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# The Cost of Non-Europe in the Single Market in Transport and Tourism

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## III - Tourism policy and passenger rights

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STUDY

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EPRS | European Parliamentary Research Service

**European Added Value Unit**

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# **The Cost of Non Europe in Transport and Tourism**

In May 2013 the European Parliament's Committee on Transport and Tourism (TRAN) requested a Cost of Non-Europe Report in the fields of transport and tourism. Cost of Non-Europe Reports are intended to evaluate the possibilities for economic or other gains and/or the realisation of a 'public good' through common action at EU level in specific policy areas and sectors.

In response to TRAN's request, the European Added Value Unit of the European Parliamentary Research Service (EPRS) has produced this Cost of Non-Europe Report, which seeks to analyse the costs for citizens, businesses and relevant stake-holders of remaining gaps and barriers in the Single Market in transports, as well as to examine the benefits from further action in the tourism sector. In doing so, the report focuses on those areas where liberalization has not been completed or where markets are not functioning effectively. For transports, the four major transport modes - road, railways, sky and maritime transports - as well as some cross-sectoral issues such as passenger rights are looked at. The analysis of the tourism sector concentrates on areas with biggest potential gains.

In addition to a general paper bringing together the research findings as a whole, the exercise comprises three studies commissioned from outside experts, which are published as separate documents:

## **I Cost of Non-Europe in Road Transport and Railways**

*Study by Steer Davies Gleave*

The study - the first in a series- focuses on the potential benefits of completing the Single Market in the rail and road sectors. Firstly, it seeks to review how policy has evolved in the two sectors in recent years and identify what is still missing. Secondly, the study evaluates in qualitative and quantitative terms the impact of filling the remaining gaps in legislation in order to calculate the "cost of non-Europe". In doing so, it looks at both the short- and long term benefits.

## II **Cost of Non-Europe in Air and Maritime Transport**

*Study by MCRIT, OIVA and T33*

The study - the second in a series- reviews European air and water transport policy and regulation, and identifies areas, where further legislative action is necessary to complete the Single Market in these sectors. In addition, the paper looks at the impact of the completion of the Single market in relation to intercontinental transport. Based on that, it quantifies the “Cost of non-Europe” by giving an estimate of the net benefits that rebalancing European intercontinental gateways, which would stem from the completion of the Single Market in these air and maritime transport areas, would produce for the whole European economy..

## III **Cost of Non-Europe in Tourism policy and Passenger Rights**

*Study by Richard Weston et al.*

This study looks at the cost of non-Europe in European tourism policy and passenger rights legislation. For passenger rights, it analyses existing legislation and policy measures, identifying specific gaps where legislation or further initiatives at European level could be beneficial. In the tourism area, it quantifies in economic terms the potential for efficiency gains and identifies the main areas, in which EU action would further support the development of tourism and help realise the potential gains identified.

# **Cost of Non-Europe in the Single Market in Transport and Tourism**

**- III -**

## **Tourism policy and passenger rights**

**Study  
by Richard Weston et al.**

### **Abstract**

This study looks at the cost of non-Europe in European tourism policy and passenger rights legislation. It analyses existing legislation and policy measures, identifying specific gaps where legislation or further initiatives at European level could be beneficial. Where feasible, it attempts to quantify the potential gains in economic terms.

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## List of abbreviations

ADR	Alternative Dispute Resolution
BRIC	Brazil, Russia, India, China
CIV	International Convention for the transportation of Passengers
CIP	Competitiveness and Innovation Framework Programme
EC	European Commission
ECC	European Consumer Centre
ECJ	European Court of Justice
EDEN	European Destinations of Excellence
EDF	European Disability Forum
EP	European Parliament
EU	European Union
GDP	Gross Domestic Product
HKX	Hamburg-Köln-Express
ICT	Iron Curtain Trail
MINT	Mexico, Indonesia, Nigeria, Turkey
NEB	National Enforcement Body
PKP	Polish National Railway
PRM	Persons with Reduced Mobility
RPA	Risk and Policy Analysts
SME	Small Medium Enterprise
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
UNWTO	United Nations World Tourism Organisation

## **Executive summary**

### **Background**

This research note considers the question of 'gaps' in European tourism policy and passenger rights legislation. The note analyses existing legislation and policy measures, identifying specific gaps where legislation or further initiatives at European level could be beneficial and attempts to quantify the costs, where feasible.

### **Tourism Policy**

Whilst formal European Union tourism policy is still in evolution it has been impacting on tourism development through other policy recognising the importance of the industry to the European economy. Over the next two decades Europe will face increasing competition as well as new opportunities, as the other regions feel the benefit of increasing wealth, whilst their own tourism infrastructure develops attracting an increasing share of the global market. Europe will need to focus on what it does best and makes it unique, such as its cultural and natural heritage, if it is to maintain its position as the world's number 1 tourism destination.

### **Passenger Rights**

There are significant modal variations in the implementation of EU passenger rights. Partly because of the duration since the introduction of the legislation for each of the mode, partly due to existing levels of national legislation beforehand and partly due to differences in the operation of National Enforcement Bodies. Greater uniformity and cooperation between these would improve this situation.

There is the significant lack of awareness of passenger rights amongst travellers. Currently too few passengers are aware of their rights under EU or national legislation, and it is viewed as a secondary matter when making travel choices. Although there is a positive appraisal overall of the rights legislation and agreement between passenger groups and operators over the enhanced protection of passengers, there are significant variations in impact by mode, nation, scale and context.

Protection needs to be enhanced in the case of multiple tickets for long-distance travel and intermodal travel.

### **The cost of non-Europe**

For the tourism industry it is estimated that the total cost of non-Europe still to be realised under current policy and related legislation is between €34.9 and €46.6 billion. A further €8.3 to €9.7 billion could be achieved through the implementation of further measures to increase economic efficiency and competitiveness. This would give an increase of between 3.2 and 4.2 percent, or between €43.2 and €56.4 billion.

There are four areas in which EU action would further support the development of tourism and help realise the potential gains identified:

- 1. Developing quality sustainable tourism**
- 2. Supporting the development of SMEs**
- 3. Harmonising the accommodation classification systems**
- 4. Promote the development of 'slow travel'**

Many of these initiatives overlap as they target more than one goal supporting the development of SMEs, tourism in rural areas and sustainability (environmental, social and economic).

### **Passenger rights**

Passenger rights legislation for air, rail, waterborne and bus and coach transport has been enacted over the last decade. Consultation with a number of stakeholder organisations including both operator and passenger organisations was undertaken alongside a review of previous studies. Common themes which emerged included a need for greater clarification of some elements of the legislation, especially in terms of operator's liabilities and defining 'force-majeure'.

A many of the consultees felt that the majority of passengers do not know of the existence of their rights or at the very least, are unsure. There is a general feeling that awareness raising measures are an important part of EU policy at present. One of the common issues was a general lack of consistency, particularly between member states, in implementing and enforcing the rights. Specifically, further investigation into how the impacts of the legislation vary between modes, national organisational approach, operator, scale and context, is required.

Areas where EU passenger legislation may be improved:

- 1. Harmonising accessibility standards for people with reduced mobility**
- 2. Further integration of transport modes across Europe**
- 3. Review exemptions given to local rail services**
- 4. Greater information on rights and connections before travelling and assistance at the time of cancellation or delay**

# Chapter 1: Introduction

## I - Background

Since inception one of the principle aims of the European Union (EU) has been economic integration and to this end it has pursued the creation of a single European market. By removing trade barriers between the member states and allowing free movement of the factors of production it was expected that industry would become more efficient increasing productivity and reducing prices to consumers.

Although in many ways the conditions for a single market were in place by 1992 (the Single European Act of 1987 set December 31, 1992 as the deadline for the completion of the measures identified in the 1985 White Paper), in reality several markets still require further liberalisation and integration at a European level.

The European single market has four cornerstones, firstly, and perhaps most importantly, the free movement of people, goods, services and capital; secondly the harmonisation of appropriate laws and regulations across the EU; thirdly, regulation of competition policy at EU level; and finally, the Common Customs Tariff.

This process of integration in passenger transport began in the mid-1980s with the deregulation of airline services and continued with the liberalisation of passenger rail services in the early 1990s. This continued with the harmonisation of passenger rights for air travel in 2004, rail travel in 2007, maritime and inland waterway transport in 2012 and finally coach and bus transport in 2013. Primarily aimed at international travel within Europe, the legislation also applies to some regional domestic services; although it generally excludes urban and suburban services.

Tourism directly generates around 5% of the EU's annual GDP, employing around 5.2% of the total labour force; this is nearer to 10% and 12% respectively when the indirect impact from associated industries is taken into account (European Commission, 2010). The Treaty of Lisbon (2009) introduced a new article (Article 195 TFEU) that enabled the Union to complement actions of Member States in the tourism sector. The previous treaty made little reference to tourism other than that "measures in the sphere of tourism" are foreseen (Article 3(1)(u) TEC), thus this introduced a legal basis for a new competence. In many countries the tourism industry is highly decentralised with development and marketing taking place at a regional or even local authority level. The new article is thus based on an approach that compliments the principle of subsidiarity. The EU's competence is limited to supporting, coordinating or supplementing the action of Member States, for example improving skills in the tourism sector or developing links between national or regional tourism initiatives. However, it states that the Union shall not harmonise the laws and regulations of Member States, but rather define specific measures aimed at supporting the development of the tourism sector.

Despite the limited nature of the EU competencies in tourism the European Commission has instigated a number of non-legislative initiatives to develop and promote European tourism. These have included programmes such as the EDEN (European Destinations of

Excellence) and European Tourism Quality Principles initiatives supporting the development of a high quality product, and the Calypso and Senior Tourism Initiative to reduce the impacts of seasonality, and in the case of the Calypso initiative it also helps disadvantaged people go on holiday. In addition a number of cross-border projects are co-funded by the Commission; in 2011, 6 projects supporting the development of cycle tourism, in 2012 and 2013, 9 projects promoting or giving visibility to cultural tourism, and in 2014, a further 6 projects supporting the enhancement and promotion of transnational thematic tourism products. One of the 2011 projects is examined in more detail in the second of the two tourism case studies in Chapter 4.

## II – Objectives

This research study principally deals with the question of 'gaps' in **European tourism policy and passenger rights legislation** which could potentially be filled, the benefits of doing so and the potential cost of in-action. It also reflects on **further harmonisation of passenger rights**. The note will analyse existing legislation and policy measures, identify specific gaps where legislation or further initiatives at European level could be beneficial and quantify the costs, where feasible, borne at present by various stakeholders.

In particular, the research paper will address the following questions:

1. What is the current state of play of the European tourism policy, and what gaps can be identified?
2. What are the economic costs incurred due to gaps in the European tourism policy?
3. What benefits can be expected from further European action in tourism?
4. What benefits can be expected from the completion of the Single Market in the field of tourism for Member States.
5. What is the current state of play of the legislation on passenger rights and what benefits can be expected from further harmonisation of passenger rights?

## III - The structure of the report

Although tourism policy and passenger rights are linked, all 'tourists' are 'passengers' for at least their outward and inward journeys, they are treated separately here for clarity and because the level of EU competence and deriving action is different in the two sectors. The EU has a stronger (shared) competence for transport and passenger rights and acts through legislation, whereas under the new competence for tourism policy it has so far acted through initiatives in support and coordination of member state policies. The next chapter looks at EU tourism policy and practice; primarily since the Lisbon Treaty in 2009 but also prior to this when Europe had a less direct role in its development. Chapter 3 examines EU passenger rights legislation, which have been in gestation for longer than tourism policy and so merits a more extensive discussion. The chapter includes feedback from a number of stakeholder organisations who were consulted as part of the study as well as a review of other studies and documents.

The following chapter presents a series of case studies to illustrate the impacts or potential impacts of EU policy and legislation. The first of the two looking at tourism policy considers the potential gains from action in rural tourism whilst the second assesses the role of the EU in cross-border tourism development. The passenger rights studies examine a variety of areas from the right to move and information provision to multi-modal journeys and through ticketing. The fifth chapter considers the cost of non-Europe and is split into two to reflect the themes of the study. The final chapter concludes by bringing together the findings of the study and offering some recommendations for further EU action.

## Chapter 2: Tourism - Policy and practice

### Key findings

- Whilst European Union tourism policy is still in evolution other policies have been influencing tourism development, recognising the importance of the industry to the European economy
- Europe will need to focus on what it does best and makes it unique, such as its cultural and natural heritage to remain the world's No1 tourist destination
- Improving the 'offer' for intra-European tourism is important as attracting new tourists from outside Europe and is likely to be more sustainable in the long-run

### I - Introduction

Despite the recent economic problems experienced by much of the developed world over the last five years global tourism has continued to grow; in 2012 the number of tourism trips grew by 4%, exceeding one billion for the first time (UNWTO, 2013). Europe is the world's number 1 tourism destination, contributing 52% of international tourism arrivals (UNWTO, 2014). In 2013 Europe led growth in absolute terms - 563 million arrivals, +5% - with the best performing regions being Central and Eastern Europe (+7%) and Southern Mediterranean Europe (+6%)(UNWTO, 2014). Over the next 20 years, European tourism is expected to grow steadily and Europe to remain an important if not leading destination worldwide (UNWTO, 2013).

Definitions of tourism have evolved over time. From relatively vague early definitions of travel to foreign countries, a definition was established by Hunziker and Krapf (1941) as: "*the sum of the phenomena and relationships arising from the travel and stay of non-residents, insofar as they do not lead to permanent residence and are not connected with any earning activity.*" The Tourism Society in the 1970s (Beaver, 2002), and the International Association of Scientific Experts in Tourism (1981), developed the definition further based on activities and travel which occur outside home and work. At present the United Nations World Tourism Organisation (UNWTO) definition is the most widely used:

*"Tourism is a social, cultural and economic phenomenon which entails the movement of people to countries or places outside their usual environment for personal or business/professional purposes. These people are called visitors (which may be either tourists or excursionists; residents or non-residents) and tourism has to do with their activities, some of which imply tourism expenditure."*

The exact definition used in any instance will be a question of context; for supra-national organisations the focus attention is more likely to be on international tourism, arrivals, departures and income generated from movements between nations. From a national perspective domestic tourism, including day visits in some cases, is also of importance. Business travel would also be captured within the UNWTO definition, and although this is an important sector for many destinations it is much less discretionary than leisure travel. For example conference venues are at the discretion of businesses, but trips to meet clients are fixed to the location of customer. For this study the focus is on international leisure tourism; for day visits and overnight domestic tourism there is likely to be a significant displacement impact from European tourism initiatives, i.e. any increases in tourism from new development will be matched by a similar or equal reduction in existing tourism elsewhere.

There are also significant differences in the development of tourism across Europe, both between nations and at a sub-national level. Many new member states are still in the early stage of infrastructure development and within some of the older member states away from popular city and coastal destinations tourism would benefit from further investment. It is reasonable to argue that the established city and coastal destinations are already well organised as regards tourism marketing through local professionally run organisations and that travel companies, hotel chains, airlines, etcetera, provide a generally high standard of service to these markets.

It is outside of these areas that EU tourism policy is likely to be most effective, where small and medium size enterprises do not have access to professional marketing and product development resources, for example. Article 195 TFEU objectives of complementing national and regional initiatives by improving competitiveness and skills are well matched to the deficiencies within this sector.

The 'maturity' of Europe as a tourism destination remains one of the main policy challenges for the next 10-15 years as the economies and tourism infrastructure other regions, particularly Asia, continue to develop. Whilst Europe will experience increasing growth from the new tourism markets such as the BRIC<sup>1</sup> and MINT<sup>2</sup> countries, the majority of tourism trips are generated 'domestically', either national or intra-EU (i.e. between EU countries). According to Eurobarometer (2013) 42% of tourists stayed within their own country whilst another 38% travelled to another EU country; less than one in five travelled outside the Union. Improving the 'offer' for this market is as important as attracting new tourists from outside Europe and is likely to be more sustainable in the long-run as the intra-European market will not require the same level of marketing and product renewal. In addition with the increasing availability of high-speed rail links across Europe should reduce the need for some short-haul flights, contributing to the EUs ambition of reducing overall greenhouse gas emissions from its 28 Member States by 20% compared to 1990 levels by 2020.

