

Text proposed by the Commission

In the event of refusal to accept a reservation on the grounds referred to ***under points (a) or (b) of*** the first subparagraph, carriers, ticket vendors or tour operators shall make reasonable efforts to propose an acceptable alternative to the person in question.

Amendment

In the event of refusal to accept a reservation on the grounds referred to ***in*** the first subparagraph, carriers, ticket vendors or tour operators shall make reasonable efforts to propose an acceptable alternative to the person in question.

Justification

Technical change necessitated by deletion of point (a).

Amendment 29

Proposal for a regulation – amending act Article 7 – paragraph 1 – subparagraph 3

Text proposed by the Commission

In case of advanced booking, a disabled person or a person with reduced mobility who has been denied embarkation ***on the grounds of his disability or reduced mobility*** and any person accompanying that person pursuant to paragraph 2 shall be offered the right to reimbursement or re-routing as provided for in Annex I. ***The right to the option of a return journey or re-routing shall be conditional upon all safety requirements being met.***

Amendment

In case of advanced booking, a disabled person or a person with reduced mobility who has been denied embarkation and any person accompanying that person pursuant to paragraph 2 shall be offered the right to reimbursement or re-routing as provided for in Annex I.

Justification

It must be made clear that carriage may not be refused on the grounds of a person's disability per se, 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. Also, revision of the text to bring it into line with Amendment 9 in the draft report.

Amendment 30

Proposal for a regulation – amending act
Article 7 – paragraph 2

Text proposed by the Commission

2. ***Under the same conditions as referred to in paragraph 1(a)***, a carrier or a ticket vendor or a tour operator 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 that person if this is strictly necessary.

Amendment

2. A carrier or a ticket vendor or a tour operator 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 that person if this is strictly necessary.

Justification

Revision of the text to bring it into line with Amendment 9 in the draft report.

Amendment 31

Proposal for a regulation – amending act
Article 8 – paragraph 1

Text proposed by the Commission

1. Carriers shall establish, with the active involvement of representatives of organisations of disabled persons and persons with reduced mobility ***and enforcement bodies referred to in Article 26***, non-discriminatory access rules that apply to the carriage of disabled persons and persons with reduced mobility, as well as any restrictions on their carriage or on that of mobility equipment due to the structure of passenger ships, in order to meet applicable safety requirements. These rules shall contain all access conditions of the maritime service in question, including accessibility of the ships operated and their facilities on board.

Amendment

1. Carriers shall establish, ***under the supervision of the national enforcement bodies and*** with the active involvement of ***representative organisations of ports***, of disabled persons and ***of*** persons with reduced mobility, non-discriminatory access rules that apply to the carriage of disabled persons and persons with reduced mobility, ***and accompanying persons***, as well as any restrictions on their carriage or on that of mobility equipment due to the structure of passenger ships, in order to meet applicable safety requirements. These rules shall contain all access conditions of the maritime service in question, including accessibility of the ships operated and their facilities on board, ***and of the fitted assistive equipment***.

Justification

Though the consultation process set out in Article 8 is necessary, the way it is to operate

should be clarified. The national body defined in Article 26 would appear to be the appropriate body to supervise these consultations. It is also important to ensure that organisations representing the ports are involved in the process.

Amendment 32

Proposal for a regulation – amending act Article 8 – paragraph 2

Text proposed by the Commission

2. The rules provided for in paragraph 1 shall be made publicly available by carriers or ticket vendors at least at the time a reservation is made, in appropriate ways, and in the same languages as those in which information is generally made available to all passengers. When providing this information particular attention shall be paid to the needs of people with disabilities and persons with reduced mobility.

Amendment

2. The rules provided for in paragraph 1 shall be made publicly available by carriers or ticket vendors, ***physically or on the Internet***, at least at the time a reservation is made, ***in accessible formats***, in appropriate ways, and in the same languages as those in which information is generally made available to all passengers. When providing this information particular attention shall be paid to the needs of people with disabilities and persons with reduced mobility.

Justification

The wording of the proposal should be consistent throughout.

Amendment 33

Proposal for a regulation – amending act Article 8 – paragraph 3

Text proposed by the Commission

3. Upon request carriers shall make available the international, Community or national law establishing the safety requirements, on which non-discriminatory access rules are based.

Amendment

3. Upon request carriers shall make available, ***in accessible formats***, the international, Community or national law establishing the safety requirements, on which non-discriminatory access rules are based.

Amendment 34

Proposal for a regulation – amending act Article 8 – paragraph 5

Text proposed by the Commission

5. Carriers, their ticket vendors or tour operators shall ensure that all relevant information concerning the conditions of carriage, journey information **and** information on accessibility of services is available in **appropriate and** accessible formats for disabled persons and persons with reduced mobility including online booking and information.

Amendment

5. 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.

Justification

The organisation which makes the reservation must provide confirmation that assistance will be provided - which is an important proviso for many passengers with disabilities or restricted mobility - at the time the reservation in question is made.

Amendment 35

Proposal for a regulation – amending act Article 9 – paragraph 1

Text proposed by the Commission

1. On departure from, transit through or arrival at a port, the Carrier shall be responsible for ensuring the provision of the assistance specified in Annex II to disabled persons and persons with reduced mobility free of charge in such a way that person is able to board the departing service, or to disembark from the arriving service for which he purchased a ticket, without prejudice to the access rules referred to in Article 8(1).

Amendment

1. On departure from, transit through or arrival at a port, the Carrier shall be responsible for ensuring the provision of the assistance specified in Annex II to disabled persons and persons with reduced mobility free of charge in such a way that person is able to board the departing service, or to disembark from the arriving service for which he purchased a ticket without prejudice to the access rules referred to in Article 8(1). **The assistance shall be adapted to the individual needs of the person with a disability or reduced mobility.**

Amendment 36

Proposal for a regulation – amending act Article 9 – paragraph 4

Text proposed by the Commission

Amendment

4. Carriers shall separate the accounts of their activities relating to the assistance provided to disabled persons and persons with reduced mobility from the accounts of their other activities, in accordance with current commercial practice. **deleted**

Justification

This imposes an excessive obligation on the maritime sector.

