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A7-0177/ 001-081

AMENDMENTS 001-081

by the Committee on Transport and Tourism

Recommendation for second reading

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A7-0177/2010

Rights of passengers when travelling by sea and inland waterway

Council position (14849/3/2009 – C7-0076/2010 – 2008/0246(COD))

Amendment 1

Council position – amending act

Recital 5

Council position

Amendment

(5) 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 ***health and safety*** and established by the competent authorities. They should enjoy the right to assistance in ports and on board passenger ships. In the interests of social inclusion, the persons concerned should receive this assistance free of charge. Carriers should establish access conditions, preferably using the European standardisation system.

(5) 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, except for reasons which are justified on the grounds of safety and established by the competent authorities. They should enjoy the right to assistance in ports and on board passenger ships. In the interests of social inclusion, the persons concerned should receive this assistance free of charge. Carriers should establish access conditions, preferably using the European standardisation system.

Justification

A passenger is not refused travel on the grounds of their disability or reduced mobility but on grounds of safety and this should be clear in the text. Health concerns, for instance with regard to epidemics, affect all passengers and should not be a reason for refusing disabled passengers or those with reduced mobility under the terms of this Regulation.

Amendment 2

Council position – amending act

Recital 6

Council position

(6) In deciding on the design of new ports and terminals, and as part of major refurbishments, the bodies responsible for those facilities 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 Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships and Directive 2006/87/EC of the European Parliament and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels.

Amendment

(6) In deciding on the design of new ports and terminals, and as part of major refurbishments, the bodies responsible for those facilities should take into account the needs of disabled persons and persons with reduced mobility, ***in particular with regard to accessibility, paying particular consideration to ‘design for all’ requirements***. ***Carriers*** should take such needs into account when deciding on the design of new and newly refurbished passenger ships in accordance with Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships and Directive 2006/87/EC of the European Parliament and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels.

Amendment 3

Council position – amending act

Recital 8 a (new)

Council position

Amendment

(8a) The provisions governing the embarkation of disabled persons or persons with reduced mobility should be without prejudice to the general provisions applicable to the embarkation of passengers laid down by the international, Union 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

**Council position – amending act
Recital 8 b (new)**

Council position

Amendment

(8b) Member States/port authorities should improve existing infrastructure and carriers should improve their ships, where this is necessary to ensure barrier-free access for disabled persons and persons with reduced mobility as well as to provide appropriate assistance.

Amendment 5

**Council position – amending act
Recital 11 a (new)**

Council position

Amendment

(11a) In accordance with generally accepted principles, carriers should bear the burden of proving that the cancellation or delay was caused by such weather conditions or extraordinary circumstances.

Justification

The purpose of this amendment is to make clear that this Regulation is coherent with that on aviation passenger rights: the burden of proof should be on the carrier in the event of an exception.

Amendment 6

**Council position – amending act
Recital 12**

Council position

Amendment

(12) Weather conditions endangering the

(12) Weather conditions ***and natural***

safe operation of the ship should include, but not be limited to, strong winds, heavy seas, strong currents, difficult ice conditions **and** extremely high or low water levels.

disasters endangering the safe operation of the ship should include, but not be limited to, strong winds, heavy seas, strong currents, difficult ice conditions, extremely high or low water levels, **hurricanes and tornados, fires, floods and earthquakes.**

Justification

As requested by Parliament at first reading, there should be mention of natural disasters, which can have dramatic consequences, and legitimate demands for help or compensation, without being part of the scope of the Regulation.

Amendment 7

Council position – amending act

Recital 13

Council position

(13) Extraordinary circumstances should include, but not be limited to, terrorist attacks, labour conflicts, landing any sick, injured or dead person, search and rescue operations at sea or on inland waterways, measures necessary to protect the environment, decisions taken by traffic management bodies or port authorities, or decisions by the competent authorities with regard to public order and safety as well as to cover urgent transport needs.

Amendment

(13) Extraordinary circumstances should include, but not be limited to, terrorist attacks, **wars and military or civil armed conflicts, uprisings, military or illegal confiscations**, labour conflicts, landing any sick, injured or dead person, search and rescue operations at sea or on inland waterways, measures necessary to protect the environment, decisions taken by traffic management bodies or port authorities, or decisions by the competent authorities with regard to public order and safety as well as to cover urgent transport needs.

Justification

These situations were specified at first reading, particularly with a view to the specific inclusion of acts by the military in extraordinary circumstances.

Amendment 8

Council position – amending act

Recital 14

Council position

(14) With the involvement of stakeholders, professional associations and associations of customers, passengers, disabled persons

Amendment

(14) With the involvement of stakeholders, professional associations and associations of customers, passengers, disabled persons

and persons with reduced mobility, carriers should cooperate in order to adopt arrangements at national or European level for improving care and assistance offered to passengers whenever their travel is interrupted, notably in the event of long delays or cancellation of travel.

and persons with reduced mobility, carriers should cooperate in order to adopt arrangements at national or European level for improving care and assistance offered to passengers whenever their travel is interrupted, notably in the event of long delays or cancellation of travel. ***National enforcement bodies should be informed of these arrangements.***

Justification

National enforcement bodies should be provided with all necessary information for the oversight and enforcement of this Regulation.

