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**A7-0177/2010**

10.6.2010

**\*\*\*II**

## **DRAFT RECOMMENDATION FOR SECOND READING**

on the Council position at first reading for adopting a regulation of the European Parliament and of the Council concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC)N°2006/2004 (14849/3/2009 – C7-0076/2010 – 2008/0246(COD))

Committee on Transport and Tourism

Rapporteur: Inés Ayala Sender

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

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

### ***Amendments to a draft act***

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* alerts the relevant departments to parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act which the draft act seeks to amend includes a third and fourth line identifying respectively the existing act and the provision in that act affected by the amendment. Passages in a provision of an existing act that Parliament wishes to amend, but the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...].

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the Council position at first reading for adopting a regulation of the European Parliament and of the Council on Parliament and of the Council concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC)N°2006/2004 (14849/3/2009 – C7-0076/2010 – 2008/0246(COD))  
(Ordinary legislative procedure: second reading)**

*The European Parliament,*

- having regard to the Council position at first reading (14849/3/2009 – C7-0076/2010),
  - having regard to the Commission proposal to 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 its position at first reading<sup>1</sup>,
  - having regard to the Commission Communication to Parliament and the Council entitled 'Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures '(COM(2009)0665),
  - having regard to Article 294(7) and Articles 91(1) and 100(2) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the Economic and Social Committee of 16 July 2009,
  - after consulting the Committee of Regions,
  - having regard to Rule 66 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on Transport and Tourism (A7-0177/2010),
1. Adopts its position at second reading hereinafter set out;
  2. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>1</sup> Texts adopted, 23.4.2009, P7\_T6(2009)0280.

## Amendment 1

### Council position – amending act Recital 5

#### *Council position*

(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.

#### *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, 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***,

#### *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

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.

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 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.

(12) Weather conditions ***and natural 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 and persons with reduced mobility, carriers

*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.

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.

(16) Passengers should be fully informed of their rights under this Regulation ***in formats which are accessible to***

Rights of passengers should include the receipt of information regarding the passenger service or cruise before and during the journey. All essential information provided to passengers should also be provided in formats accessible to disabled persons and persons with reduced mobility.

*everybody*, 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 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 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.***

*Justification*

**Amendment 14**

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

*Council position*

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;

*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 **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**  
**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**

*Amendment*

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

passengers;

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*

*Amendment*

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

***deleted***

*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*

*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 *adequately* guaranteed under national law.**

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**

<i>Council position</i>	<i>Amendment</i>
<b><i>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.</i></b>	<b><i>deleted</i></b>

*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**

<i>Council position</i>	<i>Amendment</i>
(d) "carrier" means a natural or legal person offering transport by passenger services or cruises to the general public;	(d) "carrier" means a natural or legal person, <b><i>other than a tour operator, travel agent or ticket vendor</i></b> , offering transport by passenger services or cruises to the general public;

**Amendment 21**

**Council position – amending act  
Article 3 – point k**

<i>Council position</i>	<i>Amendment</i>
(k) "port terminal" means a terminal, <b><i>staffed by a carrier or a terminal operator</i></b> ,	(k) "port terminal" means a terminal in a port with facilities, such as check- in, ticket

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;

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***.

*Justification*

**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 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.

#### *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 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 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.

*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. **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

*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,

conditions for the transport of disabled persons and persons with reduced mobility.

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

*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.

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 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.

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

*Amendment*

(ii) if no embarkation time is stipulated, 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 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.

(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, 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 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.

###### *Amendment*

1. Carriers, terminal operators, travel 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

*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.

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

#### *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.

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

#### *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 **25%** of the ticket price for a delay of at least:

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*

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**.

#### *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 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 measures had been taken.

###### *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 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 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.

*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 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

*Amendment*

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.

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*

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**.

*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 **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*

***I.*** 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.<sup>+</sup>

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<sup>+</sup> OJ: **36** months after the date of publication of this Regulation.

*Amendment*

It shall apply from.<sup>+</sup>

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<sup>+</sup> 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 passengers whose journeys form part of a package, except for the right to

*Amendment*

2. Paragraph 1(a) shall also apply to passengers whose journeys form part of a package ***and/or a cruise***, except for the

reimbursement where such a right arises under Directive 90/314/EEC.

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.*

## EXPLANATORY STATEMENT

### Background of the Proposal

This proposal, alongside one on the rights of bus and coach passengers, is part of a package put forward by the European Commission in December 2008. These proposals seek to build on the rights gained by air and rail travellers under existing EU legislation - an example of very successful EU law-making which has brought tangible rights for citizens of the Union - by extending similar rights, taking account of the specificities of the sectors concerned, to maritime and inland waterway transport.