Amendment 37

Proposal for a regulation – amending act Article 9 – paragraph 5a (new)

Text proposed by the Commission

Amendment

5a. In accordance with Article 12, the managing body of a port shall be responsible, where necessary, for ensuring it is accessible to disabled persons and persons with reduced mobility.

Justification

It is important to include a provision covering the responsibilities of port management bodies in relation to the reception of disabled passengers and persons with restricted mobility.

Amendment 38

Proposal for a regulation – amending act Article 12 – point a

Text proposed by the Commission

Amendment

(a) Assistance shall be provided on condition that the carrier, the ticket vendor or the tour operator with which the ticket was purchased is notified of the person's

(a) Assistance shall be provided on condition that the carrier, the ticket vendor or the tour operator with which the ticket was purchased is notified of the person's

need for such assistance at least 48 hours before the assistance is needed. Where the ticket permits multiple journeys, one notification shall be sufficient provided that adequate information on the timing of subsequent journeys is provided;

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.*** Where the ticket permits multiple journeys, one notification shall be sufficient provided that adequate information on the timing of subsequent journeys is provided;

Justification

The most appropriate point at which to inform the carrier that assistance will be required is when the reservation is made. In cases where the customer's mobility is impaired after the reservation has been made but before he or she boards the vessel, the carrier should be given 48 hours in which to make the necessary arrangements.

Some flexibility in the notification system must be permitted, for example if the person regularly uses the same service. It would also be unreasonable to require carriers to put in place a notification system unless it is of any real value to them.

A cruise voyage is a combination of transport, accommodation and other tourist services, which constitute a package regulated under the package travel Directive, 90/314; under this directive, the clients are required to communicate "special requirements" to the organizer or retailer when making the booking, so that the organizer can make the necessary arrangements for his customers throughout the cruise journey.

Amendment 39

Proposal for a regulation – amending act Article 12 – point b

Text proposed by the Commission

(b) carriers, ticket vendors and tour operators shall take all measures necessary for the reception of notifications of the need for assistance made by disabled persons or persons with reduced mobility. This obligation shall apply at all their points of sale, including sale by telephone and via the Internet;

Amendment

(b) carriers, ticket vendors and tour operators shall take all measures necessary for the ***request and*** reception of notifications of the need for assistance made by disabled persons or persons with reduced mobility. ***The passenger shall receive a confirmation, stating that the assistance needs have been notified. These obligations*** shall apply at all their points of sale, including sale by telephone and via

the Internet;

Justification

It is essential that the carriers, ticket vendors and tour operators actively request whether a passenger needs assistance or not, as not all passengers will be aware that they are supposed to notify their needs. It is also important that the passenger be able to prove they notified the carriers, ticket vendors and tour operators of their assistance needs.

Amendment 40

Proposal for a regulation – amending act Article 12 – point e – indent 1

Text proposed by the Commission

- at a time stipulated by the carrier which shall be not more than 60 minutes before the published departure time, or

Amendment

(Does not affect English version.)

Justification

The word ‘uiterlijk’ (at the latest) may cause confusion. In this amendment, if no time has been stipulated, a person with reduced mobility should have presented himself 30 minutes before departure; otherwise he must present himself at the time stipulated by the carrier, with a maximum of 60 minutes. In the Commission proposal the same word, ‘uiterlijk’, is used for two conflicting situations.

Amendment 41

Proposal for a regulation – amending act Article 12 – point e - indent 2

Text proposed by the Commission

– if no time is stipulated, no later than 30 minutes before the published **departure** time.

Amendment

– if no time is stipulated, no later than 30 minutes before the published **embarkation** time, **unless otherwise agreed between the passenger and the assistance provider.**

Justification

In keeping with the reality of maritime transport, embarkation times should be taken as the point of reference. In addition, this amendment makes for consistency with the regulation on air transport.

In some cases, at unmanned ports for example, it might be more convenient for the assistance

provider as well as for the passenger with a disability or reduced mobility, to meet at a time agreed between them.

The word ‘uiterlijk’ (at the latest) may cause confusion. In this amendment, if no time has been stipulated, a person with reduced mobility should have presented himself 30 minutes before departure; otherwise he must present himself at the time stipulated by the carrier, with a maximum of 60 minutes. In the Commission proposal the same word, ‘uiterlijk’, is used for two conflicting situations.

Amendment 42

Proposal for a regulation – amending act

Article 12 – point e – indent 2 a (new)

Text proposed by the Commission

– if no time is stipulated, no later than 30 minutes before the published departure time.

Amendment

– if no time is stipulated, no later than 30 minutes before the published departure time, **or**

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

Justification

It is important to differentiate between cruises and other maritime transport services.

Amendment 43

Proposal for a regulation – amending act

Article 12 – point f

Text proposed by the Commission

(f) Where a disabled person or person with reduced mobility requires the use of an assistance **animal**, that animal shall be accommodated provided that the carrier or the ticket vendor or the tour operator are notified in accordance with applicable national rules covering the carriage of recognised assistance **animals** on board passenger ships, where such rules exist.

Amendment

(f) Where a disabled person or person with reduced mobility requires the use of an assistance **dog**, that animal shall be accommodated provided that the carrier or the ticket vendor or the tour operator are notified in accordance with applicable national rules covering the carriage of recognised assistance **dogs** on board passenger ships, where such rules exist.