Amendment 9

Council position – amending act Recital 14 a (new)

Council position

Amendment

(14a) The European Court of Justice has already ruled that problems leading to cancellations or delays can be covered by the concept of exceptional circumstances only to the extent that they stem from events which are not inherent in the normal exercise of the activity of the carrier concerned and are beyond its actual control.

Justification

It is useful to draw attention to existing European Court of Justice decisions which inform this area of law.

Amendment 10

Council position – amending act Recital 16

Council position

Amendment

(16) Passengers should be fully informed of their rights under this Regulation, so that they can effectively exercise those rights. Rights of passengers should include the receipt of information regarding the passenger service or cruise before and

(16) Passengers should be fully informed of their rights under this Regulation ***in formats which are accessible to everybody***, so that they can effectively exercise those rights. Rights of passengers should include the receipt of information

during the journey. All essential information provided to passengers should also be provided in formats accessible to disabled persons and persons with reduced mobility.

regarding the passenger service or cruise before and during the journey. ***This information should be provided according to a common conceptual model for public transport data and systems in order to allow for the provision of integrated information and ticketing.*** All essential information provided to passengers should also be provided in formats accessible to disabled persons and persons with reduced mobility, ***with such accessible formats allowing passengers to access the same information using, for example, text, Braille, audio, video and/or electronic formats.***

Justification

The purpose of this amendment is to constitute a legal base to build up interoperable, intermodal passenger information and ticketing systems. It would create an equivalent provision to that which already exists in the Rail Passenger Rights Regulation 1371/2007 (Article 10 on travel information and reservations systems). This amendment also seeks to clarify 'accessible formats', a term which is used throughout the Regulation.

Amendment 11

Council position – amending act

Recital 17

Council position

(17) Passengers 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 Member State. Carriers should respond to complaints by passengers within a ***certain*** period of time, bearing in mind that the non-reaction to a complaint ***might*** be held against them.

Amendment

(17) Passengers should be able to exercise their rights by means of appropriate ***and accessible*** 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 Member State. Carriers should respond to complaints by passengers within a ***set*** period of time, bearing in mind that the non-reaction to a complaint ***could*** be held against them.

Justification

This amendment seeks to ensure that complaint procedures are accessible for all passengers.

Amendment 12

Council position– amending act Recital 18 a (new)

Council position

Amendment

(18a) The body or bodies designated for the enforcement of this Regulation should be independent and should have the power and capability to investigate individual complaints and to facilitate dispute settlement. The reports prepared by these bodies should include statistics on complaints and their outcome.

Justification

It is important that national enforcement bodies have all necessary powers and that information on complaints and their outcomes be accessible for passengers.

Amendment 13

Council position – amending act Recital 21 a (new)

Council position

Amendment

(21a) When legislating on passenger rights, the Union should seek a global and coherent approach which takes into account the needs of passengers, in particular those of disabled persons and persons with reduced mobility, to use different transport modes and to transfer smoothly between different modes.

Amendment 14

Council position – amending act Article 2 – paragraph 1 – point b

Council position

Amendment

(b) on passenger services where the port of embarkation is situated outside the territory of a Member State and the port of disembarkation is situated in the territory of a Member State, provided that the service is operated by a Union carrier;

(b) on passenger services where the port of embarkation is situated outside the territory of a Member State and the port of disembarkation is situated in the territory of a Member State, provided that the service is operated by a Union carrier ***as***

defined by Article 3(e);

Justification

In order to avoid confusion regarding the scope of the text, there is a need to specify that this term, which is very broad, should be understood as it is defined by Article 3 of this Regulation.

Amendment 15

Council position – amending act
Article 2 – paragraph 1 – point c

Council position

(c) on a cruise where the port of embarkation is situated in the territory of a Member State. However, Articles 16(2), 18, 19 and 20(1) and (4) shall not apply to those passengers.

Amendment

(c) on a cruise where the port of embarkation **or disembarkation** is situated in the territory of a Member State. However, Articles 16(2), 18, 19 and 20(1) and (4) shall not apply to those passengers.

Justification

All passengers should be covered by the proposal and distinctions should not be made. This amendment aims to avoid situations in which companies may seek to establish a point of departure or arrival outside the EU to avoid complying with the provisions of this Regulation.

Amendment 16

Council position – amending act
Article 2 – paragraph 2 – point a

Council position

(a) on ships certified to carry up to **36** passengers;

Amendment

(a) on ships certified to carry up to **12** passengers;

Justification

This amendment restores the Parliament's first reading position as a criterion of 36 passengers narrows the scope too much.

Amendment 17

Council position – amending act
Article 2 – paragraph 3

Council position

3. Member States may, for a period of two years from, exempt from the

Amendment

deleted

application of this Regulation sea going 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.

Justification

This derogation is excessive and would represent a significant limitation of the scope of application. It also seems unnecessary as the rights of passengers would have to be ensured 'adequately' under national law.

Amendment 18

**Council position – amending act
Article 2 – paragraph 4**

Council position

4. 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 ***adequately*** guaranteed under national law.