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<sup>1</sup> Brazil, Russia, India and China

<sup>2</sup> Mexico, Indonesia, Nigeria and Turkey

## II - European Union tourism policy

Despite this economic importance, the literature reveals a lack of effective and integrated policies to foster tourism development until the early part of the 21<sup>st</sup> century (Anastasiadou, 2006). Consequently during the final decades of the 20th century an “implicit policy for tourism created by the impact of other policy areas” has developed (Anastasiadou, 2008).

Commission actions in other sectors that have an impact on tourism have been screened and investigated through a commissioned study by RPA (Risk and Policy Analysts, 2012)<sup>3</sup>. The sectors<sup>4</sup> with a major impact on tourism are:

- *Justice*, responsible for several Directives which are directly connected to tourism, such as the Directive 90/314 on package travel, package holidays and package tours – whose revision was proposed in July 2013 after a four-year period of consultations, the Timeshare Directive (Directive 2008/122/EC) and the Consumer Rights Directive (Directive 2005/29/EC);
- *Communications, Networks, Content and Technology*, whose main contribution is the regulation of roaming prices for mobile phones (Regulation No 717/2007) and the aim to create a “single market” with shared tariffs;
- *Employment, Social Affairs and Inclusion*, having an impact on tourism both in terms of regulation of contracts (fixed- term contracts, posted workers) (Directive 96/71/EC) and in terms of health insurance (European Health Insurance Card) (Decision No 189 of June 2003);
- *Climate Change*, that is both influencing tourism – e.g. through climate-related legislation (Directive 2008/101/EC) – and influenced by tourism – e.g. through travel-related environmental impacts;
- *Home Affairs*, and particularly the benefits derived from the Community Code on Visas (Regulation (EC) No 810/2009);
- *Taxation*, whose common system of Value Added Tax across Member States sets a special scheme for travel agents (Directive 77/388/EEC), which is not implemented in all Member States.

The initially fragmented and unspecific tourism policy system was gradually reshaped, initially through several communications of the Commission:

- *Working Together for the Future of European Tourism* (CEC, 2001), where the cooperative approach and the coordinating role of EU institutions to guarantee tourism competitiveness at the European level was set out;
- *Basic orientations for the sustainability of European Tourism* (CEC, 2003), where the triple bottom line of sustainability was recognized as cross-cutting theme in tourism development, the role of the EU institutions in enhancing cooperation at a global, national and local level was reinforced and the Tourism Sustainability Group was introduced;

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<sup>3</sup> Please refer to these studies to analyse the specific legislation for each area.

<sup>4</sup> For more detail on all sectors impacting on tourism, please refer to the cited studies.

- *A renewed tourism EU policy: towards a stronger partnership for European Tourism* (CEC, 2006), where the EU policy in tourism was presented as complementary to national tourism policy and three main areas of intervention were identified: a) mainstream measures affecting tourism, b) promoting tourism sustainability and c) enhancing and understanding the visibility of tourism;
- *The Agenda for a sustainable and competitive European Tourism, 2007* (CEC, 2006), which moved towards the implementation of tourism policies, by defining the inspiring principles for the development of sustainable and competitive tourism.

The acknowledgement of the importance of tourism in the Lisbon Treaty and the clear statement of its objectives represents a milestone in the restructuring process of tourism policies at EU level and a premise to a new action plan. Indeed, the 2010 Communication *Europe, the world's No 1 tourist destination – a new political framework for tourism in Europe* (CEC, 2010) outlines a set of actions to be implemented by the Commission, Member States and industry stakeholders. The Communication identifies four priority areas: a) stimulate competitiveness in the European tourism sector; b) promote the development of sustainable, responsible and high quality tourism; c) consolidate the image and profile of Europe as a collection of sustainable and high-quality destinations; d) maximise the potential of EU policies and financial instruments for developing tourism. The Communication highlights the intention to ensure a better integration of tourism in other EU policies and to ensure that the proper application of the legislation in force releases the sector's full competitive potential. Finally, the Rolling Implementation Plan<sup>5</sup> deriving from the 2010 Communication, as well as the 2012 Communication on a common visa policy (*Implementation and development of the common visa policy to spur growth in the EU*) prove on the one hand the effective transition from a fragmented tourism policy towards a more structured one, and on the other the will to integrate tourism policies with those from other sectors.

**Passengers' rights protection and tourism development are not directly connected one another:** In fact, it is argued that it is "difficult to see the cause-effect chain between one and the other" (French Passengers' Organisation), due to the possibility that the usage of public transport is influenced by a number of other non-tourism areas (e.g. lower take up of driving amongst young people, higher fuel costs, economic crisis, etcetera). Nevertheless, one interviewee argued that the perception of "safer travel conditions" could incentivise cross-border travel for 55+ people or for PRMs. Therefore, passengers' rights may not influence travel flows directly, but could remove psychological and physical barriers to mobility for special passenger groups.

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<sup>5</sup> Its updates are available at:

[http://ec.europa.eu/enterprise/newsroom/cf/itemdetail.cfm?item\\_id=5719&lang=en](http://ec.europa.eu/enterprise/newsroom/cf/itemdetail.cfm?item_id=5719&lang=en).

### III - European initiatives

The European Commission in its 2010 communication on tourism 'Europe, the world's No 1 tourist destination – a new political framework for tourism in Europe' identified four priorities for action:

1. *“stimulate competitiveness in the European tourism sector*
2. *promote development of sustainable, responsible, high-quality tourism*
3. *consolidate Europe's images as a collection of sustainable, high-quality destinations*
4. *maximise the potential of EU financial policies for developing tourism.”*

A rolling implementation plan<sup>6</sup> has been set out by the Commission, outlining major tourism-related initiatives to be implemented in collaboration with national, regional and local public authorities, tourism associations and other public/private tourism stakeholders.

The European Commission has co-funded a number of projects and initiatives to support the development of tourism over the past five years. Working within the principle of subsidiarity these projects have all been transnational in nature and promoted cooperation between organisations from a number of member states. These encouraged the involvement of SMEs as well as other tourism stakeholders, such as local and regional tourism authorities, to develop diversified products whilst retaining a distinctly European flavour.

The *Calypso*, *Tourism for Seniors* and *50,000 tourists* initiatives all sought to encourage tourists, both intra and international, to visit European destinations whilst at the same time promoting out-of-season tourism, an important issue for the industry generally. The *EDEN* and *European Tourism Quality Principles* initiatives both sought to improve the quality of the European tourism offer and many of the projects supported under the Competitiveness and Innovation Framework Programme (CIP) promoted the natural and cultural heritage of Europe.

Whilst most projects and initiatives have a key theme or objective they also contribute to other objectives such as limiting the impact of tourism on destinations, improving access to tourism for all, improving employment in the industry and reducing the impact of tourism related transport<sup>7</sup>. These objectives are important to European Parliament policy on the environment and social welfare. The European Parliament report (Fidanza, 2011) which addresses the EC communication on Europe, the world's No1 tourist destination (2010/2206(INI)), suggests:

*“to consider introducing two new principles for tourism: ‘interregionality’ and ‘complementarity’, in order to promote joint planning and cooperation between tourist services within a single geographical area, i.e. either between neighbouring regions belonging to different Member States or at a specific thematic level between regions linked by common elements.”*

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<sup>6</sup>

[http://ec.europa.eu/enterprise/sectors/tourism/files/communications/com\\_implementation\\_rolling\\_plan\\_en.pdf](http://ec.europa.eu/enterprise/sectors/tourism/files/communications/com_implementation_rolling_plan_en.pdf)

<sup>7</sup> A brief description of the European Union initiatives in tourism can be found in Annex B

A number of potential initiatives and approaches are mentioned, most notably: co-operation with BRIC countries to increase arrivals of tourists, co-ordinating tourism initiatives with those from other sectors to avoid overlaps, promoting entrepreneurial activity, particularly for women and children, and an ICT for tourism platform which promotes e-commerce and provides technology for tourism businesses. It also highlights the diversity of cultural heritage of Europe and supports the development of these, particularly through the use of 'cultural routes'. The current fragmented nature of tourism policy is evident and these suggestions are indicative of the gradual maturation of the industry on a European level.

#### **IV - Summary**

Whilst formal European Union tourism policy is still in evolution it has been impacting on tourism development through other policy recognising the importance of the industry to the European economy. Over the next two decades Europe will face increasing competition as well as new opportunities, as the other regions feel the benefit of increasing wealth and visit other parts of the world, whilst their own tourism infrastructure develops attracting an increasing share of the global market. Europe will need to focus on what it does best and makes it unique, such as its cultural and natural heritage, if it is to maintain its position as the world's number 1 tourism destination. Europe's complex political history and diverse geography offer *unique selling points*, giving it a complete advantage in attracting this tourism market. Something that is recognised in the EC communication (COM(2010) 352) "*Europe must offer sustainable and high-quality tourism, playing on its comparative advantages, in particular the diversity of its countryside and extraordinary cultural wealth.*" The alternative would be to compete on 'price', a strategy unlikely to succeed as other regions have a considerable cost advantage at present; this has been implicitly recognised by both the Commission and Parliament in their support for 'high-quality' tourism and the development of initiatives such as *EDEN* and *European Tourism Quality Principles*. This strategy will also support higher quality employment and social conditions.

In Chapter 4 two tourism case studies are presented to illustrate the potential for further European action in tourism. The first of these uses one of the projects funded under the CIP to highlight how Europe's history can be used to develop a long-term sustainable product that gives a truly unique European experience. The second highlights how promoting and developing tourism infrastructure in areas that do not normally attract mainstream tourism can support local communities and have wider beneficial impacts.

## Chapter 3: Passenger Rights

### Key findings

- A number of elements within the current legislation require clarification such as the liability of operators in the event of delays or cancellation and a clearer definition of 'force-majeure'.
- Further efforts are needed to raise awareness of passenger rights.
- A lack of uniformity between National Enforcement Bodies (NEBs) has been identified in a number of reports which suggest that stronger links are needed between stakeholders, and possible intervention from the European Commission.
- Although there is a positive appraisal overall of the rights legislation and agreement between passenger groups and operators over the enhanced protection of passengers, there are significant variations in impact by mode, nation, scale and context.
- Protection needs to be enhanced in the case of multiple tickets for long-distance travel and intermodal travel.

### I – Introduction

A review of the literature, reports, legislation, communications between the European Commission (EC) and Parliament (EP) and academic literature provide a contextual background to this section of study. There is only a limited amount of relevant material which focuses on passenger rights, mainly restricted to communications at parliament level and evaluation studies of passenger rights legislation (261/2004, 1371/2007 or otherwise). There are few published academic studies which hold any relevance at all to this study. Overall there is more literature relating to air travel than other modes. The key themes which arose from the literature review are detailed below.

Additionally, a number of organisations were identified who operate from a consumer or an industry perspective. They included passenger groups, transport operator associations (for air, rail, bus and coach), public law associations and disabled passenger organisations, at both national and international levels. The research team constructed an excel spreadsheet of suitable contacts from each organisation, and emailed or telephoned them to arrange an interview. The list of organisations can be found in the Annex; the original list was chosen to give a good cross-section of organisations including representatives from the EU, passenger groups, industry groups and specialist organisations representing particular groups of users. In addition to European organisations a number of national bodies were contacted where these were well established. Unfortunately there is a bias towards 'old Europe' as organisations of this

type are yet to establish themselves in new member states. Beyond the original list the contacts were allowed to evolve organically based on recommendations' from other groups and individuals. In some instances there were issues in obtaining responses from the organisations:

- Some were unable to retrieve information from all of their member associations in the short timescale given.
- A number felt that they were not particularly affected by EU legislation changes, for instance because their organisation covered light rail or urban based transport.
- Some were unable to find a suitable employee to be able to provide information and in some cases these people passed on the names of organisations or people who might be more suitable.

For expediency most of the interviews were conducted by telephone; although in a small number of cases comments were returned by email. In general the discussion was focused around the following questions:

- We would find it useful if you were able to tell us about which parts of the EU passenger rights legislation you think are working well/not so well and why?
- Has it had an impact at a national level, has there been some conflict with national legislation/companies/groups?
- Are there examples of legislation from elsewhere (outside the Union) that you think works particularly well?
- Has it improved/increased the travel options for passengers?
- Could the EU do more to improve the travel/tourism opportunities for passengers?
- Are you aware of any other research in this area – although not necessarily relating to the EU?

The themes which arose showed a divergence of opinion between industry and consumer groups. They are grouped into broader areas below.

## **II - The general perception of passenger rights legislation**

Overall there is a general recognition of the importance and value of common EU legislation on passengers' rights. For some of the respondents to the consultation the main strength of EU legislation according to them is both the preciseness and the flexibility of its formulation. Indeed, some interviewees argued that EU legislation is a guarantee able to ensure standards to passengers by transport operators. This certain spirit of the regulation is felt by both passenger and operator associations. The precision in defining times and reimbursements in case of delays is perceived as the main strength, because of its unambiguous application in all Member States. At the same time it is acknowledged that the passenger rights legislation is flexible enough to tailor place-specific solutions:

*"[...] [on the one hand] it helps to satisfy passengers and on the other hand local authorities how to find their own specific solutions. [...] It gives local authorities the obligation to find a solution and at the same time it does not give obligations how."*

However, there are significant grey areas of meaning in the interpretation of the regulations, and variations in the operation of policy between member states (Steer Davies Gleave, 2012b). In some member states EU legislation reinforces national legislation and legitimises it (e.g. in Italy), whilst in others it represents only the baseline for a more complex system of passengers' rights protection (e.g. Germany and France). There are variations on a national level with regards to the interpretation of the legislation. National Enforcement Bodies (NEBs) should demonstrate greater consistency in the way they exercise their responsibilities and apply the legislation. A further complication on international trips relates to uncertainty of the responsibility of NEBs, for instance when two or three national boundaries are crossed on the trip. The railway sector, and passengers' associations, advocates a greater use of Alternative Dispute Resolutions (ADRs) to avoid long and costly judicial proceedings for both passengers and operators and legal uncertainty due to grey areas in the legislation.

**Implementation:** According to many stakeholders, the main weakness of EU legislation on passengers' rights lies in its implementation. Indeed, the implementation process goes far beyond the (often long lasting) adoption procedures of Member States. It includes the capacity of operators and public institutions to adequately monitor the transport systems (e.g. infrastructure, customer care) to meet the EU regulations, as well as the citizens' willingness or ability to claim their rights. The main difficulties are not perceived in terms of theoretical adequateness of the norms, but rather in terms of their concrete application. It is stated that optimal norms unknown to passengers remain useless. Conversely, well-known norms are more successful, even if they are less restrictive. Information and awareness raising of passengers is therefore essential for the success of EU legislation.

*"The EU could also do better promoting passenger rights. There is a publicity campaign, where the Commission promotes passenger rights legislation. Commissions will always advertise worse than companies will, but they should do a lot of persuading that passenger rights are something positive. They should communicate the positive examples, that no company will go bankrupt in times of passenger rights. Actually, there are more passengers since they have the promise of good quality."*

*"We need to do more about the transparency and lack of information. [...] We should get at least what is written on paper. Of course it needs to be improved, it needs to take better account of the specific situation of passengers with some difficulties, not only disabled. Some people need more information, even just on how to use the new media for older people. This kind of thing needs to be improved, but first of all we need to work on proper implementation."*

It is clear that stakeholders feel there has been a positive impact of from the legislation, unfortunately there is no current research or data to substantiate this.