Justification

For clarification

Amendment 44

Proposal for a regulation – amending act Article 13

Text proposed by the Commission

1. Where provision of the assistance has been subcontracted, and the carrier, **the ticket vendor or the tour operator** receives a notification of the need for assistance at least 48 hours before the published departure time for the journey, it shall transmit the relevant information so that the sub-contractor receives it at least 36 hours before the published departure time for the journey.
2. Where provision of the assistance has been subcontracted, and the carrier **or a the ticket vendor or the tour operator** does not receive a notification of the need for assistance at least 48 hours before the published departure time for the journey, the carrier or ticket vendor or tour operator shall transmit the information to the sub-contractor as soon as possible.

Amendment

1. Where provision of the assistance has been subcontracted, and the carrier receives a notification of the need for assistance at least 48 hours before the published departure time for the journey, it shall transmit the relevant information so that the sub-contractor receives it at least 36 hours before the published departure time for the journey.
2. Where provision of the assistance has been subcontracted, and the carrier does not receive a notification of the need for assistance at least 48 hours before the published departure time for the journey, the carrier or ticket vendor or tour operator shall transmit the information to the sub-contractor as soon as possible.

Justification

Only the carrier, who enlists the services of the subcontractor, should be required to inform him about the need for assistance. Neither the ticket vendor nor the tour operator knows who the carrier is employing as a subcontractor.

Amendment 45

Proposal for a regulation – amending act Article 13 – paragraph 1

Text proposed by the Commission

1. Where provision of the assistance has been subcontracted, and the carrier, the ticket vendor or the tour operator receives a notification of the need for assistance at least 48 hours before the published departure time for the journey, it shall transmit the relevant information so that

Amendment

1. Where provision of the assistance has been subcontracted, and the carrier, the ticket vendor or the tour operator receives a notification of the need for assistance at least 48 hours before the published departure time for the journey, it shall transmit the relevant information so that

the sub-contractor receives it at least 36 hours before the published departure time for the journey.

the sub-contractor receives it ***as soon as possible, and in any event*** at least 36 hours before the published departure time for the journey.

Justification

Should the information be available more than 48 hours ahead of the published departure time, it should be transmitted as quickly as possible to the subcontractor, regardless of the 36-hour time-limit laid down in the regulation.

Amendment 101

**Proposal for a regulation – amending act
Article 14 – paragraph 3**

Text proposed by the Commission

3. Carriers shall publish their quality standards.

Amendment

3. Carriers shall publish their quality standards ***in accessible formats***.

Amendment 47

**Proposal for a regulation – amending act
Article 15 – point b**

Text proposed by the Commission

(b) provide disability-assistance and disability-awareness training as described in Annex IV to all their personnel working at the port who deal directly with the travelling public;

Amendment

(b) *(Does not apply to English version.)*

Justification

(Does not apply to English version.)

Amendment 48

**Proposal for a regulation – amending act
Article 15 – point c**

Text proposed by the Commission

(c) ensure that, upon recruitment, all new employees attend disability-related training

Amendment

(c) ensure that, upon recruitment, all new employees ***who come into direct contact***

and that personnel receive refresher training courses when appropriate.

with passengers attend disability-related training and that personnel receive refresher training courses when appropriate.

Justification

Some staff have no contact with passengers, and there is no need to require them to undergo any such training.

Amendment 49

Proposal for a regulation – amending act Article 16 – paragraph 1 – first subparagraph

Text proposed by the Commission

1. **Where** wheelchairs or other mobility equipment or parts thereof, are lost or damaged whilst being handled at the port or transported on board ship, before, during and after the journey, the passenger to whom the equipment belongs shall be compensated, **by the carrier or the managing body of the port**, depending on who was responsible the equipment *was placed* at the time of loss or damage.

Amendment

1. ***Unless the passenger to whom the equipment belongs has already been compensated under the Regulation of the European Parliament and of the Council of on the liability of carriers of passengers by sea and inland waterway in the event of accidents¹***, where wheelchairs or other mobility equipment or parts thereof are lost or damaged whilst being handled at the port or transported on board ship, before, during and after the journey, the passenger to whom the equipment belongs shall be compensated, depending on who was responsible *for* the equipment at the time of loss or damage.

¹*OJ L...., of...., p...*

Justification

To underline the link with the Regulation on the liability of carriers of passengers by sea and inland waterway in the event of accidents, which will be put to the vote in plenary in March. The amendment also seeks to put the emphasis on the person who was responsible for the equipment at the time.

Amendment 50

Proposal for a regulation – amending act
Article 16 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Where necessary every effort shall be undertaken to rapidly provide replacement equipment.

Amendment

Where necessary every effort shall be undertaken to rapidly provide replacement equipment, ***suitable to the needs of the passenger concerned.***

Justification

Although replacement equipment cannot always be identical to the original, it nonetheless still needs to be useable and comfortable for the passenger concerned.

Amendment 51

Proposal for a regulation – amending act
Article 17 – paragraph 1

Text proposed by the Commission

1. In the event of delay, the carrier or, where appropriate, the managing body of the port shall inform passengers ***of estimated departure and arrival times as soon as this information is available, but not later than 30 minutes after a scheduled departure or one hour before a scheduled arrival respectively.***

Amendment

1. In the event of delay, the carrier or, where appropriate, the managing body of the port shall inform passengers ***at the latest 30 minutes after a scheduled departure or one hour before a scheduled arrival. If this information is available, the carrier shall inform passengers of the estimated departure and arrival times.***

Justification

Redrafting amendment. Moreover, in a majority of cases delays are due to unfavourable weather conditions, so that information concerning the exact delay is not always available. Carriers should not therefore be required to give potentially false information.

Amendment 52

Proposal for a regulation – amending act
Article 17 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The carrier or managing body of the port shall ensure that passengers with

disabilities or reduced mobility receive the information required under paragraphs 1 and 2 in accessible formats.

Amendment 53

Proposal for a regulation – amending act Article 18 – paragraph 2

Text proposed by the Commission

2. In the case of any delay where a stay of one or more nights or a stay additional to that intended by the passenger becomes necessary, ***where and when physically possible***, passengers shall be offered free of charge hotel or other accommodation, and transport between the port and place of accommodation in addition to the meals and refreshments provided for in paragraph 1.