Amendment

4. 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.

Justification

Comparable is preferable to adequate which is felt to be too weak.

Amendment 19

**Council position – amending act
Article 2 – paragraph 5**

Council position

5. Nothing in this Regulation shall be understood as constituting technical requirements imposing obligations on carriers, terminal operators or other entities to modify or replace ships, infrastructure, equipment in ports, and port terminals.

deleted

Amendment

Justification

The Rapporteur has concerns about this paragraph being used to create exemptions and it

appears unnecessary as the Regulation does not impose obligations in this way.

Amendment 20

Council position – amending act

Article 3 – point d

Council position

(d) "carrier" means a natural or legal person offering transport by passenger services or cruises to the general public;

Amendment

(d) "carrier" means a natural or legal person, ***other than a tour operator, travel agent or ticket vendor***, offering transport by passenger services or cruises to the general public;

Amendment 21

Council position – amending act

Article 3 – point k

Council position

(k) "port terminal" means a terminal, ***staffed by a carrier or a terminal operator***, in a port with facilities, such as check- in, ticket counters or lounges, and staff for the embarkation or disembarkation of passengers travelling on passenger services or on a cruise;

Amendment

(k) "port terminal" means a terminal in a port with facilities, such as check- in, ticket counters or lounges, and staff for the embarkation or disembarkation of passengers travelling on passenger services or on a cruise;

Justification

This clarifies the definition of 'port terminal'.

Amendment 22

Council position – amending act

Article 3 – point p

Council position

(p) "travel agent" means any retailer acting on behalf of a passenger for the conclusion of transport contracts;

Amendment

(p)"travel agent" means any retailer acting on behalf of a passenger ***or a tour operator*** for the conclusion of transport contracts;

Justification

For consistency sake with the amendment of 'tour operator', the retailers should be included in the definition of 'travel agent' to ensure that they comply with all the obligations under this Regulation.

Amendment 23

Council position – amending act Article 3 – point q

Council position

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

Amendment

(q) "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 24

Council position – amending act Article 3 – point r a (new)

Council position

Amendment

(ra) ‘cancellation’ means the non-operation of a service which was previously scheduled and for which at least one reservation was made;

Justification

This amendment aims to reintroduce Parliament’s first reading.

Amendment 25

Council position – amending act Article 3 – point t a (new)

Council position

Amendment

(ta) ‘accessible formats’ means that all passengers, including those with any kind of disability or reduced mobility, can access the same information using text, Braille, audio, video or electronic formats. Examples of accessible formats include, but are not limited to, pictograms, vocal announcements and subtitling and may vary according to technological developments;

Justification

This amendment aims to reintroduce Parliament’s first reading.

Amendment 26

Council position – amending act Article 3 – point u a (new)

Council position

Amendment

(ua) ‘ticket price’ means the price paid by the passenger or, for tickets issued for several passengers, the total price relative to the number of passengers;

Justification

Unlike in the case of air or rail travel, issuing one ticket for several passengers is common practice in maritime transport, particularly ferries. Specifying this is therefore necessary in order to clarify repayments.

Amendment 27

Council position – amending act Article 6 – paragraph 1 a (new)

Council position

Amendment

1a. Carriers may offer contractual conditions that are more favourable for the passenger than the conditions laid down in this Regulation.

Justification

This amendment aims to reintroduce Parliament’s first reading.

Amendment 28

Council position – amending act Article 7 – paragraph 1

Council position

Amendment

1. 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.

1. Carriers, travel agents and tour operators shall not refuse to accept a reservation, to issue or provide a ticket or to embark ***or disembark*** persons on the grounds of disability or of reduced mobility ***as such***.

Amendment 29

Council position – amending act

Article 7 – paragraph 2

Council position

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

Amendment

2. 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.***

Amendment 30

Council position – amending act

Article 8 – paragraph 1 – introductory part

Council position

Notwithstanding Article 7(1), 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 person, ***on the grounds of*** disability or ***of*** reduced mobility:

Amendment

Notwithstanding Article 7(1), 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 person ***with a*** disability or reduced mobility ***on the basis of this Regulation:***

Justification

A passenger is not refused travel on the grounds of their disability or reduced mobility and this should be clear in the text.

Amendment 31

Council position – amending act

Article 8 – paragraph 1 – point a

Council position

(a) in order to meet applicable ***health and*** safety requirements established by international, Union or national law or in order to meet ***health and*** safety requirements established by the competent authorities;

Amendment

(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;

Justification

Health concerns, for instance with regard to epidemics, affect all passengers and should not be a reason for refusing disabled passengers or those with reduced mobility.

Amendment 32

Council position – amending act

Article 8 – paragraph 1 – point b

Council position

(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 **disabled person or person with reduced mobility** in a safe or operationally feasible manner.

Amendment

(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.

Justification

Clarification.

Amendment 33

Council position – amending act

Article 8 – paragraph 2

Council position

2. In the event of a refusal to accept a reservation or to issue or otherwise provide a ticket on the grounds referred to in paragraph 1, carriers, travel agents and tour operators shall make reasonable efforts to propose to the person concerned an acceptable alternative transport on a passenger service or a cruise operated by the carrier.