### **III - Passenger disruption, complaints and compensation**

**Passengers have in some cases benefitted from the new legislation:** From the demand side there is some positivity in terms of reaction to the legislation although one respondent felt that the large operating companies are not being held to task enough and compelled to pay compensation. A survey by the Office of Rail Regulation (ORR, 2014) on passengers in the UK showed similar findings to other studies: a general lack of awareness over passenger rights, uncertainty about whether claims would be successful, and also some cases where claims were only paid by vouchers. However one respondent from the consultation noted that in the case of rail transport, passengers have benefitted from the provision for compensation, rerouting or refunds in the event of travel disruptions. The willingness of operators to provide forms to passengers after delays varies. Operators, particularly air travel, have noted that the most significant change is that passengers are now more aware of the right to complain and claim compensation. The European Commission (2013a) found that railway operators' practice has demonstrated compliance regarding re-imburement or re-routing following delays although they note a tendency for railway undertakings to only re-route passengers on their own services. The exemptions have caused there to be only a low number of cases where assistance has been provided following delays. This is an area considered as requiring significant attention. Although there has been widespread compliance with the provision for compensation, the fact that several member states have not introduced National Enforcement Bodies (NEBs) to guide consumers through the complaints process remains an issue.

**In some cases the legislation works against passengers:** An airline may be more likely to cancel a flight rather than run the flight on a delay. This is also against the interests of the airline and has resulted in the relationship between airlines and customers being negatively affected.

**The effectiveness of claims being addressed by operators may be subject to whether the circumstances are affected by local or national conditions:** An example was given by a passenger organisation representative where a traveller from Germany missed his international train to Belgium due to a missed connection from a regional operator. Whilst the regional operator did not give compensation he was able to claim from the international journey by cancelling his onward journey. National differences in policy and the location of operators in different member states make the sanction process difficult and it is suggested that NEBs would be more successful if the onus is placed on carriers to prove they can comply with the regulations rather than simply responding to complaints (Steer Davies Gleave, 2010).

There is some evidence that passengers are more aware of their rights where national associations have been established and campaigned over a number of years. The UK's *Passenger Focus* organisation (covering rail and bus travel only) has been operating for over 10 years (although it superseded organisations that were established in the late 1940s), and more recently in Germany, *Schlichtungsstelle für den öffentlichen Personenverkehr* exists to handle claims (mainly from airline and rail passengers). Similar organisations are developing in Sweden and Denmark.

**Many passenger rights cases are cross-border** and the majority of issues revolve around differences between the structures and operation of National Enforcement Bodies (NEBs). For example, some NEBs will involve themselves in dealing with problems which affect consumers collectively but not individual cases. Several NEBs are of the view that the changes resulting from the EU legislation are not improvement on the previous national processes which they feel work better. In many cases dealing with such issues on a national scale is not effective and the adoption of EU or global conventions would improve the current situation for cross-border, and possibly internal, journeys.

**Problems arise when the operating company deny responsibility for the issue in the complaint.** Sometimes three or four countries can be involved, further complicating the case. An example is a UK consumer, buying a ticket for an Irish airline (e.g. Air Lingus). The incident may occur in Amsterdam as the flight goes from the UK to Amsterdam to Africa (further complications arise if one of the bodies is non-EU as there are no NEB counterparts in some non-EU countries). Air Lingus may sub-contract the Amsterdam-Africa leg of the journey to another company (e.g. Air Kenya) but the ticket was originally bought from the Irish company. This would be a shared case between the UK and Irish NEBs, but because the legislation is not clear, issues arise. The legislation says the air carrier should be liable.

**The more prescriptive the legislation is, the more difficult it is for consumers.** If there is too much flexibility however, trading companies can take advantage of loopholes, but it depends on the piece of legislation how likely this is. There is a degree of fragmentation in the legislation. The likelihood of passengers/organisations benefitting from the legislation depends on how likely the company is to abide by the law, and the structure of the NEB.

**It was also argued by some respondents that EU legislation mainly focuses on long-haul travel:** For example, minimum reimbursements of 4€ and/or 60 minutes delays are inappropriate for regional rail transport services.

*“The passenger rights legislation of 2007 seems focused on long haul transport. It includes a minimum claims limit – which limits the amount of compensation. In this case, it is 4€, which means a necessary ticket value of at least 16€ [...]. This minimum claims limit does not consider regional traffic. The second aspect: compensations of 25% apply for delays over 60 min. Here, emphasis seems to be on long haul transport too, since most regional traffic here runs at hourly intervals.”*

A lower reimbursement limit and a minimum of a 30 minute delay are suggested for regional rail transport. Steer Davies Gleave (2012b) recommended that although there has only been limited need to resolve rail-based cases (because of a low percentage of cross-border trips), NEBs should be more proactive generally in terms of enforcement. Additionally, the report on regulation 1371/2007 (Steer Davies Gleave, 2012a) asserts that some member states do not have the necessary sanctions within their law to compel railway organisations to implement the regulations.

**Operators embrace the framework as a platform to deal with customer complaints:**

Whilst they view this structure as favourable in terms of being able to deal with disruption and complaints effectively, they also note that the legislation has only replicated previous legislation in many cases and is not applicable in others (for instance the majority of passengers on small trips). However it is felt that roles are clearer and the framework is generally workable, as long as the principles are based on being realistic, practical and reliable.

**However in some senses operators feel disadvantaged:** Air operators feel the legislation can be unrealistic as delays are treated as cancellations, meaning that compensation is paid out too often. This may lead to price rises if operators feel that there is greater risk of paying compensation. A key event was the volcanic ash cloud in 2010, which delayed and cancelled many flights across Europe, and resulted in thousands of passengers claiming accommodation costs for several days. The ash cloud was an exceptional situation (59% increase in complaints to the European Consumer Centre) which resulted in a significant variation in responses by airlines. Whilst some complied with the regulations others didn't, but overall airlines saw an increase in profit margins that year (ECC, 2011). The most common reported problems to the ECC included the lack of information provided by carriers on passenger rights, a lack of assistance and no reimbursement for alternative travel. This has led to the legislation being reviewed, and a revised set of regulations which should provide greater clarity in future.

On airlines, an evaluation of 261/2004 (Steer Davies Gleave, 2012b) also recommends that greater clarity is needed on the nature of delays and where liability should be attributed for the effects on connecting flights, the requirements of passengers for care or re-routing, non-compliance by carriers and where reasonable costs can be claimed. An impact assessment on air passenger rights (IMPA, 2013) identifies a problem with the complaint handling process due to too many **grey areas in the legislation** and a need to simplify rights and increase the consistency of sanctions. The report details four potential options:

1. Better co-ordination of enforcement and stronger links between the EC and NEBs. Replace some obligations for care with optional insurance for booking.
2. The EC co-ordinates the process centrally to reinforce obligations of NEBs. Limit compensation overall (either by increasing the threshold from 3-5 hours or by widening the definition of exemptions to reduce instances of claims).
3. Stronger enforcement and clarification of rights, plus the installation of a central fund in case of mass disruptions.
4. Centralised enforcement which also involves a central fund.

A recent report<sup>8</sup> (Bach, 2014) on the proposal for a regulation of the European Parliament and Council to amend Regulation (EC) No 261/2004 states that only a small percentage of passengers who are entitled to benefits ever demand or receive them. It recommends that thresholds for compensation should be in place equally on flights within the EU, but should vary depending on journey time on flights to and from third countries. It also recommends a reduced burden for carriers for short journeys and regional based carriers.

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<sup>8</sup> Ordinary legislative procedure: first reading

The European Commission (2011a) consider that bus passengers now have more right to compensation, and that in the case of waterborne transport, cases of denied boarding are virtually non-existent, therefore the right has not been foreseen. The legislation gives passengers of waterborne transport a high level of protection comparable with other modes, including rights to no discrimination for persons of limited mobility or who are disabled, promotion of integrated ticketing, information provision and rights to assistance and compensation in the event of delays and cancellations (European Union, 2010).

#### **IV - Intermodal travel**

**Passengers' rights protection in case of intermodal travel chains was perceived as priority for all users:** Two main instances were identified: low passengers' rights protection due to unclear agreements between operators or to the fragmentation of the ticketing system. Concerning the first aspect, difficulties were more evident in rail and flight connections, especially when a train delay causes the loss of the connected flight. In this case the gap in passengers' right protection is due both to the unclear agreements between air and rail operators and to the presence of an intermediary (e.g. travel agency). Concerning the second aspect, one typical example is the case of cross-border journeys. In fact, the absence of through-ticketing services for these journeys implies the impossibility to claim passengers' rights in case the travel chain is broken.

*"We understand very well the situation of the passenger here, who has bought different tickets, and find themselves in a difficult situation. This is a problem also for the operators: it is not him, who sold the connection, and he cannot fully be held responsible for a problem caused from another operator, possibly from abroad, a concurrent... there is a principal need to inform the passenger. It is not only the operators ... in the end, the problem is more, who in the end is held responsible? Otherwise the operator would be held responsible for something he did not cause. It would be very important to fully inform the passengers, whether they have the right to reclaim for the connection and where they have to go to do so."*

To solve this problem, it is argued that passengers' rights should refer to travel chains and not to single tickets:

*"Legislative bodies should regulate, what is a travel chain and how to assess the purpose of travel. Not according to the ticket, but according to the purpose, for example that passenger regulation applies, when the passenger can argue plausibly that it is about a travel chain."*

**Nevertheless, in some countries - e.g. Italy - the low number of cross-border transport services determines a weaker perception of this issue:** passengers focus more on the possibility to have a connection, rather than to claim their rights. Not only were the interconnections between modes perceived as crucial for passenger rights' protection, but also the substitutability between modes. In fact, it was argued that in case of cancellation of transport services, the substitution between modes is rare and ineffective. As a consequence, passengers are forced to adopt individual solutions (e.g. taxis), instead of benefitting from a more flexible transport system, where the substitution air/rail and rail/bus is offered.

## V - The effect of the legislation on operators

**EU legislation has had a critical impact on certain areas, where in the eyes of the operators, requirements appear to lack reason, and are inefficient and unaffordable:** For example, in the case of exceptional circumstances/force majeure such as weather, landslides, etc., the rail regulations can be problematic for operators. Following the latest European Court of Justice (ECJ) decision at the end of 2013 (Case C-509/11<sup>9</sup>), which allocated force majeure risk into the responsibility of the operator, the rail industry is exposed to a significant risk of large compensation costs. This produces a disadvantage in contrast to their competitors: air, bus and coach industries.

In contrast, the bus and coach industries are very specific in terms of local conditions; one passenger organisation took the position that obligations and liabilities should be limited to those which can be realistically managed by operators and their employees. Again, many situations (for example traffic jams) are very specific and uncontrollable delays must be dealt with realistically in terms of who is liable.

The central case estimate of the effects of the legislation toward airlines, places an economic burden of €907 million on the industry, based on a range of €821 million (lowest estimate) and €1,007 million (highest estimate). This is passed on to passengers through ticket prices (Steer Davies Gleave, 2012b). The study by Steer Davies Gleave (2012b) on regulation 261/2004 suggests an option for a common threshold for care at airports regardless of destination type or flight length, which would not imply an increase in the economic burden for the carrier. It does not recommend an extension of the legislation to cover non-EU airlines. They assess the viability of clarifying unfair contract terms, specifically for air travel. This includes identifying whether it is acceptable to reduce the economic burden to airlines either by reducing circumstances where compensation is payable, increasing the time thresholds for delays where compensation is payable or reducing the overall amount of compensation paid by setting a global limit. The authors suggest a high fixed rate of compensation should be payable but only in circumstances where it is clear that the carriers had control over the disruption. It is also suggested that greater co-ordination of NEBs would reduce problems caused by inconsistencies between national law processes, but that asking NEBs to give individual help to passengers would incur high costs. One solution given would be to offer optional insurance to replace mandatory care in the event of delays. Extending the threshold of delays to five hours is also proposed. The European Commission (2011a) consider the effect of the regulations as creating a more level playing field across all modes of passenger transport. But problems with enforcement may distort competition because of variations in compliance by airlines, the European Consumer Centre (ECC) (2011) recommends that better co-operation between stake holders and passengers would result in greater help for passengers.

**Operators are using passenger guarantees already to sell their product:** Many operators are voluntarily offering passenger guarantees, which cover many of the areas that the new legislation focuses on. For new entrants into the market, offering guarantees which

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<sup>9</sup> <http://curia.europa.eu/jcms/upload/docs/application/pdf/2013-09/cp130119en.pdf>

are over and above these are an important selling point. Examples include offering taxis and hotels when the last train cannot run or ticket reimbursements. Railways independently applied rules (The 2002 Charter on Rail Passenger Services in Europe) to improve service quality, and devise standards on information, complaint handling, and other services such as luggage and bicycles. Rail operators have a good record of providing a response to passenger complaints and are currently investing resources to further improve the way complaints are processed. They generally respond to passengers faster than the minimum requirement of one month. The rights have also improved the ability of operators' staff to manage passengers' complaints, as staff are now trained in order to assist passengers and make them aware of procedures; such as for compensation payments and assistance for disabled users.

## **VI- Passengers who are disabled or have reduced mobility**

The regulations covering the rights of air passengers who are disabled or have reduced mobility have been examined by a number of studies. Steer Davies Gleave (2010) evaluated these and found there to be significant variation in the policies of carriers. They also found a lack of visibility of the rights on carriers' websites. Of the c.1100 complaints in the reporting period, many of them were found to be in the UK (probably because of the national law which allows passengers to complain compensation). The report found that NEBs had made significant efforts to promote awareness of the rights, although there was a limited amount of monitoring overall. They suggested several amendments which included increased training of personnel to handle mobility equipment and handing the responsibility to NEBs for flights departing from within their territory.

Both the literature and respondents to the consultation suggest that the legislation has provided tangible benefits to passengers with reduced mobility and disability. Steer Davies Gleave (2012a) on the regulations for rail passenger rights found that assistance for disabled passengers and compensation requirements were generally implemented effectively. The European Commission (2013a) state that the regulation has been successful in terms of the fact that there have been very few cases where discrimination has taken place since the regulations were introduced. Respondents felt that information on access at stations and on trains has improved as a result of the introduction of this legislation.

**The need for a more precise specification of minimum service standards for PRM (Persons with Reduced Mobility) was highlighted:** The lack of minimum standards (particularly in bus transport) can create fragmented infrastructure (e.g. partial coverage of the service), which decreases accessibility for these passenger groups. Attention should be paid not only to infrastructure interventions, but also to information management for PRMs. Interviewees suggested that, in case of intermodal travel chains, PRMs should have the right to book their service only once and operators should coordinate information and service provision autonomously. Although in one case it was argued that the situation (France) had not improved with the implementation of the European legislation on rail passengers' rights and obligations due to an existing stricter law, which has been replaced by the EU regulations.

The European Commission (2012) produced a set of interpretive guidelines on Regulation (EC) No 1107/2006 which stated that the overriding principle of safety for all passengers should be adhered to but that refusal of carriage for disabled passengers should always be exceptional. It defines 'assistance' as including help with on board safety equipment and providing comfort whilst on board. A pre-notification of the need for assistance is essential, and the guidelines state that appropriate assistance should be assessed on a case by case basis. The regulation does not require airport or airline staff to provide medical assistance when needed, because of a lack of relevant training; therefore travellers requiring medical assistance should be accompanied. Appropriate training of staff for the mandatory elements of assistance is an important part of the role of airline or airport staff. A refusal of carriage must be accompanied by a clear written explanation from the carrier within 5 days. The guidelines also clarify the awareness raising and information providing role of the NEBs. There are differences between modes for the process regarding accompanying people who are disabled or have reduced mobility (European Commission, 2011a).

**From an operator's perspective, improvements are always being made based on feasibility and innovation in technology:** Operators work hard to ensure people who are disabled or have reduced mobility are able to travel. However, safety regulations are more important and operators believe decisions should be based on what is reasonable and practical. For example the newest heavy electrical wheelchairs will not always fit into vehicles or taking them on board can raise safety issues in terms of size and weight.