Amendment

2. In the case of any delay where a stay of one or more nights or a stay additional to that intended by the passenger becomes necessary, passengers shall be offered free of charge hotel or other accommodation, and transport between the port and place of accommodation in addition to the meals and refreshments provided for in paragraph 1. ***The additional accommodation and transport costs borne by the carrier may not exceed twice the price of the ticket.***

Justification

Compensation should not be conditional on unspecified material circumstances. It seems completely unreasonable to oblige someone who has already suffered at least one day's delay to meet the costs involved.

This amendment also establishes a link between the price of the ticket and the accommodation costs which carriers are required to bear in the event of a serious delay, whilst guaranteeing that they meet at least some proportion of those costs.

Amendment 54

Proposal for a regulation – amending act Article 19 – paragraph 1 – point b

Text proposed by the Commission

(b) ***receive*** reimbursement of the ticket price ***unless he accepts alternative transport services referred to in (a).***

Amendment

(b) ***be offered*** reimbursement of the ticket price ***if he decides not to travel with the carrier.***

Justification

Brings the rights into line with that of other transport services.

Amendment 55

Proposal for a regulation – amending act Article 19 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The payment of the reimbursement provided for in point (b) shall be made under the same conditions as the payment of the compensation provided for in Article 20.

Amendment

The payment of the reimbursement provided for in point (b) shall be made under the same conditions as the payment of the compensation provided for in Article 20, **paragraphs 3, 4 and 4a.**

Amendment 56

Proposal for a regulation – amending act Article 19 – paragraph 2

Text proposed by the Commission

2. The right to reimbursement under this Article shall not apply to passengers on a cruise journey **unless such rights arise under** Directive 90/314/EEC.

Amendment

2. By way of derogation from paragraph 1, passengers on a cruise journey **shall be re-routed or reimbursed in accordance with the provisions of** Directive 90/314/EEC.

Justification

The reference to Directive 90/314/EEC guarantees that cruise passengers will be entitled to all the protection arising from it.

Amendment 57

Proposal for a regulation – amending act Article 20 – paragraph 1 – introduction

Text proposed by the Commission

1. Without losing the right of transport, a passenger may request compensation from the carrier if he is facing a delay in arrival **due to a cancellation or a delayed departure.** The minimum levels of compensation shall be as follows:

Amendment

1. Without losing the right of transport, a passenger may request compensation from the carrier if he is facing a delay in arrival. The minimum levels of compensation shall be as follows:

Justification

There is no need to specify the possible reasons for a delay in arrival. The passenger should be entitled to compensation in any event.

Amendment 58

Proposal for a regulation – amending act Article 20 – paragraph 2

Text proposed by the Commission

2. The right to compensation under this Article shall not apply to passengers on a cruise journey ***unless such rights arise under*** Directive 90/314/EEC.

Amendment

2. Paragraph 1 shall not apply to passengers on a cruise journey. ***Passengers on a cruise journey may claim compensation in accordance with*** Directive 90/314/EEC

Justification

The reference to Directive 90/314/EEC guarantees that cruise passengers will be entitled to all the protection arising from it.

Amendment 59

Proposal for a regulation – amending act Article 20 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. 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.

Justification

By analogy with air travel, while taking account of the particular circumstances of shipping, carriers should have the option of announcing a change of timetable sufficiently long in advance, so that the new timetable becomes the basis for establishing any rights to compensation.

Amendment 60

Proposal for a regulation – amending act Article 20 a (new)

Text proposed by the Commission

Amendment

Article 20 a

Force Majeure

The obligations laid down in Articles 18, 19 and 20 shall not apply in cases of force majeure hindering the performance of the transport service, which could not have been avoided even if all reasonable measures had been taken.

Amendment 61

Proposal for a regulation – amending act Article 21

Text proposed by the Commission

Amendment

Nothing in this Regulation shall preclude passengers from seeking damages in respect of loss resulting from cancellation or delay of transport services before national courts.

Nothing in this Regulation shall preclude passengers from seeking damages in respect of loss resulting from cancellation or delay of transport services before national courts. ***Compensation awarded under this Regulation may be deducted from any additional compensation granted.***

Justification

To avoid the possibility of double damages being paid, this amendment would enable courts to deduct any compensation granted under the regulation from the damages they award.

Amendment 62

Proposal for a regulation – amending act Article 22

Text proposed by the Commission

Amendment

Carriers shall cooperate in order to adopt

Carriers shall cooperate, ***under the***

arrangements at national or European level with the involvement of stakeholders, professional **associations** and associations of customers, passengers and disabled persons. These measures should be aimed at improving care for passengers, especially in the event of long delays and interruption or cancellation of travel.

supervision of the national enforcement bodies, in order to adopt arrangements at national or European level with the involvement of stakeholders, professional **organisations** and associations of customers, passengers, **ports** and disabled persons. These measures should be aimed at improving care for passengers, especially in the event of long delays and interruption or cancellation of travel.

Justification

The national body defined in Article 26 seems to be a suitable body to oversee the smooth conduct of this cooperation process. Furthermore, it is important to ensure that the port management authorities are involved in the process.

Amendment 63

Proposal for a regulation – amending act Article 23

Text proposed by the Commission

Managing bodies of ports and carriers shall provide passengers with adequate information throughout their travel in ***the most appropriate format***. Particular attention shall be paid to the needs of people with disabilities and persons with reduced mobility.

Amendment

Managing bodies of ports and carriers shall provide passengers with adequate information throughout their travel in ***accessible formats and the customary languages***. Particular attention shall be paid to the needs of people with disabilities and persons with reduced mobility.

Justification

The wording of the proposal should be consistent throughout.