### Council Common Position

The Rapporteur welcomes the Council's common position and notes that it takes on board and develops, notably on exceptional circumstances, many of the Parliament's first reading amendments. The full political agreement is not too dissimilar from the EP's first reading but there are several important differences, including:

- Parliament had maintained the Commission's 12 passenger limit but Council excludes ships with not more than 36 passengers. Also excluded are ships with not more than three crew members, passenger services over a distance of less than 500 meters one way as well as excursion and sightseeing tours other than cruises.
- The Council seeks to delay the entry into force of the Regulation and also provides for an additional two-year exemption for sea-going ships of less than 300 gross tons operated in domestic transport.
- Council has made important revisions to the Articles on assistance, re-rerouting, reimbursement and compensation.
- Council has introduced a minimum threshold beyond which compensation would not be paid. This 40€ ticket price threshold excludes many journeys.
- Council has introduced the notion of "port terminals" in the text which necessitates particular attention.
- In Article 13, Council has proposed a threshold of 100 000 passenger movements per calendar year as the minimum required for the obligation of setting quality standards for assistance.

### Rapporteur's Draft Second Reading Report

The Rapporteur feels that the Council's common position is constructive, though important differences between the institutions remain. The Rapporteur has put forward a number of amendments to the text in order to reflect the position of the Parliament in first reading and in the hope of reaching a second reading agreement with Council as part of this package, rather than in conciliation:

- The Rapporteur has restored the Commission's original 12 passenger limit, which was endorsed by the Parliament in first reading, though considers the exceptions on 500 meters, excursion and sightseeing to be useful.
- In Article 19, paragraph 6, the threshold of 10€ (and thus a 40€ ticket price) has been amended to ensure this Regulation is in line with that for rail passengers (4€ and 16€).
- The responsibility for proving that a ship was unable to travel due to exceptional circumstances or dangerous weather must clearly be borne by the carrier and the Rapporteur has put forward a number of amendments to reflect this.
- The system of complaints must be accessible and clear for passengers. It should also include terminal operators and the Rapporteur has put forward a number of amendments in this regard.
- The Rapporteur is particularly concerned that the rights of disabled passengers and those with reduced mobility be robust within this Regulation. Several amendments, notably on accessible formats, exceptions to the right to travel, notification periods and reasons for refusal are therefore proposed.
- The Rapporteur feels that the legislators need to be particularly careful in ensuring that elements of this Regulation are not used to provide excuses for inaction and therefore proposes deleting Article 2, paragraph 5 from the text which appears unnecessary.
- Provisions on complaint timing, notification delays, presentation time, replacement equipment and compensation have also been reinforced from the perspective of the passenger.

## PROCEDURE

<b>Title</b>	Rights of passengers when travelling by sea and inland waterway
<b>References</b>	14849/3/2009 – C7-0076/2010 – 2008/0246(COD)
<b>Date of Parliament's first reading – P number</b>	23.4.2009                      T6-0280/2009
<b>Commission proposal</b>	COM(2008)0816 - C6-0476/2008
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<b>Committee responsible</b> Date announced in plenary	TRAN 25.3.2010
<b>Rapporteur(s)</b> Date appointed	Inés Ayala Sender 8.12.2008
<b>Discussed in committee</b>	1.12.2009                      3.5.2010                      31.5.2010
<b>Date adopted</b>	1.6.2010
<b>Result of final vote</b>	+:                      24 -:                      1 0:                      17
<b>Members present for the final vote</b>	Inés Ayala Sender, Georges Bach, Izaskun Bilbao Barandica, Antonio Cancian, Michael Cramer, Ryszard Czarnecki, Luis de Grandes Pascual, Christine De Veyrac, Saïd El Khadraoui, Ismail Ertug, Carlo Fidanza, Knut Fleckenstein, Jacqueline Foster, Mathieu Grosch, Juozas Imbrasas, Ville Itälä, Dieter-Lebrecht Koch, Georgios Koumoutsakos, Werner Kuhn, Jörg Leichtfried, Eva Lichtenberger, Marian-Jean Marinescu, Gesine Meissner, Vilja Savisaar, Olga Sehnalová, Debora Serracchiani, Brian Simpson, Dirk Sterckx, Silvia-Adriana Ţicău, Thomas Ulmer, Peter van Dalen, Dominique Vlasto, Roberts Zīle
<b>Substitute(s) present for the final vote</b>	Jean-Paul Basset, Spyros Danellis, Jelko Kacin, Gilles Pargneaux, Dominique Riquet, Alfreds Rubiks, Salvatore Tatarella, Sabine Wils, Corien Wortmann-Kool