## VII – Information and ticketing

**Provision of information for all passengers:** Both passengers and operators feel that service information is now more accessible and comprehensive. Information provision for rail services has generally been consistent with the standard set by regulation 1371/2007 (European Commission, 2013a). However, the provision of information concerning passenger rights is variable. In some cases, there is greater visibility of the rights for passengers; at some unstaffed rail stations, for instance, there are now notices which detail new conditions of carriage. At air terminals there is often information on rights at check-in, whereas in other cases there is little visibility of the rights, which raises the question of how aware passengers are in general. Often contracts are signed without the passenger actually being 'aware' of rights. Indeed there is still so much doubt in the interpretation of some of the terms included in the regulations that experts are unclear about.

Practical and technological issues have caused a low availability of through tickets (European Commission, 2013a). Maffii et al (2012) note that integrated ticketing is a complex issue due to differences between transport environments but is seen as a more attractive option for consumers. Their study found that progression of intermodal travel is slow, and rail-rail integration has suffered because of the inefficiencies in the co-ordination of networks at an EU level. There has been some progress on air-rail integration, as airports can be developed as hubs, and rail transport is seen as a

satisfactory alternative to short haul air travel. The authors assert that a clearer definition of passenger rights for multimodal long distance travel is required, and that there are significant gaps in the knowledge base for the market currently.

There has been a lack of attention paid (in policy terms) to booking systems for integrated ticketing for rail.

*“One explanation given by operating companies for the lack of data availability is the complexity of the arrangements for international trains. These trains carry national travellers over shorter distances and usually there are no reserved seats. This means that the companies are not able to distinguish between those passengers who have used an international train for a trip between two countries and those who have used it for a trip within any one country. Furthermore, several tickets may be issued for one international trip and so it is difficult to define the portion of the trip and fare corresponding to an international trip. This creates a lack of transparency and a lack of information about the economic performance of international trains, with the exception of those international trains for which passengers have to make a reservation in advance and where purely domestic travel is not allowed. In some cases data exists but is regarded as confidential and hence is not provided.” NEA et al. (2010)*

A national example of a solution to this concerns the UK Office of Rail Regulation, who is developing a code of practice for ticket sellers to reduce complexity, offering guidance to adhere to consumer law (ORR, 2014).

**The operators feel that some of the legislation is not appropriate:** as the requirements do not keep pace with the improvements in available technology. For example, rail passenger rights mention a ‘Computerised Information and Reservation System for Rail Transport (CIRSRT)’ system, which is being developed as part of the “TAP TSI” project. The conclusion amongst many operators is that the legislation may not be appropriate and not state of the art, as it always risks basing on technically outdated ideas (e.g. central backbone infrastructure, ideas from the 70s and 80s). This approach contradicts the existing situation in which one can find many de-centralised, regional services. It is felt by operators that an expensive central system would be unrealistic. The UK is a good example where all operators use an easy, sophisticated system to protect local systems.

## VIII – Luggage

Rail providers have complied with the regulations for compensation for lost or damaged luggage and lost or damaged mobility equipment (European Commission, 2013a). It is difficult to standardise the wide range of procedures and charges for loss or damage to luggage. It is recommended that a ‘key facts’ document should be provided to passengers before confirming bookings (Steer Davies Gleave, 2012b).

The Montreal Convention of 1999 set out legislation which allows air passengers to claim compensation for lost, delayed, stolen or damaged luggage. Regulation 261/2004 contains provision for standardising the procedure of baggage claims and information request in terms the rights of passengers. Steer Davies Gleave (2012) note that the

Commission sees a number of areas in which guidance is sub-standard with regard to the operation of regulatory provision for lost or delayed baggage. Although they accept that legislation cannot easily remedy some of the more complex issues (such as how much baggage individual operators allow, and whether measures to reduce baggage allowances can offset financial burden relating to baggage claims), based on stakeholder consultation they suggest that a Key Facts Document should be a requirement for operators to specify ticketing and baggage policy to passengers. The European Parliament has adopted COM (2013/130) a proposal to amend Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air, which should make rights and liabilities clearer. The ECC-net (2011) reported that in 2010, following the volcanic ash cloud, the proportion of information requests attributed to luggage was 14% of all requests, whilst the complaints attributed to luggage were 13% of the total number of complaints. These figures represent a reduction of the proportions recorded for previous years, explained by the increases in requests for information and complaints that year due to the disruption caused by the ash cloud.

## **IX - Rights surrounding airline insolvencies**

An evaluation of Regulation (EC) No 1008/2008 was undertaken by Steer Davies Gleave (2011). The study notes that there were significant costs to the consumer in many cases (including phone calls, accommodation and flights). Alternative options identified involve a general reserve fund for reimbursements, and increased monitoring of carriers by the European Commission to reduce the overall number of insolvencies. The Package Travel Directorate also provides protection for passengers, in cases of airline insolvency retailers are obliged to refund money from booked flights to the consumer, but this right excludes cases where tickets are purchased alone (the purchase must include other 'significant tourist services'). Assistance was only provided by national authorities in a limited number of insolvencies.

## **X - Future potential improvements**

To date EU legislation has focused on the protection of individual rights of passengers, lacking in the capacity to involve a system of passengers' groups and organizations in the strategic and participative planning of public transportation. These institutions could play a significant role acting as moderator between operators and passengers in compensation mechanisms for inefficiencies or delays. Some institutions in Germany *Schlichtungsstelle für den öffentlichen Personenverkehr*<sup>10</sup> (SOEP) and in Italy *Assoutenti*<sup>11</sup> are already working as conciliating bodies in case of unsatisfactory responses to passengers' complaints by transport companies. However, unlike National Enforcement Bodies they have no legal power, the customer and operating company agree to be bound by the decisions on a voluntary basis. SOEP estimate that they deal with around 2,500 cases each year, but it is difficult to quantify the total value of these because of the large variation in size (between €4 and €1,000) and type of claim. It was suggested that there are some

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<sup>10</sup> <https://soep-online.de/>

<sup>11</sup> <http://www.assoutenti.it/sezione.asp?sez=20>

additional (non-quantifiable) benefits such as not having to resort to litigation to resolve the issues and better communication about the claims process.

Such intermediary institutions may help in the creation of a “system culture” in transport services, according to which the demand side (i.e. passengers and their institutions), as well as the supply side through (e.g. regional Agencies, aimed at integrating the different travel modes within one area) can cooperate and manage the complexity of the transport system. Indeed, interviewees highlighted the need for a governance system capable of fostering integration between modes and coordination between demand and supply. Moreover, they imagined a transnational body aimed at ensuring both passengers’ right protection and adequate prices in case of cross-border journeys. This framework may provide the basis for an effective implementation of EU legislation on passengers’ rights. This proposition is considered further in Chapter 5.

Further challenges are in a) the accessibility (and design-for-all) infrastructure provision, ensuring the freedom to move to all passengers; b) the user-friendliness of complaint procedures, accomplished through accessible channels (e.g. emails) and simple procedures; c) the transparency of data management on delays and cancellations; d) the coordination capacity between different operators in the same mode, challenged by the ongoing privatization process e.g. in rail transport.

*“We are moving towards transport modes that are well coordinated and well integrated and fully accessible at all levels, local to cross border. That is the only way we can keep people functioning, work, travel etc.”*

## **XI - Summary**

There are significant modal variations in the implementation of EU passenger rights. Partly because of the duration since the introduction of the legislation for each of the mode, partly due to existing levels of national legislation beforehand and partly due to differences in the operation of NEBs. It may be necessary in some cases to allow the regulations to ‘bed in’ a little further before introducing new measures; in the case of air travel the European Parliament adopted at its first reading COM (2013/130) a proposal to amend Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air.

For rail travel further liberalisation may result in the types of cooperation between operators (for example, the Star Alliance) which has resulted in through ticketing for passengers, the first of these is the Railteam Alliance. Although it does not always follow that competing operators will collaborate, for example, under the UKs deregulated bus industry it has been very difficult to introduce ‘smart’ technology enabling passengers to undertake multi-modal, multi-operator journeys; often within metropolitan areas where this would provide a clear-cut advantage to public transport use.

The other obvious 'gap' is the significant lack of awareness of passenger rights amongst travellers. Currently too few passenger are aware of their rights under EU or national legislation, and it is viewed as a secondary matter when making travel choices. A large and sustained campaign will be needed if this is to be addressed; the most effective is likely to be delivered directly to passengers at the point of sale for tickets and at airports, rail stations, etc.

## **Chapter 4: Case studies: some gaps in provision**

### **I - Introduction**

This section of the report contains a series of case studies that illustrate some of the gaps and areas of potential intervention identified in EU tourism policy and passenger rights legislation during the study. In the next section two tourism case studies are presented that provide an illustration of how Europe's unique cultural and natural heritage can be used to develop sustainable tourism that support a number of EU economic, social and environmental goals. The first of which looks at the relative impact of spending with local businesses, typically those found in rural areas, illustrating the additional potential from supporting the development of rural tourism, not only economic but importantly social and environmental objectives. The second case study looks at an EU funded intervention under the competition and innovation programme. The co-funded project demonstrates how it is possible to achieve multiple goals with well directed and innovative programmes; and the potential for similar interventions.

Section III presents examples of issues with and gaps in the current passenger rights legislation. The first looks at the 'right to move' particularly from the perspective of PRM, suggesting that travel needs to be looked at from a perspective of continuous pathways. The next study considers the problems encountered when journeys include more than one mode and how this affects passengers' rights when problems are encountered. The third and fifth look at rail, firstly at the problems encountered when through tickets are not available and secondly at the lack of integration of local and regional trains in passenger rights protection. The fourth study considers the current situation with regard to the provision of information and assistance and how this might be improved.

### **II - Tourism Case Studies**

#### **1. Rural Tourism**

##### **Introduction**

Tourism is a significant industry in the EU, and increasing its economic impact is an important policy aim at all geographical levels. In rural areas, developing tourism resources and promoting visits to the countryside are a key element of legislation. The regulation 1698/2005 on support for rural development (Council of the European Union, 2005), cites increasing tourism, developing micro-businesses, sustainable economic development and improved quality of life for residents as objectives. The relationship between these intended improvements is important and they interlink: increased tourism will benefit businesses and improve quality of life for residents, with an overall outcome of greater social and economic sustainability.

Tourism development has often been characterised by leakages to varying degrees, where new income to an area or region 'leak' out to neighbouring areas or regions. There is an argument that developing rural tourism can be an effective means of reducing leakages from local economies as the local businesses and residents are more likely to

benefit from the derived income. This is based on the principle that more localised spending, in comparison to spending at a national scale, has a greater economic impact in terms of the more favourable local multipliers associated with smaller-scale networks.

### Local multipliers

In the UK, the 'New Economics Foundation', and the 'Countryside Agency' produced a Local Multiplier tool (Sacks, 2002), entitled LM3, which is based on the localised flows of income in both urban and rural economies. The tool was aimed at identifying hidden benefits of local initiatives such as not-for-profit social and community ventures, government development schemes and welfare benefit take up campaigns, but are also applicable to individual businesses and tourism development. The over-riding principle is the measurement of how much of the input of funds for these initiatives, plus their output stays in the local economy: direct income (such as spending by tourists on tourism products), indirect income (re-spending within the local economy by the suppliers of the services and products provided, and their suppliers, plus salaries of local residents involved in the spending chain) and induced spending (re-spending from the profits of the tourism businesses, including that by their employees from salaries).

**Table 1: Cusgarne Organics Multiplier example**

Type of spending (Euro)		Total
<b>Direct effect</b> (revenue from sales)		193.576
<b>Indirect effect</b>		
• Local staff wages and profits	51.242	
• Money spent at local suppliers (including legal and professional, admin, repairs and maintenance, materials and sundries)	68.422	
• Supplier local spending and estimate of subsequent spending (estimate based on 61% spent locally)	106.739	
<b>Total indirect effect</b>		226.404
<b>Induced effect</b> (calculated by estimating the total local staff salaries and owners profits, and assuming a 61% local spend)		79.937
<b>Total spending</b>		<b>499.917</b>
<b>Multiplier (total spending divided by sales)</b>		<b>2.58</b>

Source: Adapted from Boyle (2001)

The tool was applied to a local organic food scheme (local being 24,1km or less from the organisation running the scheme), in 2001. The table below contains an analysis of spending and subsequent flows of money, attributed to Cusgarne Organics in 2000, as part of the 'Plugging the Leaks' project (Boyle, 2001). The multiplier of 2,58 indicates that for every €1 spent at Cusgarne Organics a total of €2,58 is generated in the local economy.

Using the same technique the study analysed the impact of two local branches of national supermarket chains (Tesco and Asda); the study found that they had a local multiplier of just 1.4. This clearly demonstrates that spending with locally based business with strong local connections can have a significantly larger impact in the local economy; in this case every €1 spent with Cusgarne Organics generated a further €1.58 in the local economy, whereas the same €1 spent with the supermarket only generated a further €0.40.

A similar exercise by the International Centre for Research and Consultancy (2004) estimated the multiplier of the West Somerset Railway at 1.9. They have a similar 'buy local' policy to that of Cusgarne Organics but large proportion of their expenditure is for coal, which is not available locally and therefore reduces the impact of the policy, although still significantly better than the national supermarkets.

The Cusgarne example provides an idea of the distribution of spending in the local area by one organisation's activities. The report concludes that if more individuals and organisations in the local area were to direct their spending towards local products, sizeable increases in local incomes would be achieved. The benefits of rural tourism ventures, are often amplified because the product has a tendency to be labour-intensive, low investment and sometimes delivered in conjunction with other activities (for example, farm tourism) (Keane, 1992) A study on the rural area Badenoch and Strathspey, in the Highlands of Scotland, found that 'soft' tourism (in this case, accommodation such as camping and caravan sites), outperformed 'hard' tourism (hotels) because, amongst other economic indicators, the effect of direct, indirect and induced spending was greater in the local economy. Slee *et al.* (2008) acknowledge that overall, rapid development of hard tourism has a greater initial effect, but is subject eventually to higher leakage from the local economy. In rural areas, promoting the local 'feel' of the product to the tourist by sourcing materials locally can have the added payoff with the result of more localised flows of money.

### **Recommendations**

There is considerable scope for tourism policy to direct more focus towards rural tourism. The potential for greater generation of income from tourism, based on more localised flows and higher multipliers, could be of benefit at a larger scale, if there was a shift towards smaller scale initiatives. In rural areas, conditions for local people are often poorer, and skills for employability generally lower (Lane *et al.*, 2013) and therefore social benefits would be achieved if tourism initiatives provide the necessary income to the local area and the training to enhance job skills for residents. The European Commission's (2010) communication on tourism notes the importance of rural tourism and in particular the diversification of rural businesses, current European strategy seeks to promote trans-national co-operation, particularly in rural regions. By encouraging more local spending as part of this growth in rural tourism development, due to greater promotion of suited types of tourist (slow travel, cultural or natural heritage tourism), the generation of income through local multipliers may contribute to a larger scale economic gain in Europe.

## 2. European Cultural Tourism

### Introduction

The communication from the European Commission on tourism (2010) lays out the approach to implementing the Europe 2020 Strategy which aims to ensure that Europe remains the World's number one tourism destination in 2020. Utilising the diverse array of cultures is an important element of the strategy, to fulfil goals of sustainability and stimulating competitively for SMEs. The development of cultural tourism by encouraging cross-border tourism is referenced, and specifically, the development of long distance cycle routes to enable more exposure of attractions and other businesses associated with tourism.

This is supported by the report by the Parliament's response to the communication (Fidanza, 2011); it explicitly identifies *"heritage sites and other historic sites"* and *"promot[ing] cultural, historical ... environmental and landscape tourism by means of themed routes/itineraries"* as of particular importance, and that *"also contribute to the development of an alternative style of tourism that is sustainable and accessible to all"*.

The implementation includes the collaboration of the European Commission and the European Travel Council to market 'Destination Europe', with 6 particular focal areas. They include the *".....development and promotion of pan-European cultural routes/thematic itineraries and tourism product"* (European Commission, 2013c). The promotion of EuroVelo cycle routes, a significant area of the implementation is aimed at encouraging sustainable tourism development. The routes link European countries encouraging cross-border tourism. In addition to increasing cycle tourism, the development of EuroVelo trails enhances and promotes cultural tourism in Europe. One of these, the 'Iron Curtain Trail' (EV13), links a number of European countries along the former 'Iron Curtain' and has been developed over recent years. The Iron Curtain Trail allows tourists to experience the cultural and natural heritage of the countries as they travel. Its route crossing and re-crossing the former Iron Curtain also meets other policy objectives by supporting tourism development in Eastern European countries.