Amendment 64

Proposal for a regulation – amending act Article 24 – paragraph 1

Text proposed by the Commission

1. Carriers shall ensure that passengers are provided with appropriate and comprehensible information regarding their

Amendment

1. Carriers shall ensure that passengers are provided with appropriate and comprehensible information regarding their

rights under this Regulation at the latest on departure. To the extent that the information has been provided by either the carrier or the performing carrier, the other shall not be obliged to provide that information. The information shall be provided in ***the most appropriate format***. When providing this information particular attention shall be paid to the needs of people with disabilities and persons with reduced mobility.

rights under this Regulation at the latest on departure. To the extent that the information has been provided by either the carrier or the performing carrier, the other shall not be obliged to provide that information. The information shall be provided in ***accessible formats and the customary languages***. When providing this information particular attention shall be paid to the needs of people with disabilities and persons with reduced mobility.

Justification

The wording of the proposal should be consistent throughout. Reference should also be made to the language issue.

Amendment 65

Proposal for a regulation – amending act Article 25 – paragraph 1

Text proposed by the Commission

1. ***Carriers*** shall set up ***a*** complaint handling mechanism for rights and obligations covered by this Regulation.

Amendment

1. ***Member States' authorities*** shall set up ***an independent*** complaint handling mechanism, ***accessible for all passengers, including persons with disabilities and persons with reduced mobility***, for rights and obligations covered by this Regulation.

Amendment 66

Proposal for a regulation – amending act Article 26 – paragraph 1

Text proposed by the Commission

1. Each Member State shall designate a body ***or bodies*** responsible for the enforcement of this Regulation. Each body shall take the measures necessary to ensure that the rights of passengers are respected ***including compliance with the accessibility rules referred to in Article 8***. Each body shall, in its organisation,

Amendment

1. Each Member State shall designate a body responsible for the enforcement of this Regulation. Each body shall take the measures necessary to ensure that ***the accessibility rules referred to in Article 8 are drawn up, guarantee compliance with those rules and that*** the rights of passengers are respected. Each body shall,

funding decisions, legal structure and decision-making, be independent of **carriers**.

in its organisation, funding decisions, legal structure and decision-making, be independent of **commercial interests**.

Justification

A single organisation will suffice to carry out these duties. Given that other articles of the Regulation acknowledge that several parties have a particular interest in the issue of passengers' rights, the independence of the national body from all commercial interests should be stated more clearly.

Amendment 67

Proposal for a regulation – amending act
Article 26 – paragraph 2

Text proposed by the Commission

2. Member States shall inform the Commission of the body **or bodies** designated in accordance with this Article and of their respective responsibilities.

Amendment

2. Member States shall inform the Commission of the body designated in accordance with this Article and of their respective responsibilities.

Justification

Designating a single body per Member State for the enforcement of the regulation would simplify the administrative process and improve accountability.

Amendment 68

Proposal for a regulation – amending act
Article 26 – paragraph 3

Text proposed by the Commission

3. Any passenger may complain to the appropriate body designated under paragraph 1, **or to any other appropriate body designated** by a Member State, about an alleged infringement of this Regulation.

Amendment

3. Any passenger may complain to the appropriate body designated under paragraph 1 by a Member State about an alleged infringement of this Regulation.

Justification

A single organisation will suffice to carry out this task.

Amendment 69

Proposal for a regulation – amending act Article 27 – paragraph 1 – point d

Text proposed by the Commission

(d) aggregated data on complaints;

Amendment

(d) aggregated data on complaints,
***including on their outcome and resolution
timescales;***

Amendment 70

Proposal for a regulation – amending act Article 29

Text proposed by the Commission

The Member States shall lay down rules on penalties applicable to infringements of this Regulation and shall take all the measures necessary to ensure that those rules are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission and shall notify it without delay of any subsequent amendment affecting them.

Amendment

The Member States shall lay down rules on penalties applicable to infringements of this Regulation and shall take all the measures necessary to ensure that those rules are implemented. The penalties provided for, ***which could include ordering the payment of compensation to the person concerned,*** must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission and shall notify it without delay of any subsequent amendment affecting them.

Justification

Preamble (18) states that compensation to the victim could be included in the penalties. It is worthwhile to repeat this in the core legislative text.

Amendment 71

Proposal for a regulation – amending act Annex II – paragraph 1 – indent 5

Text proposed by the Commission

– board the ship, with the provision of ***lifts, wheelchairs or other assistance***

Amendment

– board the ship, with the provision of ***the means required,***

needed, as appropriate,

Justification

It seems pointless to stipulate that expensive equipment, which many vessels or ports do not have, must be available.

Amendment 72

**Proposal for a regulation – amending act
Annex II – paragraph 4**

Text proposed by the Commission

Temporary replacement of damaged or lost mobility equipment, *albeit* not necessarily on a like for like basis.

Amendment

Temporary replacement of damaged or lost mobility equipment, not necessarily on a like for like basis *but with similar technical and functional characteristics*.

Justification

This is necessary since otherwise the persons requiring the equipment may be unable to use it since it is not suited to their specific needs.

Amendment 73

**Proposal for a regulation – amending act
Annex II – subparagraph 5**

Text proposed by the Commission

Ground handling of recognised assistance *animals*, when relevant.

Amendment

Ground handling of recognised assistance *dogs*, when relevant.

Justification

For clarification.

Amendment 74

Proposal for a regulation – amending act
Annex IV – part 2 – indent 2

Text proposed by the Commission

– skills for providing assistance to persons with reduced mobility travelling with **a recognised assistance animal**, including the role and the needs of those animals;

Amendment

– skills for providing assistance to persons with reduced mobility travelling with **an assistance dog**, including the role and the needs of those animals;

Justification

For the sake of consistency with the amended version of Article 12(f), the term 'assistance animal' is replaced by the term 'assistance dog', in order to clarify the text.