Amendment

2. In the event of a refusal to accept a reservation or to issue or otherwise provide a ticket on the grounds referred to in paragraph 1, 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.

Justification

Clarification for emphasis.

Amendment 34

Council position – amending act

Article 8 – paragraph 3

Council position

3. If a disabled person or a person with reduced mobility, who holds a reservation or has a ticket and has complied with the requirements in Article 11(2), is any way

Amendment

3. If a disabled person or a person with reduced mobility, who holds a reservation or has a ticket and has complied with the requirements in Article 11(2), is any way

denied embarkation **on the grounds of his disability or reduced mobility**, that person and any accompanying person pursuant to paragraph 4 of this Article shall be offered the choice between the right to reimbursement and 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 **health and** safety requirements being met.

denied embarkation, **on the basis of this Regulation**, that person and any accompanying person pursuant to paragraph 4 of this Article shall be offered the choice between the right to reimbursement and 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.

Justification

A passenger is not refused travel on the grounds of their disability or reduced mobility but on grounds of safety and this should be clear in the text. Health concerns, for instance with regard to epidemics, affect all passengers and should not be a reason for refusing disabled passengers or those with reduced mobility.

Amendment 35

**Council position – amending act
Article 8 – paragraph 4**

Council position

4. Under the same conditions set out in paragraph 1, 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. As regards passenger services, such an accompanying person shall be carried free of charge.

Amendment

4. Under the same conditions set out in paragraph 1, 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. As regards passenger services, such an accompanying person shall be carried free of charge **and shall not be deemed to be an agent or to be working for the carrier.**

Justification

The distribution of potential responsibilities must be clarified.

Amendment 36

**Council position – amending act
Article 8 – paragraph 5**

Council position

5. When carriers, travel agents and tour

Amendment

5. When carriers, travel agents and tour

operators have recourse to paragraphs 1 or 4, they shall immediately inform the disabled person or person with reduced mobility of the specific reasons therefor. Those reasons shall be notified to the disabled person or person with reduced mobility, no later than five working days after **that person was informed**. In case of refusal according to paragraph 1(a), reference shall be made to the applicable **health and** safety requirements.

operators have recourse to paragraphs 1 or 4, 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**. In case of refusal according to paragraph 1(a), reference shall be made to the applicable safety requirements.

Justification

A passenger should have the right to receive written confirmation of the reasons for refusal within a set time. Health concerns, for instance with regard to epidemics, affect all passengers and should not be a reason for refusing disabled passengers or those with reduced mobility.

Amendment 37

Council position – amending act Article 9 – paragraph 1

Council position

1. 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.

Amendment

1. In cooperation with organisations representative of disabled persons or persons with reduced mobility, carriers, **port authorities** 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 be notified to national enforcement bodies.**

Justification

It is important that port authorities in general be involved in this process. It is also important that national enforcement bodies have a good overview of the access conditions.

Amendment 38

Council position – amending act Article 9 – paragraph 2

Council position

2. The access conditions provided for in paragraph 1 shall be made publicly available by carriers and terminal operators physically or on the Internet in the same languages as those in which information is generally made available to all passengers.

Amendment

2. The access conditions provided for in paragraph 1 shall be made publicly available by carriers, **port authorities** and terminal operators physically or on the Internet **in accessible formats 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 persons with disabilities and persons with reduced mobility.**

Justification

It is important that information be provided as widely as possible and in accessible formats.

Amendment 39

Council position – amending act Article 9 – paragraph 4

Council position

4. Carriers, travel agents and tour operators shall ensure that all relevant information, including online reservation and information, concerning the conditions of carriage, journey information and access conditions is available in appropriate and accessible formats for disabled persons and persons with reduced mobility.

Amendment

4. Carriers, travel agents and tour operators shall ensure that all relevant information, including online reservation and information, concerning the conditions of carriage, journey information and access conditions is available in appropriate and accessible formats for disabled persons and persons with reduced mobility. **Persons needing assistance shall receive written confirmation of such assistance.**

Amendment 40

Council position – amending act Article 10

Council position

Subject to the access conditions provided for in Article 9(1), carriers and terminal operators shall, within their respective

Amendment

Subject to the access conditions provided for in Article 9(1), carriers and terminal operators shall, within their respective

areas of competence, provide assistance free of charge to disabled persons and persons with reduced mobility, as specified in Annexes II and III, in ports, including embarkation and disembarkation, and on board ships.

areas of competence, provide assistance free of charge to disabled persons and persons with reduced mobility, as specified in Annexes II and III, in ports, including embarkation and disembarkation, and on board ships. ***The assistance shall be adapted to the individual needs of the person with a disability or reduced mobility.***

Amendment 41

Council position – amending act Article 11 – paragraph 1 – point (a)

Council position

(a) the carrier or the terminal operator is notified of the person's need for such assistance at the latest ***two working days*** before the assistance is needed, and;

Amendment

(a) the carrier or the terminal operator is notified 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,*** and;

Justification

48 hours is preferable to two working days and greater flexibility in the event of agreement between the passenger and the carrier is also introduced here.