### The Iron Curtain Trail

The concept of the ICT trail is a long distance cycle route which follows the length of the former 'Iron Curtain' between former communist countries and the rest of Europe. The trail was developed by a consortium which includes the European Cycling Federation (ECF) and national partners representing the nations through which the route passes. Development focuses on *"...activities promoting cycling along its entire stretch includes inter alia the activities making the tourists better acquainted with the history of the Iron Curtain and individual and social endeavours to overcome the barriers resulting from its existence.*(PSWE, nd)" It traverses the border between Finland and Russia, the Baltic coasts of Russia, Estonia, Latvia, Lithuania, Poland and Germany, the old border between East and West Germany, and then through the Czech Republic, Slovakia, Austria, Slovenia, Hungary, Croatia, Serbia, Romania, Bulgaria, Macedonia, Greece and Turkey.

## Added Value to Europe

Cyclists tend to stay longer in local areas than other types of tourists; therefore there is greater potential for them to spend money in the local economy. The development of long distance routes brings tourism to rural locations, some of them remote and often not mainstream tourism destinations. These areas can benefit from income into their local economies and the development of tourism resources, where before the chances of encouraging and facilitating tourism activity was low. Many of the countries are former communist Eastern European nations and have less developed tourism industries in comparison to Western Europe. The increase in infrastructure development and tourism business networks within and between these nations can have a powerful impact on their resources helping to develop tourism and economic growth opportunities. An estimate of demand for the ICT was made in the European Parliament Report '*The European Cycle Route Network: EuroVelo*' (Weston *et al.*, 2012). Using demand figures for holidays (bed density), day trips and national figures for cycling, demand was estimated that "[w]hen complete ... the Iron Curtain Trail will generate annually around 1 million holiday trips and 5.3 million daytrips resulting in a total of €521 million in direct revenues (direct expenses by the holiday makers and day excursionists)." (Weston *et al.*, 2012)

In addition to economic value, the benefits to Europe from policies such as the development of trans-national trails include social and health benefits for the residents close to trails and wider benefits for Europeans. In the case of the ICT this takes the form of greater awareness of the history and culture of the regions from visiting locations along the former Iron Curtain. In many people's minds' metaphorical barriers still exist in terms of accepting the changing nature of Europe (Baumgartner, 2010). The environmental benefits are also outlined in a feasibility report for the Balkan section of the trail (Iron Curtain Trail, 2011, p.83). A number of designated areas including NATURA 2000 sites and National Parks are adjacent to the trail and benefit from added protection due to the policy goals of developers. Added to this the low-carbon nature of non-motorised leisure travel can have a positive environmental effect in terms of reducing motorised leisure travel. Such facilities available to both residents and tourists achieve economic, social and environmental objectives and as a result are highly sustainable.

## Challenges

It is said by the promoters of the trail, that for development to be successful, 'a strong political will' is needed by policy and decision makers at local and national levels, in order to ensure planning and implementation are not hindered<sup>12</sup>. The effects of bicycles in protected sites can have a negative effect on the environment, for example, soil and vegetation deterioration and disturbance to fauna. The development of the trail has prioritised the use of old routes and networks, such as disused railway tracks, to minimise impacts (Iron Curtain Trail, 2013). Other challenges centre upon predictions of uneven demand distribution along the route, uneven development of provision for tourism, competing sustainable tourism initiatives and a lack of provision in some

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<sup>12</sup> [http://ec.europa.eu/enterprise/sectors/tourism/iron-curtain-trail/files/sopron\\_report\\_en.pdf](http://ec.europa.eu/enterprise/sectors/tourism/iron-curtain-trail/files/sopron_report_en.pdf)

sections of more sustainable means for cyclists to reach the route (trains rather than flying, for example) (Weston *et al.*, 2012).

### **Recommendations**

Developing policy to increase cycle tourism in European countries should be a priority. For example, some national governments will consider the promotion of cycling as an activity as a part of health policy, whilst in some cases taking cars off the road (for instance commuters) is part of transport policy. By focusing on these areas as well as focusing on cycle tourism as part of tourism or economic policy, an overall increase in the number of people interested in cycling can be achieved and therefore a cycle holiday becomes something people are more aware of and more likely to consider. There are now 14 EuroVelo routes complete or under development across Europe. Like cycling, walking is a popular form of tourism which is non-motorised, low carbon and low impact. It also allows close contact with culture, natural heritage and localised spending. It is recommended that by increasing development of similar routes for walking as well as cycling tourists, policy goals for economic, social and environmental sustainability in Europe can be further realised. At the same time increasing the tourism offer in Eastern European member states, enhancing and facilitating the development of the EU cultural and heritage tourism more generally.

## **III – Passenger Rights Case Studies**

### **1. Right to Move**

#### **Introduction**

The *free movement of persons, services and capitals* (stated in the Title IV of the Lisbon Treaty) is a cornerstone in European integration and is strictly connected to the provision of accessible and effective transportation services. Indeed, according to the *Communication A European vision for Passengers: Communication on Passenger Rights in all transport modes* (CEC, 2011), no discrimination should exist in access to transport, i.e. all passengers should have the right to equal access to transport and should be protected against discrimination based on nationality, residence or disability. Moreover, accessibility and assistance in transport provision should be offered at no additional cost for disabled passengers and passengers with reduced mobility (PRM). The consideration of both disabled passengers and PRMs implies a particular attention to a broad group of passengers having difficult access to transport. Indeed, persons with disabilities include “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others” (Article 1 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD)), while PRMs are persons “whose mobility is reduced due to a physical incapacity (sensor or locomotor), an intellectual deficiency, age, illness or any other case of disability when using transport” (Regulation EC 1107/2006). Disability and reduced mobility are therefore defined through the interaction between people and the infrastructural, social and environmental context. If infrastructural, environmental and social barriers disappeared, the notion of disability would lose

significance and the freedom of movement would be guaranteed. As stated in the Disability Strategy 2010-2020 (and beforehand in the Disability action plan 2003-2010), the increase of accessibility in transport is a crucial issue that promotes the creation of a more inclusive social system. The priority to make transport accessible is also highlighted by the United Nations Convention on the Rights of Persons with Disabilities (UN, 2010), which urges to “take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas” (Article 9). Further documents, such as the Technical Specifications for Interoperability/Persons with Reduced Mobility and the Regulation EC 1107/2006 explain technical requirements in order to ensure physical access to rail and air transport respectively.

Despite the importance of the existing legal framework on accessibility, physical access is not a sufficient parameter to accommodate the needs of disabled persons and PRMs. According to the scientific literature (Buhalis and Michopoloulou, 2011; Michopoloulou and Buhalis, 2013) accessibility is not only physical: accessibility of information – both online and offline - is important as well. Ease of access to information about accessibility is crucial at least for two reasons: firstly because physical access requirements differ substantially among disabled passengers and every person has to check the accessibility of an infrastructure according to his/her personal needs; secondly because people with a temporary reduction of mobility (e.g. tourists having an accident while on holiday) may ignore their rights completely. Moreover, online sources (and User Generated Content) are seen as the more relevant and reliable information sources, if not the preferred sources of travel information (Ray and Ryder, 2003; Michopoloulou and Buhalis, 2013).

### **Analysis of the status quo**

Despite the existing regulatory framework, the real situation for disabled persons and PRMs is still critical. In some countries, e.g. Italy, physical access to public transport is the responsibility of regional authorities, which have to set the standards for accessible infrastructures and means of transport. As a result, barrier-free access is not achieved in the majority of regions, with some rare exceptions related to specific areas. In other countries, national legislation has imposed more restrictive standards than European legislation and transport networks are more accessible.

This is the case of France, (Act No. 2005-102 of 11 February 2005 on equal rights and opportunities, participation and citizenship of people with disabilities) and the UK (British Disability Discrimination Act)<sup>13</sup>. In France, the regulation states the obligation to make transport accessible to disabled persons within 10 years (i.e. by 2015). Moreover, it introduces the concept of “continuous pathways”, stressing the fact that single obstacles

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<sup>13</sup> Strong attempts to create accessibility standards are also in US (Americans with Disabilities Act) and Australia (Commonwealth Disability Discrimination Act).

can prevent a person with disability or reduced mobility to access an entire travel chain. Interviewees confirm the importance of continuous pathways:

*“In most of the cases, a present disability is not the actual reason for the complaint; it is only mentioned in passing. Often, it is about the practical questions of existing law, e.g. concerning the equipment of a stop (defunct lift), why the passenger with reduced mobility misses his train.”*

*“I know that in Germany the tendency is high to realize such measures. It is however necessary to consider the entire environment of transport, not only the means of transport itself, e.g. with regard to the access to the stops, esp. in an urban environment with wheelchairs or perambulators. Here surely something needs still to be done.”*

The British Disability Discrimination Act, besides ensuring physical accessibility to motoring, transport and travel infrastructure, guarantees the right to obtain information about transport in an accessible format. This acknowledgement is crucial to effective access to transport, given the relevance of detailed and reliable information while planning a trip.

Besides the heterogeneous experiences of travelling with disabilities within the Member States, European PRMs and disabled persons encounter particular difficulties when crossing national borders. Indeed, the difficulty in accessing information on the standards applied in different States as well as reduced or denied access to national-specific benefits, such as free or reduced-cost public transport are only some examples of the difficulties they have to face. Moreover, in cases where delays or cancellations occur the psychological impact of the disruption may be higher, especially if the information on alternatives or the alternatives themselves are not accessible. Such experiences may create psychological stress (McIntosh, 1990) and prevent the continuation of travel by public transport, limiting the right to move freely within the EU.

Even though it is acknowledged by those responding to the consultation that EU legislation has had a positive impact on increasing accessibility in Member States, especially in air transport, they all agree that further intervention is required to increase accessibility and mobility.

*“[EU legislation] has helped a lot, for air transport it has been the case from the beginning. If you had mobility problems you could ask for support, or also when you were travelling with young children you would get the support. Now they have reduced it for families with young children, but for persons with reduced mobility I use it every time I travel with my mother and it is well organized. We need to look at those who would not need specific and expensive support for persons with reduced mobility, but just have the little extra help, like a desk where people could go if their flight is really delayed or cancelled. The kind of things that would reassure people that they are not left alone...”*

## Priorities

This still critical situation sets the basis for the achievement of concrete objectives at the EU level. EDF (European Disability Forum) is supporting two EU interventions concerning accessibility to transport (EDF, 2012; 2013): firstly, the European Accessibility Act - introduced through the Disability Strategy 2010-2020 - as an opportunity to implement the UN Convention on the Rights of Persons with Disabilities (UN CRPD); and secondly the introduction of a European Mobility Card as a means to ensure freedom of movement for persons with disabilities across Member States by granting them access to the same services (including transport services) as residents with disabilities in that country. As an extension to this it was suggested that the introduction of a specific mobility card designed for the needs of seniors, giving them the right to have reduced prices in all countries and tailored information on accessibility would be beneficial.

Given the heterogeneous accessibility standards in Member States, a best practice collection might be essential to capitalize the existing experiences, especially starting from those countries that have achieved a good degree of accessibility of transport.

*"[...] experience from some countries could be very helpful. Of course it is nice to see many objectives which are shared by everyone - on the other hand, when it comes to implementation, it is necessary to listen to partners which already experience to see what is possible and what maybe not."*

Besides capitalizing the good practices, a monitoring activity should help to identify the accessibility gaps in the existing transportation systems. Based on this, deadlines for infrastructure adaptation should be introduced.

Finally, the restructuring process leading to a more accessible transport system should be applied not only to transport infrastructure and means of transportation, but also to the surrounding environment, based on the concept of *continuous pathways*.

*"Take into consideration real necessities, and be reasonable. It does not help charging only operators, but... also sidewalks and public space, which considers everyone, not only operators. Without forgetting about reality of course and the needs of the passengers."*

*Universal design* as a paradigm that extends the concepts of continuous pathways, access and mobility, as well as barrier-free environments should be applied to transportation (Aslaksen, Bergh, Bringa and Heggem, 1997; Steinfeld and Shea, 2001) to incorporate intergenerational and lifespan planning of infrastructures and to link the needs of different passengers' groups (Darcy and Dickenson, 2009).

## 2. A multi-modal European Transport System

The area of the European Union provides a dense network of different modes of public transport, which creates a single regional, national and European transportation system, which crosses international borders. The term multi-modal travel in this context refers to travels where at least two different modes are used.

A key objective of EU transport policy is to achieve this by creating a multimodal transport network, where “better modal choices will result from greater integration of the modal networks: airports, ports, railway, metro and bus stations, should increasingly be linked and transformed into multimodal connection platforms for passengers (European Commission 2011b, p. 6). The Single European Transport Area White Paper states a “fully functional and EU-wide multimodal TEN-T ‘core network’” as key element to achieve a “competitive and resource efficient transport system” (European Commission 2011b, p. 9). This integration of the various modes for seamless transport is one of the challenges for future. In fact, the White Paper further states the objective of creating the aforementioned genuine Single European Transport Area is to be achieved by “eliminating all residual barriers between modes and national systems, easing the process of integration and facilitating the emergence of multinational and multimodal operators.” Explicitly, the paper states that “passenger rights must be an integral part of this strategy” (European Commission 2011b, p. 10). In this context, also the European passenger rights legislation is to foster sustainable transport modes in Europe. For instance, the regulation No 1371/2007 on rail passenger’s rights and obligations aims at increasing the share of rail transport in relation to other modes of transport (European Union 2007, p.1).

Furthermore, the European Union favours the liberalization of the transport market (open access). The opening of the railway market has increased the level of completion between European public transport operators, for example, Thello (IT/FR), Thalys (FR, BE, NL, DE), HKX & Arriva (DE), Italo (IT), DB/ÖBB trains between Germany, Austria and Italy, all competing with the relative national railway companies. In some cases cooperation between single carriers is agreed upon, but in many others different tariff systems apply.

On an operational level, these systems are connected, but no single ticketing system is available for inter- or multi-modal travel. In almost all cases, a passenger has to purchase separate tickets for each mode. This creates two problems:

1. Firstly, when then the transport chain is interrupted and a connection is missed. Carriers apply no liability in case of lost connections beyond their responsibility.
2. The first challenge leads to a second problem: passengers aware of this problem plan their travel with long gaps between changing transport modes. This lengthens travel time and therefore reduces the attractiveness of the European intermodal public transport system.

Unsatisfied passengers are likely to default back to individual private transport as a consequence of an unsatisfactory experience. This might result in use of privately owned vehicles and rental cars instead of arriving/departing to/from airports or rail stations by more sustainable means of transport, contributing to increased emissions and less efficacy of sustainable transport – a target formulated also by the European Union.

### **Problems in multi-modal travel?**

Problems in multi-modal travel particularly exist with the combination of rail and air travel, when delays to one cause a missed connection for the other – currently there is no provision (or liability) when a connection is missed due to delay in the previous mode.

It is evident that the situation has become more challenging over recent years due in part to the introduction of systems similar to yield management in air transport being applied more and more by rail companies (e.g. Sparpreise in Germany, SparSchiene in Austria). Here, train tickets are only valid on a specific train connection at a given day.

*“The Sparpreise (special prices) worsen this situation, since these tickets then become invalid (in case of missed connections, n. f. t. a.). Therefore it might not be the worst thing that one reaches his/her destination one hour later, but rather that one has to pay an extra 50-60€.”*

In other countries such as Italy and France, almost all long-haul train traffic is based on a compulsory reservation, with less strict exchange policies at a higher total of the fare. This includes several private and semi-private train operators such as *Thalys*. Changes to the ticket to another train are not possible or incur considerable extra charges. Effectively, passengers are obliged to buy a new ticket. In case of delays of one carrier on the transport chain, the carrier of the corresponding mode does not hold responsibility for the delay.