Amendment 75

Proposal for a regulation – amending act
Annex IV – part 2 – indent 3

Text proposed by the Commission

– techniques for escorting blind and partially-sighted passengers **and for the handling and carriage of recognised assistance animals**;

Amendment

– techniques for escorting blind and partially-sighted passengers;

Justification

The assistance dogs should be allowed to accompany the owner, and should not be handled by the staff while on duty. Assistance dogs are trained to obey exclusively the commands of the owner.

EXPLANATORY STATEMENT

Background: Improving the rights of passengers using all forms of transport

Since the beginning of the current decade, the EU has been intent on improving passengers' rights, in line with the Commission's White Paper 'European Transport Policy for 2010: Time to decide'¹.

The European institutions have recently adopted legislation on rights of passengers using air and rail transport. Continuing in this vein, the Commission has sent the European Parliament and the Council two further proposals for regulations on the rights of passengers travelling by coach and bus and the rights of passengers travelling by sea and inland waterway transport. The background to this report is, therefore, the progressive improvement of passengers' rights and the need to ensure European consumers have equal rights regardless of the mode of transport concerned.

The aim of the report is, therefore, to ensure that the various – and, often, competing – modes of transport are on a more equal footing with regard to passengers' rights. At the same time, it is necessary to take account of the special characteristics of the sea and inland waterways transport sectors and their implications for the enforcement of passengers' rights.

The Commission proposal

The Commission proposal is based on the two existing regulations on passengers' rights in the air and rail transport sectors. It covers the rights of passengers and the rights of disabled people and people with restricted mobility. The proposal aims to remove the obstacles which prevent disabled people and people with restricted mobility from travelling by ship or boat in Europe. Moreover, it contains more general provisions concerning passengers' rights, particularly in the event of delays and cancellations.

The main features of the legislation are:

- the specific rights of disabled people and people with restricted mobility, in accordance with the principle of non-discrimination, and with the emphasis on accessibility and the provision of assistance to people with restricted mobility;
- carriers' obligations in the event of delays or cancellations;
- the provision of information for travellers and complaints management;
- the application of the regulation by the relevant national bodies.

The sectors falling within the scope of the proposed regulation are national and international commercial services for the transport of passengers by sea and inland waterway.

The rapporteur's position

Broadly speaking, the text proposed by the Commission appears to be modelled on the legislation on rights of passengers using air transport. Your rapporteur proposes various

¹ COM(2001) 370 of 12.9.2001.

amendments of a technical nature. For example, your rapporteur seeks to ensure consistency in the references to the prescribed formats for information for passengers. In the course of interinstitutional collaboration, the European Parliament has often succeeded in ensuring the legislation proposed by the Commission takes greater account of passengers' interests. The rapporteur firmly intends to uphold this tradition.

The imminent end of the current legislative term requires the European Parliament to take the first reading at speed. Your rapporteur will continue, therefore, to examine the provisions of the text and will propose any further amendments he regards as necessary. The main amendments put forward are as the following:

1. 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 which may not be worded precisely enough 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.
2. The responsibility to ask passengers whether they require assistance is clearly specified, as is the obligation to confirm in writing that assistance will be provided.
3. Maritime transport services covered by cruises are regulated by a specific directive which entered into force in 1991¹. Your rapporteur has reiterated the principle that passengers should be re-routed and compensated where necessary, as laid down in that directive.
4. The onus is placed on carriers to ensure passengers with reduced mobility are provided with assistance at the port. To secure the participation of port management bodies, your rapporteur has put forward a compromise proposal which would ensure port authorities are involved to a greater extent in consultations between stakeholders in the maritime transport sector.
5. The role of the national bodies responsible for the enforcement of the future Regulation is strengthened and clarified. The rapporteur proposes that no more than one such organisation should be designated by each Member State.
6. The national bodies are given greater responsibility with regard to drawing up non-discriminatory rules on access to transport for people with disabilities or reduced mobility. The rapporteur seeks to guarantee the independence of these bodies from commercial interests.
7. The rapporteur seeks to tighten up the definition of transport contracts, ticket vendors and tour operators.

¹ Directive 90/314/EEC on package travel, package holidays and package tours (OJ L 158, 23.6.1990, p. 59).

10.3.2009

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS

for the Committee on Transport and Tourism

on 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
(COM(2008)0816 – C6-0476/2008 – 2008/0246(COD))

Rapporteur: Georgios Papastamkos

SHORT JUSTIFICATION

The purpose of this proposal for a regulation is to regulate issues concerning the rights of domestic and international maritime passengers, including those who are disabled or persons with reduced mobility.

Your rapporteur takes the view that it would be systematically preferable if separate proposals were tabled on the rights of passengers, on the one hand, and on persons with reduced mobility on the other. The reason for this is that the individual arrangements have a different purpose and have different addressees. In the case of air transport, the Community legislator has elected to regulate issues concerning all passengers without exception, without differentiating specific categories.

Your rapporteur takes the view that in the definition of ‘carrier’ the reference to a ‘carrier’ and ‘performing carrier’ creates confusion as regards the person undertaking the obligation to perform a maritime transport service. This creates legal uncertainty for the contracting passenger, especially as regards the person to be addressed should the transport contract not be executed properly. The provisions on the responsibility to inform passengers in the event of a departure being delayed should therefore be supplemented so that passenger information is provided not only by the carrier or the port manager, but also by the operator or the authorised issuer of tickets, as is the practice in a number of Member States. Furthermore, the term ‘delay’ should be clarified and the cases of delays without fault further specified.

Furthermore, ‘delay’ is very narrowly defined (60 minutes). In the case of groups of islands, such as exist in the Aegean, where ships may stop at five or six different islands, one hour is too short. Equivalent arrangements governing air transport refer to a delay of ‘over two

hours'. The Commission's proposal probably reflects normal ship routes services in northern Europe (ferry lines, etc.). However, it totally fails to reflect conditions under which maritime transport services are performed in the Mediterranean.