Amendment 42

Council position – amending act Article 11 – paragraph 1 – point (b)(i)

Council position

i) at a time stipulated in writing by the carrier which shall be not more than 60 minutes before the published embarkation time, or

Amendment

i) at a time stipulated in writing by the carrier – ***including under the access conditions set out in Article 9(1)*** – which shall be not more than 60 minutes before the published embarkation time, or

Amendment 43

Council position – amending act Article 11 – paragraph 1 – point (b)(ii)

Council position

(ii) if no embarkation time is stipulated,

Amendment

(ii) if no embarkation time is stipulated,

no later than **60** minutes before the published departure time.

no later than **30** minutes before the published departure time.

Justification

This amendment restores Parliament's first reading position.

Amendment 44

Council position – amending act

Article 11 – paragraph 1 – point (b) (ii a) (new)

Council position

Amendment

(iia) 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

This amendment aims to reintroduce Parliament's first reading.

Amendment 45

Council position – amending act

Article 11 – paragraph 1 – point b a (new)

Council position

Amendment

(ba) In relation to cruise ships, disabled persons or persons with reduced mobility shall notify the carrier of their specific needs at the time of reservation or advance purchase.

Justification

If cruise operators, are not allowed to ask or oblige passengers to provide information which will allow them to provide for their needs this can result in disappointment with the cruise or worse still a dangerous situation from a health and safety perspective.

Amendment 46

Council position – amending act

Article 11 – paragraph 2

Council position

Amendment

2. In addition to paragraph 1, disabled

2. In addition to paragraph 1, disabled

persons or persons with reduced mobility shall notify the carrier, at the time of reservation or advance purchase of the ticket, of their specific needs with regard to accommodation *or* seating or their need to bring medical equipment, provided the need is known at that time.

persons or persons with reduced mobility shall notify the carrier, at the time of reservation or advance purchase of the ticket, of their specific needs with regard to accommodation, seating *or services required* or their need to bring medical equipment, provided the need is known at that time.

Justification

In the case of cruises it is vital that information on the assistance provided be available at the time of booking, also information on services offered and required such as excursions on land which form part of the itinerary. Only in this way can the question of whether and, where appropriate, how assistance can be provided be clarified in due time, as a precondition for making the decision to purchase.

Amendment 47

Council position – amending act Article 11 – paragraph 3

Council position

3. A notification made in accordance with paragraphs 1(a) and 2 may always be submitted to the travel agent or the tour operator with which the ticket was purchased. Where the ticket permits multiple journeys, one notification shall be sufficient provided that adequate information on the timing of subsequent journeys is provided.

Amendment

3. A notification made in accordance with paragraphs 1(a) and 2 may always be submitted to the travel agent or the tour operator with which the ticket was purchased. Where the ticket permits multiple journeys, one notification shall be sufficient provided that adequate information on the timing of subsequent journeys is provided. ***The passenger shall receive a confirmation stating that the assistance needs have been notified as required.***

Justification

It is important that passengers be safe in the knowledge that their assistance needs have been notified in this case.

Amendment 48

Council position – amending act Article 12 – paragraph 1

Council position

1. Carriers, terminal operators, travel

Amendment

1. Carriers, terminal operators, travel

agents and tour operators shall take all measures necessary for the reception of notifications made in accordance with Article 11(1)(a) and 11(2). That obligation shall apply at all their points of sale, including sale by telephone and over the Internet.

agents and tour operators shall take all measures necessary for the **request and** reception of notifications made in accordance with Article 11(1)(a) and 11(2). That obligation shall apply at all their points of sale, including sale by telephone and over the Internet.

Justification

It is important that procedures are put in place for the reception of notifications by passengers.

Amendment 49

**Council position – amending act
Article 13 – paragraph 1**

Council position

1. Terminal operators and carriers ***operating port terminals or passenger services with a total of more than 100 000 commercial passenger movements during the previous calendar year*** shall, within their respective areas of competence, set quality standards for the assistance specified in Annexes II and III and shall, where appropriate through their organisations, determine resource requirements for meeting those standards, in cooperation with organisations representative of disabled persons and persons with reduced mobility.

Amendment

1. Terminal operators and carriers shall, within their respective areas of competence, set quality standards for the assistance specified in Annexes II and III and shall, where appropriate through their organisations, determine resource requirements for meeting those standards, in cooperation with organisations representative of disabled persons and persons with reduced mobility.

Justification

The Rapporteur disagrees with the limit set by Council in its Common Position and therefore restores the Commission/Parliament position. The Rapporteur agrees with Council that terminal operators should also set quality standards.

Amendment 50

**Council position – amending act
Article 13 – paragraph 1 a (new)**

Council position

Amendment

1a. 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 of the Design and Operation of passenger ships to respond to elderly and disabled persons' needs.

Justification

This amendment aims to reintroduce Parliament's first reading.