Travellers usually book two different tickets, one for the train, one for the flight. In case of delays, this leads to difficulties, since no operator takes liability for the delay of another. No through ticketing is possible for most of the cases between the separate modes of transport (or, urban integrated traffic systems and long haul). An example is where travellers take the train to the airport: in this case, tickets are bought separately, which is the usual case throughout Europe. When delay of one causes a missed connection for the other, the situation is difficult and is likely to result in considerable extra charges for the traveller. Previous studies have identified specific measures covering passengers on multimodal journeys with integrated tickets under a single purchase contract as gap in the legislation (Steer Davies Gleave 2012a, Appendix A, chapter A1.5).

A specific problem are the so-called “Rail and Fly Tickets” in Germany. The offer allows travellers booking a flight in a travel agency to obtain a free train ticket for the connection to and from the airport. When a delay occurs on the other mode and, in consequence, the passenger misses his flight or the connecting train upon arrival is not clearly regulated by the EU passenger rights legislation:

*“This is not about rail ticketing any more, but about separate contracts, which have not been closed with Deutsche Bahn, but with the tour operator or even with the airline itself.”*

Therefore, as the rail company cannot be held responsible it is not possible to reclaim the cost of the new train connection to the flight. The German experience shows that in such

cases, the railway company offers a small lump sum as compliance (10€ 2<sup>nd</sup> class, 15€ 1<sup>st</sup> class). However, there is general agreement that such situations lack explicit regulation.

A further area of interest is the connection between urban public transport and rail stations or the airports. If the train or plane connection is missed due to delays in urban transport, current legislation foresees no explicit liabilities or provisions for a missed connection due to delay in the previous mode. Respondents to the consultation also see this as an area for clearer regulation.

*"When a connection is missed, e.g. for the coach, you do not have rail passenger rights."*

Compensation in case of delay and consecutive loss of connection is not guaranteed by the relevant operators or relies explicitly on the operators' goodwill; operators in this case cannot be fully held responsible. The issue is to some extent interwoven with the issue of through ticketing, which is treated in a separate case study.

### **Potential solutions**

There is broad acceptance of the challenges arising from intermodal travel in Europe and there is also a general consensus that this is due to gaps in the current EU legislation. However, some argue that priority should in the first instance be the solution of single mode transport chains (e.g. train-train). To a large extent, solutions here coincide with the challenge of through ticketing. Most agree that this has to be extended to inter-modality in due course.

Operators however argue that the operator of one mode cannot be held fully responsible for the delays of another:

*"We understand very well the situation of the passengers here, who have bought different tickets and find themselves in a difficult situation. This is a problem also for the operators: it is not he, who sold the connection, and he cannot fully be held responsible for a problem caused from another operator, possibly from abroad, a concurrent..."*

This is the general perception of the situation amongst passenger organisations, which believe that full responsibility cannot be imposed upon difficulties arising from another mode:

*"It is complicated. If the regional train cannot go on since a lorry is stuck on a level crossing and thus somebody misses his flight, it cannot be Deutsche Bahn who compensates for this."*

The German compensation system of a 'without prejudice' payment could offer a first step in recognizing the passengers' difficulties without holding fully responsible another operator. In the end, it is imaginable to create a super-ordinate document, which integrates the regulations for the single transport modes.

### 3. International rail journeys

At a European level, several recent developments have had an effect on the issue of through tickets with a corresponding impact on passenger rights where connections are missed: the ongoing liberalization of the rail market in Europe and the tendency in Europe to integrated reservation ticketing<sup>14</sup> for rail.

Liberalization of the rail market is a mainstay of European Union transport policy; it aims to open up the domestic rail passenger market to competition (European Commission 2011b, p. 18). This aim of an internal market for rail services is to open up the current operations to competition both nationally and internationally (European Commission 2011b, p. 18).

*“In the nearer future, through the desired open access to the rail network. Therefore, more operators will step on the market, offering both domestic and international rail services.”*

Many railway undertakings now already have their own ticket system. It would be desirable to have a single ticket system for all Europe, but even in domestic markets, different rail operators have established their own parallel pricing systems. More, many operators are operating on the same market (domestic and international) have their own, specific ticket systems and it is not possible to get through tickets when combining two or more of these services.

*“[These undertakings, n.f.t.a.] have separate tariff schemes and separate tickets, one cannot buy a ticket from Bonn to Cologne by regional train and then from Cologne to Hamburg with the Hamburg-Köln-Express, You have to purchase two tickets. If the first regional train is delayed and you miss the HKX-train, you do not get reimbursements for the travel.”*

Tender based assignment of regional transport operation faces this problem too: for example, in Poland several regional connections have been assigned to Arriva. Therefore, for longer distances, it is necessary to purchase an Arriva ticket, and for the leg on the Polish Przewozy Regionalne train (the regional chapter of the Polish National Railway PKP) a Przewozy Regionalne ticket is necessary.

The absence of one single European rail transport ticket leads to a heterogeneous system of tariff schemes on a cross-border level.

*“The international rail transport is a difficult issue, since often there are no through tickets.”*

The cooperation of European rail companies has however reached a low level.

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<sup>14</sup> For integrated reservation ticketing (IRT), the ticket is only valid on a specified service. The opposite classification would be non-reservation ticketing (NRT), where the ticket is valid on all services, with an optional reservation (Steer Davies Gleave 2012a, p. 76).

Thalys is probably the most recognised example for the challenges of international through ticketing. For a trip from Berlin to Paris passengers have to purchase a German Rail ticket from Berlin to Cologne (or Brussels) and need a Thalys ticket for the rest of the travel. The situation has further complicated since the withdrawal of Deutsche Bahn from *Thalys international*, who operates the high-speed rail connections between Amsterdam, Brussels, Cologne and Paris (German Rail 2013), as a result from June 2013, passengers were unable to buy Thalys tickets via Deutsche Bahn sales channels. Therefore, travellers starting in Germany from another than one of the cities served directly by Thalys, have to purchase at least two tickets. This situation clearly illustrates the difficulties present in international rail travel across Europe at the present time.

Operators have used variable pricing structures to manage demand on many services, which has led to a significant increase in the number of IRT tickets with specified train connections. These tickets are often the cheapest options for the travel. The flexibility of the ticket in these systems usually rises with the ticket price. However, the result of this is that it becomes necessary to purchase multiple tickets and thus multiple 'contracts'. This becomes a problem, when a cancellation or delay occurs on a previous portion of the journey and the connection is missed. In this case, the ticket for the following leg becomes possibly invalid or the passenger depends on the goodwill of the next carrier.

#### **Legal challenge: travel chain**

*"The increasing number of rail operators on the market will lead to a growing importance of the question of through ticketing and the consideration of the travel chain."*

The issue therefore is that in case of complaints the legal aspect does not take into consideration the entire travel chain (i.e. from origin to the final destination) but formally refers to the single transport contracts:

*"The big problem is that it is not the travel chain but formally legal transportation contracts that are considered. However, the traveller is not interested in such things. Simply, one wants to get from his own doorstep to the destination, he is not interested in the rest."*

For instance, in Germany, the Federal Railway Authority defined travel chains by the transport contract, which is the single ticket.

*"Since this regulation has been issued, the Deutsche Bahn issues their tickets online for long haul, one ticket equals one transport contract."*

The system does not allow, issuing one single ticket on many cross-border journeys. In the case of disruption of the (virtual) transport chain composed of two tickets, no liability for the delay or cancellation exists, since the two tickets officially do not relate to each other.

## **What does this mean when it comes to the application of passenger rights?**

The aforementioned aspects underline the fact that it is still difficult or impossible to get a through ticket for many international rail journeys and it is necessary to search to the most convenient/cheapest options. These issues result in a reduced or absent liability of the railway operator for missed connections. Thus, passengers do have limited options other than depending on the goodwill of the railway companies or otherwise buying a new ticket for the onward journey.

EU passenger legislation therefore needs to be adapted to situations where operators have not cooperated or coordinated in ticket and service provision.

*"This topic will become even more relevant, also in Italy, the Czech Republic or Austria, where so far not much competition exists, but will in the future."*

The inference here is based on the personal assessment of the expert, even though studies rank these countries quite high in terms of liberalisation. The Rail Liberalisation Index 2011 (IBM Business Services, 2011, p.12) ranks Austria in sixth place (806p out of a maximum of 1000 index points) as country with advanced opening, the opening of the rail and passenger rail market in the Czech Republic (738p) and Italy (737p) is "on schedule". The report shows Ireland (467 p), Spain (583p) and Luxemburg (585 p) as the countries with the lowest values, assessing them a "delayed" liberalization status. This ranking is of course a measure of openness to competition rather than a measure of completion itself. In time this openness may lead to further competition between rail operators within these countries.

### **Potential solutions**

Respondents to the consultation emphasised the need to focus on travel chains and their definition. The preferred solution would be the availability of a single ticket covering the entire journey from the starting point to the final destination rather than a sequence of single tickets (and therefore, transport contracts).

*"For the travel, tickets for the entire trip from origin to destination should be foreseen, not only for the cross-border leg."*

This could be based on the long-term objective of a realisation of one single European ticket system, which integrates all railway operators on European territory. So far, this is not possible: *"There are practical issues around arranging through tickets, which include services handled by both of these classifications of ticket, and several railway undertakings stated that the through tickets they offered were limited by difficulties in interaction between systems"* (Steer Davies Gleave 2012a, p. 76).

A medium-term solution could be clearer specification on how exactly rail passenger rights on international travel in a multi-operator reality are to be applied. Here, European authorities could issue a code of practice. The German Federal Railway Authority issued a regulation that one single selling process could define the criteria for the application of the travel chain, for example this might apply for tickets bought at the same travel agency.

#### **4. Provision of information and/or assistance**

##### **Problem**

One of the most significant issues facing passengers in the wake of cancellations or delays to flights or trains is the provision of assistance, either ensuring they reach their eventual destination if a connection has been missed, providing information for onward travel by alternative means or accommodation if needed.

##### **Legislation introduced**

The following passenger rights are all at least partially relevant:

- 1) To information before purchase and at the various stages of travel, notably in case of disruption;
- 2) To the fulfilment of the transport contract in case of disruption (rerouting and rebooking);
- 3) To get assistance in case of long delay at departure or at connecting points;
- 4) To compensation under certain circumstances.

As detailed in Chapter 3 the legislation for Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations (plus the relevant legislation for buses and coaches) place particular emphasis on providing help and assistance in the case of missed connections and cancellations. The European Parliament recently adopted at first reading COM (2013)0130 with regards to air passenger rights, which states that "*passengers should have a right to information about the flight disruption as soon as the information is available*".

Subsequent evaluations of the regulations and suggested amendments focus on the issue of a lack of awareness among passengers of the correct procedures in these circumstances.

##### **Success of the legislation or related issues**

The literature and consultation both contained evidence, albeit mainly anecdotal, that there is in general a low level of awareness of passenger rights and procedures for passengers who are subject to delays and cancellations. A press release by the European Commission (2013b), details surveys conducted in the UK, Germany and Denmark revealing relatively high numbers of people (75%) who were offered re-routing, but that only half (50%) of passengers were offered refreshments, accommodation or other care. The UK Office of Rail Regulation produced a report detailing results of a consultation with passengers regarding better information on rights and procedures in the event of cancellations and delays (ORR, 2014). A high number were averse to complaining (68% had never claimed), due to a lack of information and additionally a feeling that their claim would not be successful. Whilst the passengers surveyed felt that their rights were

not as visible as they could be due to the operating companies not providing enough information and guidance, whereas the operating companies appear to consider the current levels of compensation to be generous and easily accessible<sup>15</sup>.

Steer Davies Gleave (2012a) identify missed connections as a significant area requiring clarification, as many passengers are not clear on their rights, particularly when they are travelling with different tickets. It is the disconnection between the various policies and practices of different operators which perhaps provides the greatest hurdle. The Man in Seat 61 website<sup>16</sup> provides comprehensive details on travelling around Europe by train, based on the previous experiences of travellers, particularly the website author. It contains the example of Eurostar's tickets which carry a CIV (International Convention for the transportation of Passengers) symbol, entitling passengers for onward travel by any operator in the event of a delay. However there is concern surrounding the grey areas which allow operators to only accept liability for CIVs on through tickets – that is, if the different tickets for each leg were sourced from different websites, for example, the operator could refuse extra help. The seat61.com website refers to a potential solution to this in the form of a new alliance between countries (Railteam<sup>17</sup>) between Eurostar and operators in Germany, France and several other countries. Due to this, passengers who miss a connection on any service falling under this alliance are able to use the next available service if a connection is missed.

### **Suggested changes**

Information on connections and rights for passengers before travelling is the most important improvement required for all modes. However, it is also clear that greater assistance at the time of the missed connection or cancellation is an additional area in which operators could fulfil their obligations to the legislation.

In the recent survey by the UK Office of Rail Regulation (ORR, 2014), the sample felt that clearer information, automatic claims processes and online claims services would all make the process easier for passengers. The majority of people preferred email as the means of communication for both receiving information regarding rights and to complete the claims process.

Greater cohesion between the policies and actions of operating services in terms of ticketing and assistance, as seen in the above example of the Railteam Alliance, would be a significant step towards a more successful implementation of the legislation.

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<sup>15</sup> <http://www.bbc.co.uk/news/business-26275394>

<sup>16</sup> <http://www.seat61.com/Europe-train-travel.htm>

<sup>17</sup> <http://www.railteam.eu/en/>

## **5. Rail: Integration of local, regional and long distance**

### **Problem**

Many journeys, especially those which are long distance, involve travel on both local and national or international services. Currently the local operating companies are not obligated to assist passengers or be liable for delays to their services if they impact travel on a longer journey. This poses a problem for operators at all levels in terms of liability, passengers in terms of understanding their rights and being able to complete their journey or be provided with the necessary care otherwise.

### **Legislation introduced**

The following passenger rights are all at least partially relevant:

- 1) To information before purchase and at the various stages of travel, notably in case of disruption;
- 2) To renounce travelling (reimbursement of the full cost of the ticket) when the trip is not carried out as planned;
- 3) To the fulfilment of the transport contract in case of disruption (rerouting and rebooking);
- 4) To get assistance in case of long delay at departure or at connecting points;
- 5) To compensation under certain circumstances;
- 6) To a quick and accessible system of complaint handling.

The principal legislation for railway passenger rights is regulation 1371/2007. This regulation requires railway undertakings to provide assistance in the event of missed connections or cancellations. In the event of these requirements not being met, the legislation provides a mechanism for passengers to make complaints or claim compensation. A delay of 60-119 minutes must be met with a reimbursement to passengers of 25% of the ticket cost, whilst a delay of 120 minutes or more demands a reimbursement of 50% of the ticket cost. Wider EU transport policy and legislation is aimed at integrating the railway network in Europe, and simplification of journeys for passengers. Regulation 1371/2007 also requires the railway operator supplying through tickets to provide all information relevant to timings, conditions and connecting services, before and during the journey.

### **Success of the legislation or related issues**

The effect of exemptions to many local services across Europe makes determining the success of the legislation problematic. As a large proportion of trips are regional (29%), suburban (20%) or intercity (30%), therefore the pertinent part of the market is likely to be small at this time (See European Commission, 2013a). Additionally, statistical evidence on long-distance integrated travel is scarce (Maffii *et al*, 2012). This results in difficulties in estimating the market and impact of this problem. The report by Maffii *et al* (2012) details a number of case studies which highlight the problems concerning operators at different geographical levels and their liability in circumstances where passengers are delayed. The report notes that each operator is only responsible for its own leg of the

journey, with *'no mutual responsibility for travel disruption'*. Regulation 1371/2007 is more conducive to nations with one state owned national railway and the problems surrounding liability may be exacerbated when competition from independent railway undertakings is increased (Steer Davies Gleave, 2012a). Therefore, untangling the issue and attributing liability in a manner which is fair to operators and takes into consideration the scale of the financial impact towards them, whilst also ensuring that passengers are more likely to receive the adequate car, information and compensation where necessary, is a complex matter.

