



25.3.2010

NOTICE TO MEMBERS

Subject: Petition 1438/2009 by Mr David Buckle (British), on behalf of the British Lung Foundation, on alleged obstacles to access to air travel for people with a lung condition

1. Summary of petition

The petitioner maintains that several international airlines restrict access to air travel for people with a lung condition who require supplementary oxygen during flights. According to the petitioner, the majority of the EU based airlines do not allow these persons to carry their own portable oxygen supplies on board and charge them exorbitant amounts for the use of the supplementary oxygen that the airlines provide. He considers that these additional charges are discriminatory and constitute a breach of EC Regulation No. 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air. He asks the European Parliament and the European Commission to take the necessary steps in order to have EU-based airlines end this discriminatory treatment.

2. Admissibility

Declared admissible on 14 January 2009. Information requested from Commission under Rule 202(6).

3. Commission reply, received on 25 March 2010.

The petitioner points out the difficulties of access to air transport for passengers who require supplementary oxygen on board aircrafts as they encounter various situations across the EU. Some air carriers allow such passengers to carry their own oxygen, but some other carriers deny this possibility and impose the use of their own oxygen which, in some cases, is subject to payment. Even the amount charged by air carriers varies from one to another. This situation may be considered as discriminatory.

The provision of supplementary oxygen aboard aircraft is a sensitive issue of which the Commission is aware, as stated by Vice-President Tajani in various answers to EP questions and in particular in his answer to MEP Malcom Harbour Written Question E 3760/2009¹.

For airlines, the issue of providing onboard oxygen to passengers suffering from a specific disease is closely linked to safety, as oxygen or devices providing it may be considered as dangerous goods inside aircraft. Today, there is no specific EU rule that would explicitly cover the carriage of devices providing oxygen onboard, but under IATA's technical specifications, airlines may deny carriage of such material on board their aircraft if it is deemed unsafe.

Indeed, Regulation (EEC) No 3922/91 mandates airlines to ensure safe operations, including respecting certain requirements for the transport of dangerous goods and avoiding electronic interferences.

From a safety point of view it remains difficult to control the content and quality of oxygen bottles or devices brought by passengers. Therefore, airlines may prefer to provide the necessary oxygen.

If, for safety reasons only, an airline refuses to carry passengers' oxygen devices onboard and prefers providing oxygen from its own devices, this could be considered as a service provided. In this case, the airline may wish to charge for this service, as it implies a cost.

If, on the contrary, an airline accepts the carriage and use of passengers' oxygen devices onboard aircrafts, then Regulation (EC) No 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air shall apply. In such a situation, Article 10, linked to Annex II, of the Regulation states that the transport of medical equipment shall be done without additional charge.

Conclusion

A uniform legal regime in force across the EU concerning access on board aircrafts to people who require supplementary oxygen does not exist. Regulation (EC) 1107/2006 offers a real protection to these passengers when air carriers allow them to carry their own oxygen on board; however, the Regulation does not cover cases when air carriers decide, for safety reasons, to provide passengers with oxygen themselves. Differences of treatment might then arise in practice.

Improving the service for passengers who need to use oxygen on board aircraft is a complex issue linked to aviation safety rules which will be assessed in the framework of the report on the operation and the effects of Regulation 1107/2006, foreseen for 2010, and with the involvement of the competent committee of the Parliament.

¹ <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2009-3760&language=PL>