Amendment 51

**Council position – amending act
Article 15 – paragraph 4**

Council position

4. Moreover, every effort shall be undertaken to rapidly provide temporary replacement equipment.

Amendment

4. Moreover, every effort shall be undertaken to rapidly provide ***suitable*** temporary replacement equipment.

Justification

Important clarification as the obligation to provide temporary replacement for lost or damaged equipment should also take in consideration the needs of the person.

Amendment 52

**Council position – amending act
Article 16 – paragraph 1**

Council position

1. In the case of a cancellation or a delay in departure of a passenger service or a cruise, passengers ***departing from port terminals*** shall be informed by the carrier or, where appropriate, by the terminal operator, of the situation as soon as possible and in any event no later than 30 minutes after the scheduled time of departure, and of the estimated departure time and estimated arrival time as soon as this information is available.

Amendment

1. In the case of a cancellation or a delay in departure of a passenger service or a cruise, passengers shall be informed by the carrier or, where appropriate, by the terminal operator, of the situation as soon as possible and in any event no later than 30 minutes after the scheduled time of departure, and of the estimated departure time and estimated arrival time as soon as this information is available.

Amendment 53

Council position – amending act
Article 17 – paragraph 1

Council position

1. Where a carrier reasonably expects the departure of a passenger service or a cruise to be cancelled or delayed for more than **120 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.

Amendment

1. Where a carrier reasonably expects the departure of a passenger service or a cruise to be cancelled or delayed for more than **60 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.

Justification

This amendment aims to reintroduce Parliament's first reading.

Amendment 54

Council position – amending act
Article 17 – paragraph 2

Council position

2. In the case of a cancellation or a delay in departure 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, the carrier shall offer passengers departing from port terminals adequate accommodation free of charge on board, or ashore, and transport to and from the port terminal and place of accommodation in addition to the snacks, meals or refreshments provided for in paragraph 1. 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 120.

Amendment

2. In the case of a cancellation or a delay in departure 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, the carrier shall offer passengers departing from port terminals adequate accommodation free of charge on board, or ashore, and transport to and from the port terminal and place of accommodation in addition to the snacks, meals or refreshments provided for in paragraph 1. 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 120 **per night**.

Amendment 55

Council position – amending act Article 18 – paragraph 1 – introductory part

Council position

Where a carrier reasonably expects a passenger service to be cancelled or delayed in departure from a port terminal for more than **120** minutes, the passenger shall immediately be offered the choice between:

Amendment

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:

Justification

90 minutes is a significant delay and this is therefore preferable to 120 minutes.

Amendment 56

Council position – amending act Article 18 – paragraph 1 – point a

Council position

(a) re-routing to the final destination, under comparable conditions, as set out in the transport contract, at the earliest opportunity;

Amendment

(a) re-routing to the final destination, under comparable conditions, as set out in the transport contract, at the earliest opportunity **and at no additional cost**;

Amendment 57

Council position – amending act Article 18 – paragraph 2

Council position

2. Where a passenger service is cancelled or delayed in departure from a port for more than **120 minutes**, passengers shall have the right **of** such re-routing or reimbursement of the ticket price from the carrier.

Amendment

2. Where a passenger service is cancelled or delayed in departure from a port for more than **90 minutes**, passengers shall have the right **to choose** such re-routing or reimbursement of the ticket price from the carrier.

Amendment 58

Council position – amending act

Article 18 – paragraph 3

Council position

3. The payment of the reimbursement provided for in paragraphs 1(b) and 2 shall be made within seven days, in cash, by electronic bank transfer, bank order or bank cheque of the full cost of the ticket at the price at which it was purchased, for the part or parts of the journey not made, and for the part or parts already made if the journey no longer serves any purpose in relation to the passenger's original travel plan.

Amendment

3. The payment of the reimbursement provided for in paragraphs 1(b) and 2 shall be made within seven days, in cash, by electronic bank transfer, bank order or bank cheque of the full cost of the ticket at the price at which it was purchased, for the part or parts of the journey not made, and for the part or parts already made if the journey no longer serves any purpose in relation to the passenger's original travel plan. ***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.***

Justification

Aims to bring the text in line with the provisions of this Regulation regarding compensation.

Amendment 59

Council position – amending act

Article 19 – paragraph 1 – introductory part

Council position

Without losing the right to transport, passengers may request compensation from the carrier if they are facing a delay in arrival at the final destination as set out in the transport contract. The minimum level of compensation shall be **25%** of the ticket price for a delay of at least:

Amendment

Without losing the right to transport, passengers may request compensation from the carrier if they are facing a delay in arrival at the final destination as set out in the transport contract. The minimum level of compensation shall be **50%** of the ticket price for a delay of at least:

Amendment 60

Council position – amending act Article 19 – paragraph 1 – last sentence

Council position

If the delay exceeds double the time set out in points (a) to (d), the compensation shall be **50 %** of the ticket price.

Amendment

If the delay exceeds double the time set out in points (a) to (d), the compensation shall be **75 %** of the ticket price.

Justification

There is not a sufficient difference between 25% and 50% for this to act as a proper disincentive and the Rapporteur therefore argues that the compensation level should be increased.

Amendment 61

Council position – amending act Article 19 – paragraph 1 a (new)

Council position

Amendment

1a. Compensation shall be 100% of the ticket price if the carrier fails to provide alternative services or the information referred to in Article 18(1)(a).