### **Suggested changes**

Fundamentally, integrated ticketing is aimed at fulfilling the objective of making travel more attractive to consumers (Maffii *et al*, 2012). Therefore, as a target that should be upheld, an increase in rail integration across Europe should be accompanied by clearer guidance on where and when to attribute liability in circumstances where trips are delayed which encompass more than one operating service. In their evaluation of 1371/2007, Steer Davies Gleave (2012a) recommend that greater clarity on liability would be achieved if the legislation was set at EU level. This recommendation is apposite in this case because it could clarify at what level operators are liable and to what extent passengers are protected. Additionally there would be a greater chance of uniformity at a national level or between different countries, enabling NEBs and other bodies to be able to assist with compensation claims in a more equal manner.

In order to attribute liability clearly and fairly, legislation and policy needs to take into account the relative scale of operating companies and their ability to manage disruption. For instance, local operators are sometimes at a disadvantage if their services are not prioritised. An example is a main line service being allowed to go through a station first, even if it is running late, at the expense of a local service which then has to wait until the high-speed service has passed. Additionally, the rules of carriage on the ticket or elsewhere should specify where the liability lies in the event of delay. Greater understanding of this issue may be gained through case study at a more localised level and may provide a more informed picture to those developing policy. At a micro-level, more localised conditions specific to individual lines and operators should also be investigated further.

## IV - Summary

The case studies presented in this chapter illustrate that although the EU has made considerable progress in improving and harmonising passenger rights over the past ten years there are a number of areas which need further attention. Similarly tourism policy has coalesced to provide clear direction for European action whilst recognising the importance of the subsidiarity principle.

There is considerable scope for tourism policy to direct more focus towards rural tourism where local people are often poorer, and skills for employability generally lower (Lane *et al.*, 2013). Significant social benefits would also accrue as this would help to reduce rural depopulation supporting local services such as schools, shops and community life. Equally there is much to be gained from a European dimension sharing good practice, encouraging cross border networks and supporting the development of sustainable tourism infrastructure.

There are three broad areas in which current situation regarding passenger rights can be improved. Firstly, the availability of 'through' tickets for long-distance rail travel, moving closer to a truly door-to-door experience for passengers; this is already available to air travellers involving multiple operators and 'hub' airports.

Secondly, the provision of information and assistance, both during and before the journey is problematic. In the case of missed connections travellers are primarily concerned with completing their journey as quickly as possible and without further cost. The provision of clear information about the nature and extent of delays together with details of alternative connection and/or options for onward travel are particularly important, especially for those with reduced mobility.

Thirdly, to encouraging a much wider use of public transport the development of through ticketing for multi-modal journeys, integrating all modes of public transport. In some metropolitan areas effective systems have already been developed; this simpler on a smaller scale within a single administrative area, the governance of a Europe-wide system would need to be supported by the EU.

## Chapter 5: The cost of non-Europe

### Key findings

- The tourism industry has benefited from reforms to the transport sector, with the deregulation of air travel for example, and there is potential for further gains.
- The tourism sector is largely populated by SMEs, improving the performance of these can have significant benefits, particularly in rural areas.
- Actions should be focused on areas in which Europe can offer unique selling points such as natural and cultural heritage.

### I - Introduction

This chapter of the report considers the issue of the economic 'cost of non-Europe' in relation to tourism policy and passenger rights legislation. Against a background of increasing mobility the European Union (EU) has introduced new legislation aimed at simplifying and standardising the rights of passengers when travelling within Europe. This legislation not only makes provision for occasions where passengers experience problems during, but also standards of information prior to their travel, as well as the *right to move*. Since 2009 the EU has developed policies to support the development of tourism across Europe. Through a number of initiatives and projects it has sought to maintain Europe's position as the world's no 1 tourism destination by encouraging the development of sustainable high quality tourism.

The phrase 'cost of non-Europe' was first used in the Cecchini report (1988) to encapsulate the notion of Europe without the EU, particularly from an economic perspective, i.e. what would be/is the **economic gain** from member states working together rather than individually. For tourism policy this is not always easy to separate, in the case of transport there are obvious gains from cross-border cooperation, but for small accommodation providers the benefits may not be immediately obvious and given the EU's 'supporting role' the distillation of the EU impact has been challenging. The situation is slightly different for passenger rights as this is where the EU has a stronger role, particularly for international travel, the impacts have been clearer.

This study has identified a number of areas in which tourism policy and passenger rights can be advanced. These have been identified through discussions with various stakeholder organisations and a review of other studies and literature. The most apposite of these were explored further in a series of case studies. The following sections will consider the cost of non-Europe for these potential 'gaps' in policy and legislation; as

with previous chapters they are separated for clarity. The quantification of the various impacts has been difficult to identify due to the lack of consistent data, this has resulted in the need to use qualitative data to produce quantitative estimates of the potential impact.

## II - The European tourism industry

The tourism sector directly generates over 5% (around €650bn) of the European Union GDP supporting millions of businesses, the majority of which are small or medium enterprises, employing around 5.2% of the total labour force.

### Tourism policy objectives

Four priorities for action have been identified in the 2010 communication on tourism:

- *“stimulate competitiveness in the European tourism sector*
- *promote development of sustainable, responsible, high-quality tourism*
- *consolidate Europe's images as a collection of sustainable, high-quality destinations*
- *maximise the potential of EU financial policies for developing tourism”*

To support this, the European Commission has published a rolling implementation plan, which outlines the areas that are to be funded in collaboration with public authorities at different levels, tourism associations and other public/private tourism stakeholders outlining existing and proposed future tourism initiatives. In addition to the *Calypso*, *Tourism for Seniors* and *50,000 tourists* initiatives which were devised to increase tourism away from the peak months a number of the projects have been co-funded under the Competitiveness and Innovation Framework Programme (CIP) between 2010 and 2013 (around six each year). These projects fostered cross border collaboration in designing high quality sustainable tourism products that promoted the unique natural and cultural heritage of Europe.

Table 5.1 shows that the two largest sectors within the tourism industry, by value and number of enterprises, are also those which contain (on average) the smallest firms by turnover, **demonstrating the tourism industry's dependence on SMEs**. It is also worthy of note that once taxi operations (predominantly self-employed) are removed from the figures for 'transport related' enterprises the average turnover rises to €3.75 million, more than 2.3 times the average size of the next largest. This is an important characteristic of the tourism industry; SMEs are often able to adapt quicker to changing market conditions as they tend to be less capital intensive (i.e. fewer fixed investments) and although they can often be less economically efficient (particularly in terms of economies of scale) they present significant opportunities for growth because this. As suggested in the two tourism case studies EU support in developing these has the potential to have an important and valuable impact, by sharing best practice and marketing support for example.

**Table 2: Tourism volume and value by sector**

	Value (billion EUR)	Number of enterprises	Average turnover (EUR)
Real Estate	426.9	1,146,330	372,382
Food related	314.5	1,494,827	210,364
Transport related	236.4	340,455	694,262
Travel agencies and tour operators	145.6	91,525	1,590,385
Accommodation related	138.0	269,634	511,983
Car and other rental	61.2	46,741	1,309,557
All tourism related sectors	1,324.6	3,389,515	390,783

Source: Adapted from 'Tourism industries - economic analysis, 2013'

Within the food sector, for example, there would be gains from development of local rural businesses. The first case study demonstrated how spending with local producers had a greater impact in the local economy compared to businesses with national supply chains. To help achieve this, the development of networks between local food suppliers and other local businesses, such as restaurants and accommodation providers, could be encouraged. The use of specifically target co-funding and workshops to share best practice should aim to create self-sustaining networks. Although this would not necessarily increase the total volume of direct spending such actions would increase the indirect impact; based on the Cusgarne Organics example spending in local economies could increase by as much as 85%. On this basis a 10% shift in rural tourism spending from firms with non-local supply chains to those with local supply chains would increase EU GDP by up to €7.6 billion. The overall impact is dependent on the nature of the businesses; using the West Somerset Railway multiplier would reduce this to €3.2 billion, a smaller but still significant gain.

The development of European transnational organisations for accommodation providers who could, for example, provide a professional marketing platform, provide advice on regulation, quality standards, business start-up and a range of other services to support the development of SMEs in this sector. These might be themed, around 'active tourism' adapted to the needs of individual markets. The development of this key tourism sector, particularly in rural areas, will also have important social benefits; by sustaining rural employment it will help to respond to rural depopulation supporting schools, shops and other local services. It would also help to achieve one of the policy goals of the Treaty of Lisbon, the creation of a favourable environment for the development of enterprises in this sector.

### III - The cost of non-Europe for tourism

Valuing the cost of non-Europe for the tourism industry is problematic; the dearth of studies in this area and the lack of consistent data, either for previous interventions or the European tourism economy in general, offer little quantitative evidence on which to base any estimate. Casalprim-Calvés (2013) report increases in passenger kilometres and airport coverage since the EU single market legislation for air travel was introduced. The number of operators increased between 1995 and 2011 to 482, and the multiplier effect of the legislation has boosted EU GDP by 4.0% although there is no indication of how these figures were derived. There also appears to be no consideration of the 'third variable' problem<sup>18</sup>. Similarly according to London Economics:

*"The enlargement of the European Union to 25 countries in 2004 and then to 27 countries in 2007 has given a new impetus to tourism in the EU. Enlargements have contributed to increasing cross-border trade and co-operation between new and old Member States as well as the development of interregional tourism. The development and enlargement of the Eurozone has also had a positive effect on tourism in the EU"* (London Economics, 2013)

Here again no estimate of the potential impact is made, although it is undeniable that this effect would have occurred.

Previous studies have attempted to assess the cost of non-Europe for a variety of EU-wide initiatives, policies and legislation related to tourism (and transport). London Economics (2013) estimated reductions in the productivity gap between the EU average and best practice for the hotel sector (8.1%) and road freight transport (26%). Methodologies often rely on the availability of secondary data and stakeholder interviews to fill gaps (for example ICF GHK, 2013, p.17). One particular issue is the lack of consistency in terms of available data between Member States. In some case detailed data may be available, whilst in others the information is not recorded. Identifying, collecting and collating the data, is beyond the scope and scale of this study.

Thus with little previous research and inconsistent data sources available it was necessary to adopt a hybrid approach to estimating the impact of ongoing and potential future EU tourism policy and initiatives. Having reviewed the literature and noted previous estimates of the cost of non-Europe from associated areas each of the six tourism industry sectors were ranked according to their economic efficiency. This was done through discussion with both internal and external experts, assessing each sector against three key measures, these are:

- **Industry concentration** – in this case the ratio of enterprises to sector turnover, allowing for sub-sectors such as taxi operations in the transport sector noted above.
- **Labour intensity** – the average number of employees per enterprise. Within the tourism industry, businesses are typically small and labour intensive; the main

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<sup>18</sup> In which a third variable leads to a mistaken causal relationship between two others.

exception to this is the transport sector which is dominated by larger, more capital intensive firms.

- **Nature of the industry** - in particular the potential for economies of scale, barriers to competition and ownership characteristics. For example 'lifestyle businesses' where the profit motive for owning and running an enterprise is replaced by a wider set of goals.

**Table 3: Tourism economic efficiency by sector**

	Economic efficiency	Potential for EU action	Gains from EU action*	Total gains
Real Estate	Medium	Low	0.9-1.72% (0.1-0.3%)	1.0-2.0%
Food related	Low	Medium	3.7-4.6% (1.3-1.4%)	5.0-6.0%
Transport	Medium	Medium	4.9-5.7% (1.1-1.3%)	6.0-7.0%
Travel agencies and tour operators	High	Low	1.0-2.0% (0.0-0.0%)	1.0-2.0%
Accommodation	Medium	Medium	4.3-5.1% (0.7-0.9%)	5.0-6.0%
Car and other rental	High	Low	1.0-2.0% (0.0-0.0%)	1.0-2.0%

\*Expected gains from current interventions are shown first and potential gains from further intervention are in brackets

These factors were used to assess the level of economic efficiency. Having considered each sector on the basis of the factors noted above, and allowing for sub-sector variations, each sector was ranked by its economic efficiency as low, medium or high. Consideration was then given to a fourth factor, the extent to which there were further potential gains from EU action.

- **Opportunities for market intervention** - particularly where actions at a European level have the potential to provide benefits over and above national actions or where significant inefficiencies exist, such as the existence of dominant firms.

Again these were ranked low, medium or high. Each sector was then allocated a range based on this discussion and analysis. These can be seen in Table 3.

## Current policy and intervention

There are a number of areas in which current policy and intervention are considered to be a 'work in progress', i.e. there are active policies and/or initiatives but the full benefit has not yet been realised. The most notable of these are:

- **The internal rail market** - this has seen some opening up to competition (from non-incumbent railway undertakings) but the Annual Market Monitoring Report (2013) by the Independent Regulators' Group – Rail notes that "*in most countries monitored the railway market is still dominated by the incumbent railway undertaking*"; the situation is little better for international journeys. Currently, publicly owned networks account for over 90% of EU rail journeys. Unlike the liberalisation of air travel which saw the rapid growth of 'low cost carriers', increased competition, falling prices and greater mobility. Greater competition on international rail travel should be stimulated.
- **The accommodation & food related sectors** – the development and promotion of the **European Tourism Quality Principles** should raise the average level of service through shared good practice as well as increasing tourist confidence in the standards boosting visits from both outside Europe and intra-Europe. The EP report (Fidanza, 2011) suggests "*that [whilst] a proliferation of labels must be avoided*" there is need for "*the Commission to promote a specific initiative to harmonise gradually the accommodation classification systems*"; this should equally be encouraged within the food sector. Such an undertaking is undoubtedly a long-term project, but would move towards the development of a 'European quality tourism label' called for in the report.

These are considered to be the areas which will benefit principally from current policy and intervention, others will benefit indirectly from these; further smaller, incremental gains will come from the other initiatives listed in Annex B. These must all be considered as priming activities and it will take time for the markets to develop and for tourism businesses to take up these opportunities, 5-10 years would not be an excessive horizon, an example of how this process could be supported further is presented in the final chapter of this study.

## The transport sector

Given the importance of the transport to tourism and the significant intervention that the sector has experienced a more detailed discussion of the methodology is presented. Table 4 below shows an evaluation of the six sub-sectors for each of the four key industry efficiency measures. Based on this, each of the sub-sectors were assigned an economic efficiency 'ranking' of either *low*, *medium* or *high*. These were then translated into a ranking for the transport sector as a whole. This also took into account the economic contribution of the sub-sector to the sector as a whole, for example *passenger air* has a high economic efficiency ranking and contributes around 46% of the turnover of the sector, although this is moderated by the limited opportunities for further action.

**Table 4: Assessment of the transport sector**

	Industry concentration	Labour intensity	Nature of industry	Opportunities for intervention	Economic efficiency
Passenger air transport	Medium – operators competing on most routes	Low - capital intensive business	Predominantly private industry with a few national carriers	Significant levels of legislation and deregulation already enacted	High
Passenger rail transport	Very high – few operators and little competition on many routes	Low – capital intensive business	Largely state owned companies with some competition on international routes	Some deregulation but further competition needed on international routes	Medium
Other passenger land transport <sup>19</sup>	Medium – operators competing in most markets	Medium – relatively capital intensive	Long distance services still largely provided by small number of operators	Deregulated in some countries, competes predominantly with regional rail	Low
Taxi operation	Low – large numbers of small businesses competing in local market	High – largely populated by small firms	Largely dominated by small businesses or self-employment	Limited given the nature of the business	Medium
Sea & coastal passenger water transport	High – small numbers of businesses with significant competition on some routes	Low – capital intensive business	Largely private industry, main routes are dominated by large firms	Some potential where limited competition occurs, but largely in decline due to competition from airlines	High
Inland passenger water transport	High - small numbers of businesses but market numbers small	Medium – relatively capital intensive	Largely private industry	Unlikely to have significant impact due to dominance of leisure and geographic limitation	Low

### Estimated 'costs'

<sup>19</sup> Assumed to be predominantly bus and coach travel.