As regards compensation, the best option which would be in line with the subsidiarity principle, would be to provide that Member States set the time limits. Compensation should be calculated on the basis of net fare i.e. the fare without VAT and deductions by third parties, and not 'the ticket price', as provided for in the proposal. This is because in the event of a refund, for instance, owing to a delay or the cancellation of a service etc., problems might emerge, for example regarding the refund of VAT already paid by the shipping company.

The reference to 'exceptional circumstances' is inadequate and unclear and the term needs to be clarified. The proposal probably means circumstances such as poor weather conditions or malfunctioning of the vessel, etc. However, there are other circumstances in which performance of the transport service would be difficult or impossible owing to a rescue attempt where a service has been altered to cover another island etc. Efforts must be made to establish whether the scope of the specific provision also covers these circumstances.

AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Transport and Tourism, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation – amending act Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) In the event of a future legislative initiative relating to passenger rights, a horizontal legislative approach covering all means of transportation would be more reasonable, given the need to use combined transportation.

Amendment 2

Proposal for a regulation – amending act Article 2 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States may exempt services

2. Member States may exempt services

covered by public service contracts if such contracts ensure a comparable level of passenger rights to that required by this Regulation.

covered by public service contracts if such contracts ensure a comparable level of passenger rights to that required by this Regulation, ***as well as services provided by ships of low tonnage or ships which carry a small number of passengers and operate on short-distance routes.***

Justification

Member States must be able to exempt passenger or cruise ships of low tonnage or ships which carry a small number of passengers and operate on short-distance routes owing to the special nature of the transportation which they provide, usually operating as sea "taxis".

Amendment 3

Proposal for a regulation – amending act Article 3 – point f

Text proposed by the Commission

(f) "performing carrier" means a person other than the carrier and the tour operator, who actually performs the whole or a part of the carriage;

Amendment

(f) "performing carrier" means a person other than the carrier and the tour operator, ***whether this be the ship's owner, charterer or operator,*** who actually performs the whole or a part of the carriage;

Amendment 4

Proposal for a regulation – amending act Article 8 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. Carriers shall ensure that, on board their passenger ships and high-speed passenger craft, passengers' attention is drawn to general information concerning the services and assistance provided for disabled persons or persons with reduced mobility on board said ships or craft.

Amendment 5

Proposal for a regulation – amending act Article 15 – point c

Text proposed by the Commission

(c) ensure that, upon recruitment, all new employees attend disability-related training and that personnel receive refresher training courses when appropriate.

Amendment

(c) ensure that, upon recruitment, all new employees ***who are to provide direct assistance to disabled persons and persons with reduced mobility*** attend disability-related training and that personnel receive refresher training courses when appropriate.

Amendment 6

Proposal for a regulation – amending act Article 16 – paragraph 2

Text proposed by the Commission

2. There shall be no limit to the amount of compensation payable pursuant to this Article.

Amendment

deleted

Amendment 7

Proposal for a regulation – amending act Article 17 – paragraph 1

Text proposed by the Commission

1. In the event of delay, the carrier or, where appropriate, the managing body of the port shall inform passengers of estimated departure and arrival times as soon as this information is available, but not later than 30 minutes after a scheduled departure or one hour before a scheduled arrival respectively.

Amendment

1. In the event of delay, the carrier or, where appropriate, the managing body of the port ***or the tour operator or the ticket vendor authorised by the carrier*** shall inform passengers of estimated departure and arrival times as soon as this information is available, but not later than 30 minutes after a scheduled departure or one hour before a scheduled arrival respectively.

Justification

The ambiguity of the definitions of "carrier" and "performing carrier" create legal uncertainty about the person who is to bear the responsibility for maritime transportation. The provisions of the article have to be complemented so as provide for passengers to be informed, not only by the carrier or the managing body of the port, but also by the tour operator or the ticket vendor, as is the case in various Member States.

Amendment 8

Proposal for a regulation – amending act Article 17 – paragraph 2

Text proposed by the Commission

2. If passengers miss a connection due to a delay, the performing carrier shall make reasonable efforts to inform the passengers concerned of alternative connections.

Amendment

2. If passengers miss a **maritime** connection due to a delay, **the carrier or the performing carrier or the managing body of the port or the tour operator or the ticket vendor** shall make reasonable efforts to inform the passengers concerned of alternative connections.

Justification

The notion and the definition of "carrier" and the "performing carrier" create legal uncertainty about the person who is to bear the responsibility for maritime transportation. The provisions of the article have to be complemented so as provide for passengers to be informed, not only by the carrier or the managing body of the port, but also by the tour operator or the ticket vendor, as is the case in various Member States.

Amendment 9

Proposal for a regulation – amending act Article 18 – paragraph 1

Text proposed by the Commission

1. Where a carrier **reasonably** expects a passenger maritime service to be delayed for more than **60** minutes beyond its scheduled time of departure, passengers shall be offered free of charge meals and refreshments in reasonable relation to the waiting time, if they are available on board or at the port, or can reasonably be

Amendment

1. Where, **owing to its own fault**, a carrier expects a passenger maritime service to be delayed for more than **120** minutes beyond its scheduled time of departure, passengers shall be offered free of charge meals and refreshments in reasonable relation to the waiting time, if they are available on board or at the port, or can reasonably be

supplied.

supplied.

Justification

The time limits for delays are extremely short. For example, in case of an archipelago, such as the Aegean, where ships may provide services covering 5-6 islands in a single route, the one-hour time limit is disproportionally short. The corresponding provisions for air transport refer to a delay "of more than 2 hours". The Commission's proposal may well reflect the usual routes in northern Europe, but certainly not the conditions of maritime transportation in the Mediterranean.

Amendment 10

Proposal for a regulation – amending act Article 18 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Furthermore, passengers shall be offered the possibility of making free telephone calls or sending free telexes, faxes or e-mails to deal with urgent matters.