Justification

This amendment aims to reintroduce Parliament's first reading.

Amendment 62

Council position – amending act Article 19 – paragraph 6

Council position

Amendment

6. The compensation of the ticket price shall not be reduced by financial transaction costs such as fees, telephone costs or stamps. Carriers may introduce a minimum threshold under which payments for compensation will not be paid. This threshold shall not exceed **EUR 10**.

6. The compensation of the ticket price shall not be reduced by financial transaction costs such as fees, telephone costs or stamps. Carriers may introduce a minimum threshold under which payments for compensation will not be paid. This threshold shall not exceed **EUR 4**.

Justification

Passenger rights should be coherent across all sectors and the Rapporteur does not accept the distinction the Council has introduced with the rail sector and therefore proposes this amendment.

Amendment 63

Council position – amending act Article 20 – paragraph 2

Council position

2. Articles 17 and 19 shall not apply 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.

Amendment

2. Articles 17 and 19 shall not apply if the passenger is **reliably** 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.

Amendment 64

Council position – amending act Article 20 – paragraph 3

Council position

3. Article 17(2) shall not apply where the cancellation or delay is caused by weather conditions endangering the safe operation of the ship.

Amendment

3. Article 17(2) shall not apply where the **carrier can prove that the** cancellation or delay is caused by weather conditions endangering the safe operation of the ship.

Justification

The purpose of this amendment is to make clear that this Regulation is coherent with that on aviation passenger rights: the burden of proof should be on the carrier in the event of an exception.

Amendment 65

Council position – amending act Article 20 – paragraph 4

Council position

4. Article 19 shall not apply where 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

Amendment

4. Article 19 shall not apply where the **carrier can prove 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

measures had been taken.

even if all reasonable measures had been taken.

Justification

The purpose of this amendment is to make clear that this Regulation is coherent with that on aviation passenger rights: the burden of proof should be on the carrier in the event of an exception.

Amendment 66

Council position – amending act Article 22

Council position

Carriers and terminal operators shall, within their respective areas of competence, provide passengers with adequate information throughout their travel in **accessible formats** 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.

Amendment

Carriers and terminal operators shall, within their respective areas of competence, provide passengers with adequate information throughout their travel in **formats which are accessible to everybody** and in the same languages as those in which information is generally made available to all passengers. **This information shall be provided according to a common conceptual model for public transport data and systems.** Particular attention shall be paid to the needs of disabled persons and persons with reduced mobility.

Justification

The purpose of this amendment is to constitute a legal base to build up interoperable, intermodal passenger information and ticketing systems. It would create an equivalent provision to that which already exists in the Rail Passenger Rights Regulation 1371/2007 (Article 10 on travel information and reservations systems).

Amendment 67

Council position – amending act Article 23 – paragraph 1

Council position

1. Carriers and terminal operators shall, within their respective areas of competence, ensure that information on the rights of passengers under this Regulation is publicly available on board ships and in

Amendment

1. Carriers, **port authorities** and terminal operators shall, within their respective areas of competence, ensure that information on the rights of passengers under this Regulation is publicly available

port terminals. The information shall be provided in accessible formats 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 disabled persons and persons with reduced mobility.

on board ships, **in ports** and in port terminals. The information shall be provided in accessible formats 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 disabled persons and persons with reduced mobility.

Justification

Information on the provisions within this Regulation should be provided at all points covered by it.

Amendment 68

Council position – amending act Article 23 – paragraph 2

Council position

2. In order to comply with the information requirement referred to in paragraph 1, carriers and terminal operators may use a summary of the provisions of this Regulation prepared by the Commission in all the official languages of the institutions of the European Union and made available to them.

Amendment

2. In order to comply with the information requirement referred to in paragraph 1, carriers, **port authorities** and terminal operators may use a summary of the provisions of this Regulation prepared by the Commission in all the official languages of the institutions of the European Union and made available to them.

Amendment 69

Council position – amending act Article 23 – paragraph 3

Council position

3. Carriers and terminal operators shall inform passengers in an appropriate manner on board ships and in port terminals, of the contact details of the enforcement body designated by the Member State pursuant to Article 25(1).

Amendment

3. Carriers, **port authorities** and terminal operators shall inform passengers in an appropriate manner on board ships, **in ports** and in port terminals, of the contact details of the enforcement body designated by the Member State pursuant to Article 25(1).

Amendment 70

Council position – amending act

Article 24 – paragraph 1

Council position

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

Amendment

1. Carriers ***and terminal operators*** shall set up or have in place ***independent*** complaint handling ***mechanisms in accessible formats and the customary languages*** for rights and obligations covered by this Regulation. ***Particular attention shall be paid to the needs of persons with disabilities and persons with reduced mobility.***

Justification

This amendment aims to reintroduce Parliament's first reading.

Amendment 71

Council position – amending act

Article 24 – paragraph 2

Council position

2. If a passenger ***covered by this Regulation*** wants to make a complaint to the carrier, he shall submit it within two months from the date on which the service was performed or when a service should have been performed. Within one month of receiving the complaint, the carrier shall give notice to the passenger that his complaint has been substantiated, rejected or is still being considered. The time taken to provide the final reply shall not be longer than ***three months*** from the receipt of a complaint.