Amendment 11

Proposal for a regulation – amending act Article 19 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Where a carrier **reasonably** expects a passenger maritime service to be delayed beyond its scheduled time of departure by more than **120** minutes, the passenger shall immediately:

1. Where, **owing to its own fault**, a carrier expects a passenger maritime service to be delayed beyond its scheduled time of departure by more than **180** minutes, the passenger shall immediately:

Justification

The time limits for delays are extremely short. For example, in case of an archipelago, such as the Aegean, where ships may provide services covering 5-6 islands in a single route, the one-hour time limit is disproportionally short. The corresponding provisions for air transport refer to a delay "of more than 2 hours". The Commission's proposal may well reflect the usual routes in northern Europe, but certainly not the conditions of maritime transportation in the Mediterranean.

Amendment 12

Proposal for a regulation – amending act Article 20 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) 25 % of the ticket price for a delay of **60** to **119** minutes;

(a) 25 % of the **net** ticket price for a delay of **120** to **179** minutes;

Justification

As far as the time limits for delays are concerned, see the justification to amendments 5 and 6. The most proper solution and the one most consistent with the principle of subsidiarity would be for the time limits to be set by the Member States. Furthermore, the compensation must be calculated on the basis of the net price of the trip, excluding TVA etc, and not on the basis of the "ticket price".

Amendment 13

Proposal for a regulation – amending act Article 20 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) 50 % of the ticket price for a delay of **120** minutes or more;

(b) 50 % of the ticket price for a delay of **180** minutes or more;

Justification

As far as the time limits for delays are concerned, see the justification to amendments 5 and 6.

Amendment 14

Proposal for a regulation – amending act Article 20 – paragraph 4

Text proposed by the Commission

Amendment

4. This Article shall not apply where the delay or cancellation is caused by exceptional circumstances hindering the performance of the transport service, which could not have been avoided even if all reasonable measures had been taken.

4. This Article shall not apply where the delay or cancellation is caused **not by the carrier's own fault but** by exceptional circumstances hindering the performance of the transport service, which could not have been avoided even if all reasonable measures had been taken.

Justification

This provision of Article 20(4) is incomplete and vague. The notion of "exceptional circumstances" is clarified by the addition of the reference to absence of liability on the part of the carrier.

Amendment 15

Proposal for a regulation – amending act Article 27 – paragraph 1

Text proposed by the Commission

Amendment

1. On 1 June each year the enforcement bodies designated pursuant to Article 26 shall publish a report on their activity in the previous year, containing inter alia: ***deleted***

(a) a description of actions taken in order to implement the provisions of this Regulation,

(b) a reference to the procedure applicable to the settlement of individual complaints,

(c) a summary of rules on accessibility for disabled persons and persons with reduced mobility applicable in that Member State;

(d) aggregated data on complaints;

(e) details of sanctions applied;

(f) other issues of importance for the better enforcement of this Regulation.

Justification

The provision of Article 27(1) significantly increases the administrative burden without producing any added value.

PROCEDURE

Title	Rights of passengers when travelling by sea and inland waterway						
References	COM(2008)0816 – C6-0476/2008 – 2008/0246(COD)						
Committee responsible	TRAN						
Opinion by Date announced in plenary	JURI 18.12.2008						
Rapporteur Date appointed	Georgios Papastamkos 19.1.2009						
Discussed in committee	12.2.2009						
Date adopted	9.3.2009						
Result of final vote	<table> <tr> <td>+: </td><td>16</td></tr> <tr> <td>–: </td><td>0</td></tr> <tr> <td>0: </td><td>0</td></tr> </table>	+:	16	–:	0	0:	0
+:	16						
–:	0						
0:	0						
Members present for the final vote	Monica Frassoni, Giuseppe Gargani, Neena Gill, Klaus-Heiner Lehne, Manuel Medina Ortega, Eva-Riitta Siitonen, Francesco Enrico Speroni, Diana Wallis, Tadeusz Zwiefka						
Substitute(s) present for the final vote	Vicente Miguel Garcés Ramón, Jean-Paul Gauzès, Kurt Lechner, Georgios Papastamkos, Gabriele Stauner, Ieke van den Burg						
Substitute(s) under Rule 178(2) present for the final vote	Bill Newton Dunn						

PROCEDURE

Title	Rights of passengers when travelling by sea and inland waterway	
References	COM(2008)0816 – C6-0476/2008 – 2008/0246(COD)	
Date submitted to Parliament	4.12.2008	
Committee responsible Date announced in plenary	TRAN 18.12.2008	
Committee(s) asked for opinion(s) Date announced in plenary	IMCO 18.12.2008	JURI 18.12.2008
Not delivering opinions Date of decision	IMCO 27.2.2009	
Rapporteur(s) Date appointed	Michel Teychenné 8.12.2008	
Discussed in committee	17.2.2009	30.3.2009
Date adopted	31.3.2009	
Result of final vote	+: 18 -: 0 0: 14	
Members present for the final vote	Gabriele Albertini, Inés Ayala Sender, Paolo Costa, Luis de Grandes Pascual, Petr Duchoň, Saïd El Khadraoui, Robert Evans, Emanuel Jardim Fernandes, Francesco Ferrari, Brigitte Fouré, Mathieu Grosch, Georg Jarzembowski, Stanisław Jałowiecki, Timothy Kirkhope, Rodi Kratsa-Tsagaropoulou, Sepp Kusstatscher, Jörg Leichtfried, Eva Lichtenberger, Erik Meijer, Luís Queiró, Reinhard Rack, Ulrike Rodust, Gilles Savary, Brian Simpson, Renate Sommer, Dirk Sterckx, Ulrich Stockmann, Yannick Vaugrenard, Armando Veneto, Roberts Zile	
Substitute(s) present for the final vote	Anne E. Jensen, Marie Panayotopoulos-Cassiotou	
Date tabled	2.4.2009	