Amendment

2. If a passenger wants to make a complaint to the carrier ***or terminal operator concerning the rights and obligations covered by this Regulation***, he shall submit it within two months from the date on which the service was performed or when a service should have been performed. Within one month of receiving the complaint, the carrier ***or terminal operator*** shall give notice to the passenger that his complaint has been substantiated, rejected or is still being considered. The time taken to provide the final reply shall not be longer than ***two months*** from the receipt of a complaint.

Justification

Terminal operators have an important role to play and should also have a complaint handling mechanism. Passengers should be able to reasonably expect a reply within two, rather than three, months.

Amendment 72

Council position – amending act Article 24 – paragraph 2 a (new)

Council position

Amendment

2a. If no reply is received within the time limits set out in paragraph 2, the complaint shall be deemed to have been accepted.

Justification

This Rapporteur is seeking to restore Parliament's first reading position which provides a powerful incentive to deal with complaints in a timely manner.

Amendment 73

Council position – amending act Article 25 – paragraph 1

Council position

Amendment

1. Each Member State shall designate a new or existing body or bodies responsible for the enforcement of this Regulation as regards passenger services and cruises from ports situated on its territory and passenger services from a third country to such ports. Each body shall take the measures necessary to ensure compliance with this Regulation.

Each body shall, in its organisation, funding decisions, legal structure and decision-making, be independent of ***carriers, tour operators and terminal operators.***

1. Each Member State shall designate a new or existing body or bodies responsible for the enforcement of this Regulation as regards passenger services and cruises from ports situated on its territory and passenger services from a third country to such ports. Each body shall take the measures necessary to ensure compliance with this Regulation.

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

Justification

This amendment restores Parliament's first reading position as 'commercial interests' is preferable to a limited list.

Amendment 74

Council position – amending act Article 25 – paragraph 3 – point a

Council position

(a) that the passenger as a first step shall submit the complaint covered by this Regulation to the carrier; and/or

Amendment

(a) that the passenger as a first step shall submit the complaint covered by this Regulation to the carrier **or terminal operator**; and/or

Justification

Terminal operators have an important role to play and should also have a complaint handling mechanism.

Amendment 75

Council position – amending act Article 26 – paragraph 1

Council position

On 1 June ... and every two years thereafter, the enforcement bodies designated pursuant to Article 25 shall publish a report on their activity in the previous two calendar years, containing in particular a description of actions taken in order to implement the provisions of this Regulation, details of sanctions applied and statistics on complaints and sanctions applied.

Amendment

1. On 1 June ... and every two years thereafter, the enforcement bodies designated pursuant to Article 25 shall publish a report on their activity in the previous two calendar years, containing in particular a description of actions taken in order to implement the provisions of this Regulation, details of sanctions applied and statistics on complaints, **including on their outcome and resolution timescales**, and sanctions applied.

Justification

It is important that passengers have visibility on the complaint process, including on the timescale.

Amendment 76

Council position – amending act Article 26 – paragraph 1 a (new)

Council position

Amendment

1a. In order to be able to draft such a report, enforcement bodies shall keep statistics on individual complaints,

according to the subject matter and the companies concerned. Such data shall be made available on request to the Commission or to the national investigative authorities up to three years after the date of the incident.

Justification

It is important that passengers have visibility on the complaint process, including on the timescale.

Amendment 77

**Council position – amending act
Article 27**

Council position

National enforcement bodies referred to in Article 25(1) shall, *whenever appropriate*, exchange information on their work and decision-making principles and practice. The Commission shall support them in this task.

Amendment

National enforcement bodies referred to in Article 25(1) shall exchange information on their work and decision-making principles and practice. The Commission shall support them in this task.

Justification

Clarification amendment.

Amendment 78

**Council position – amending act
Article 31 – subparagraph 2**

Council position

It shall apply from.⁺

⁺ OJ: 36 months after the date of publication of this Regulation.

Amendment

It shall apply from.⁺

⁺ OJ: 12 months after the date of publication of this Regulation.

Amendment 79

**Council position – amending act
Annex 1 – paragraph 2**

Council position

2. Paragraph 1(a) shall also apply to

Amendment

2. Paragraph 1(a) shall also apply to

passengers whose journeys form part of a package, except for the right to reimbursement where such a right arises under Directive 90/314/EEC.

passengers whose journeys form part of a package *and/or a cruise*, except for the right to reimbursement where such a right arises under Directive 90/314/EEC.

Amendment 80

Council position – amending act Annex II – paragraph 1 – indent 1

Council position

– communicate their arrival at a port *terminal* and their request for assistance,

Amendment

– communicate their arrival at a port and their request for assistance,

Justification

For clarification.

Amendment 81

Council position – amending act Annex II – paragraph 4

Council position

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

Amendment

4. Temporary replacement of damaged or lost mobility equipment *with equivalent equipment.*

Justification

Passengers should be provided with equivalent replacement equipment.