The next stage was to consider the current position with regard to the initiatives undertaken by the European Commission (see Annex B for further information) and if there was potential for further intervention by the EU. It should then be possible to estimate the potential impacts of further policy developments interventions. As with the previous stage of the estimation account was taken of the relative size of the sector as well as its ranking in terms of economic efficiency.

**Table 5: Estimated impacts of current tourism policy and further intervention  
(€ billion per annum)**

	Cost of non-Europe		
	from current policy	potential gains from further EU intervention	Total impact
Real Estate	3.7-7.3	0.6-1.2	4.3-8.5
Food related	11.6-14.5	4.1-4.4	15.7-18.9
Transport	11.6-13.6	2.6-3.0	14.2-16.6
Travel agencies and tour operators	1.5-2.9	0.0-0.0	1.5-2.9
Accommodation	5.9-7.1	1.0-1.2	6.9-8.3
Car and other rental	0.6-1.2	0.0-0.0	0.6-1.2
<b>Total tourism sector</b>	<b>34.9-46.6</b>	<b>8.3-9.7</b>	<b>43.2-56.4</b>

As would be expected the sector considered to have the lowest economic efficiency (food related) shows significant potential for gains, estimated between 5 and 6 percent (see Table 3). There are also gains possible from transport, although there is considerable disparity within the sector (Table 4); two of the sub-sectors exhibiting characteristics of low efficiency, one presenting opportunities for some gains (other passenger land transport) whilst the other offers little potential (inland passenger water transport). Rail passenger transport has already seen some liberalisation through transport policy, but has opportunities for further improved performance, particularly for long-distance travel.

Overall it is estimated that the total cost of non-Europe still to be realised under current tourism policy and related legislation is between €34.9 and €46.6 billion, 2.6% and 3.5% respectively of the total tourism industry turnover. A further €8.3 to €9.7 billion, 0.6% to 0.7%, could be achieved through the implementation of further measures to increase economic efficiency and competitiveness. This would give an increase of between 3.2 and 4.2 percent, or between 43.2 and 56.4 billion Euro (based on 2010 turnover).

Whilst it is problematic to estimate precisely the impact of the gap in rural tourism, it is possible to advance some estimate of the potential. Lane *et al.* (2013) estimate rural tourism to be worth €90 billion to the European economy each year; based on this it generates around 7% of the total tourism industry income. Of the six industry sectors rural tourism is primarily concerned with three: real estate, food related and accommodation, accounting for around two-thirds of the total industry income. Using

the estimates above this gives a potential 'cost' of non-action in this case of between 0.4 and 0.5 billion Euro annually.

The economic value (in terms of additional tourism income) of the development of the northern section of the Iron Curtain Trail (ICT) can be estimated by adapting the findings of Weston *et al.* (2012). This study estimated the spending by users of the ICT for all of the countries through which it passes. Table 6 shows the revenue estimated for the six countries involved in the project (for Germany it includes the Mecklenburg-Vorpommern region only as this was the partner in the project). The report also summarises the level of international tourism found by other studies on cycle routes across Europe; ignoring outliers, most of the values fall into a range of between 5% and 10%.

Making the following assumptions:

- That all day trips are domestically generated and that there was no net gain from the development of the ICT.
- That between 5% and 10% of holiday trips were of international origin and that they were all net gains from the development; the remainder are domestic and there is no net gain.

This gives an increase in revenue for the areas through which the ICT passes of between 7.72 and 15.44 million Euro, as a result of the project development of the route.

**Table 6: Economic impact of the northern section of the Iron Curtain Trail**

	Holiday trips revenue (million EUR)	Day excursion revenue (million EUR)	Total revenue million (EUR)
Finland	10.5	11.4	21.9
Estonia	14.0	4.4	18.4
Latvia	11.7	6.0	17.7
Lithuania	3.3	0.9	4.2
Poland	55.9	7.5	63.4
Germany (Mecklenburg-Vorpommern only)	59.0	5.5	64.5
Total	154.4	35.7	190.1

Source: Weston et al. (2012)

## IV - Passenger rights legislation

A number of previous studies have attempted to calculate the cost of non-Europe for a range of EU initiatives, policies and legislation. These include the hotel and transport sectors (London Economics, 2013)<sup>20</sup> and freight transport (Ernst and Young, nd.)<sup>21</sup>. Methodologies primarily rely on the availability of relatively complete and reliable secondary data for the industry in question and use stakeholder interviews to fill gaps (for example ICF GHK, 2013, p.17)<sup>22</sup>. In the case of passenger rights there is a deficiency of consistent data, an issue highlighted in the case of *Schlichtungsstelle für den öffentlichen Personenverkehr* in Germany, where some but not all the necessary information is recorded; in most member states even this is not available.

Responses to the consultation suggest that as yet there is very low awareness of passenger rights, not just in the case of EU legislation but also national protection as found by the recent study by the ORR in the UK (ORR, 2014). Many respondents also suggested that there had been no identifiable impact on mobility patterns and therefore on cross-border travel, and as a consequence no economic impact.

Whilst the passenger legislation makes provision for compensation where the service has not met a minimum standard it does not have a significant impact on the demand for travel, which is generally driven by *price* and *travel time*. In the short-run these may in fact cause prices to rise as transport operators internalise the cost of compensation payments and so the impact is *zero sum* overall. However, in the medium to longer term it is likely to have an impact on industry competitiveness, albeit indirectly, as operators strive to improve their service in order to minimise the level of compensation payments; first movers in this instance may gain a price advantage in the short-run<sup>23</sup>. However, given the current low levels of awareness of passenger rights and therefore claims against firms there is little indication at this stage that this has occurred.

There are other possible 'costs' of gaps in passenger rights, the lack of transparency and information, the costs of processing the claims, etcetera. However, as suggested by one respondent to the consultation: "*instead of merely quantifying the benefits, also other aspects might count, which may very well be considered as benefits:*

- **Legal Peace:** *The high rate of success of the mediation and the duration of the process can be regarded as a substantial contribution to legal peace.*
- **Quality of compensation:** *Of course it is often about the money. In many cases, however, passengers also express their discontent in communication with the carrier (in case of problems during travel, problems in the context of appeal proceedings). The Feedback we get even in case of unsuccessful mediation also shows that the*

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<sup>20</sup> [http://ec.europa.eu/bepa/pdf/publications\\_pdf/cone-report.pdf](http://ec.europa.eu/bepa/pdf/publications_pdf/cone-report.pdf)

<sup>21</sup> [http://ec.europa.eu/transport/themes/its/studies/doc/eets\\_socio\\_economic\\_impact.pdf](http://ec.europa.eu/transport/themes/its/studies/doc/eets_socio_economic_impact.pdf)

<sup>22</sup> [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/510980/IPOL-JOIN\\_ET\(2013\)510980\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/510980/IPOL-JOIN_ET(2013)510980_EN.pdf)

<sup>23</sup> Although some low cost airlines appear to be attempting to gain this advantage by making the compensation claims process difficult.

*travellers are grateful to have received an explanation why they will not receive compensation in the wake of the mediation.*

- ***Chance of conflict resolution through goodwill*** (in cases without entitlement for compensation, but in the case of problems on information, service, vending machines etc.). In such cases, travellers are satisfied, for example to receive vouchers (instead of money) as compensation."

On balance, given the lack of robust evidence or data on which to base estimates, it is considered imprudent to value the 'cost' of passenger rights in pecuniary terms. This may be possible in the longer term as and when secondary data becomes available or the opportunity to estimate the value based on a contingent valuation approach is presented.

## **V - Summary**

Given the importance of the transport sector for tourism it is unsurprising that it has benefitted from past policies and legislation, such as the deregulation of the airline industry, and that it has significant potential for further gains. What is perhaps more surprising are the small gains from the real estate and accommodation sectors given their importance to the tourism industry. This is probably in part due to the differences in industry structure; real estate and accommodation is generally populated by SMEs, even where a number of large firms exist there is a 'long tail' of smaller often single unit businesses that offer highly differentiated products providing less opportunity for economies of scale. Whereas much of the transport sector is dominated by larger firms (and in some cases state protected monopolies) offering much greater potential for economies and increased competition.

Rural tourism is estimated to be worth €90 billion to the European economy each year, around 7% of the total tourism industry income. The estimated 'cost' of non-action in this case is between €0.4 and €0.5 billion. For the tourism industry overall it is estimated that a further 0.6 to 0.7 percent increase could be achieved, €7.9 - €9.3 billion, through the implementation of further measures to increase economic efficiency and competitiveness.

Whilst it was considered imprudent to value the 'cost' of passenger rights in pecuniary terms it has been suggested that: other aspects might also be considered as benefits. Further the principal *raison d'être* of passenger rights is not to provide additional income or to increase travel but to redress the 'balance of power' between large (often monopolistic) operators and individual travellers.

## Chapter 6 – Conclusions & Recommendations

This research note has sought to identify ‘gaps’ in EU tourism policy and passenger rights legislation. Firstly, it provided an assessment of recent tourism policy within the Union and explores areas in which further policy measures might be developed. Secondly, it sought to assess the impact of passenger rights legislation introduced over the past decade and identify any gaps.

### I - Tourism policy

Global tourism continues to grow, with Europe forecasted to benefit from this. A key element in ensuring this outcome is maintaining and continually improving the quality of the tourism offer both for EU-residents and tourists from outside Europe. A series of policy initiatives have been developed, particularly since the conclusion of the Treaty of Lisbon. They have primarily focussed on co-operation across the EU, sustainable and competitive tourism, and further integration of tourism into other elements of EU policy. Other areas of legislation (such as climate change, taxation and employment, social affairs and inclusion) already have provision to regulate aspects of tourism at an EU level and have therefore not been extensively treated in this paper. However, tourism policy is very much still in evolution at this stage. Two case studies, on the Iron Curtain Trail and rural tourism, point to areas in which the EU further develop policy: with development of cross-border tourism to distribute income, particularly in more remote or poorer areas of Europe, and greater focus on rural tourism business networks to support local communities.

It is estimated that the northern section of the Iron Curtain Trail when complete will generate increased tourism revenues of between 7.72 and 15.44 million Euro. Rural tourism is estimated to be worth €90 billion to the European economy each year, around 7% of the total tourism industry income. The estimated ‘cost’ of non-action in this case is between €0.4 and €0.5 billion. For the tourism industry overall it is estimated that a further 0.6 to 0.7 percent increase could be achieved, €7.9 - €9.3 billion, through the implementation of further measures to increase economic efficiency and competitiveness. In total it is estimated that the total cost of non-Europe arising from current tourism policy and initiatives, and the additional actions identified above is between €43.2 and €56.4 billion.

There are four areas in which EU action would further support the development of tourism and help realise the potential gains identified in Table 5 above:

1. **Developing quality sustainable tourism** – the EDEN initiative has begun to develop this for areas for non-traditional destinations, this could be extended to other areas, especially rural, and for example in supporting the development of active tourism, walking, canoeing, etcetera. The Norwegian ‘Syklist Velkommen’<sup>24</sup> provides a good example of what might be done on a wider European scale, especially the cyclist-friendly destination scheme that encourages

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<sup>24</sup> <http://www.cyclingnorway.no/en/>

businesses in an area to work together to provide tourists with a complete package rather than accrediting individual businesses.

2. **Supporting the development of SMEs** – especially in the accommodation and food related sectors where the prevalence of SMEs is noted. The development of transnational organisations for accommodation providers could provide professional marketing platforms, provide advice on regulation, quality standards, business start-up and a range of other services to support their development. In the food related sector the development of local networks of food suppliers and retailers would increase the impact of tourism spending in the local economy. The organisation of regional workshops to develop these, sharing best practice and with the aim of creating self-sustaining organisation or networks.
3. **Harmonising the accommodation classification systems** - the **European Tourism Quality Principles** should be developed through voluntary participation, rather than through compulsory measures that would be difficult to enforce and potentially reduce the flexibility of the lower quality accommodation market. It could be supported in two ways: firstly by validating and marketing the scheme (at least at inception, after which it should become independent and self-sustaining) to ensure a consistent message to both tourists and businesses. To encourage (voluntary) participation this, the development of **Quality Destinations** could be trialled. In the same way as the UK's 'Walkers are Welcome'<sup>25</sup> towns initiative is used to encourage all businesses in the area to raise their standards of service rather than individually, this should help to create supporting networks within a destination as well as increasing participation through competitive pressures.
4. **Promote the development of 'slow travel'** – although the slow travel concept is still in evolution it can be used as a concept to encourage tourists to use public transport as well as participate in more active (healthier) modes of travel. As well as promoting the use of 'greener' modes of travel it also encourages tourists to engage more with local people, cultures and food (it evolved from the Slow Food<sup>26</sup> and Cittaslow<sup>27</sup> movements), further supporting the development of local businesses. The potential for a **European Tourist Smart Card**<sup>28</sup> should be investigated as a means to support this and encourage the use of public transport generally.

Many of these initiatives overlap as they target more than one goal supporting the development of SMEs, tourism in rural areas and sustainability (environmental, social and economic). They can be achieved without further legislation through initiatives that support the development of tourism at a local level, respecting the principle of subsidiarity.

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<sup>25</sup> <http://www.walkersarewelcome.org.uk/waw-towns/>

<sup>26</sup> <http://www.slowfood.com/>

<sup>27</sup> <http://www.cittaslow.org/>

<sup>28</sup> See for example <http://www.sevillacard.es/en/que-es-una-tarjeta-turistica>

## II - Passenger rights

Passenger rights legislation for air, rail, waterborne and bus and coach transport has been enacted over the last decade. A review found that of the studies undertaken during this period to assess the effectiveness of the new legislation few have attempted to quantify its value. A consultation with a number of stakeholder organisations including both operator and passenger organisations was undertaken alongside the review. Common themes which emerged included a need for greater clarification of some elements of the legislation, especially in terms of operator's liabilities and defining 'force-majeure'. A number of respondents considered that the majority of passengers do not know of the existence of their rights or at the very least, are unsure. There is a general feeling that awareness raising measures are an important part of EU policy at present. One of the common issues was a general lack of consistency, particularly between member states, in implementing and enforcing the rights. Specifically, further investigation into how the impacts of the legislation vary between modes, national organisational approach, operator, scale and context, is required.

Case studies highlighted the gaps where EU legislation may be improved:

1. **Accessibility standards for people with reduced mobility** vary between nation states. Highlighting best practice, deeper investigation into accessibility gaps and restructuring transport systems accordingly are crucial processes if homogenisation of standards across the Union is to be achieved.
2. **Further integration of transport modes** across Europe, single ticketing and greater cohesion between operating companies would make passenger transport across Europe more attractive. In particular liability of operators becomes complex on multi-modal journeys. The absence of through ticketing further complicates the question of liability. A focus on the travel chain is a key consideration for future policy improvement.
3. **Exemptions given to local rail services** and the nature of long distance rail journeys in Europe (which may involve national, local and international operators) creates problems due to variances in levels of restriction. Increased understanding of the issues and the question of scale are important future areas of investigation.
4. From the point of view of the passengers, greater **information on rights and connections** before travelling and greater **assistance at the time of cancellation** would help reduce the negative impacts of disruption and the burden on operators to deal with it.

It was considered unwise to value the 'cost' of passenger rights in pecuniary terms but that: other aspects might also be considered as benefits and the principal purpose passenger rights are to redress the 'balance of power' between large operators and individual travellers.

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## **Annex A: Stakeholders invited to participate**

### **Organisations contacted**

DG Move, European Commission  
European Parliament

#### **Consumer organisations - European**

Academy of European Law\*  
Air Passenger Rights (Association of European Airlines)  
BEUC, The European Consumer Organisation \*- Citizens and Mobility  
European Consumers Centre  
European Passengers Federation  
UITP International Association of Public Transport

#### **Consumer organisations - National**

Assoutenti (Italy)  
Campaign for better transport (United Kingdom)\*  
Federmobilità (Italy)  
Passenger Focus (United Kingdom)\*  
Pro Bahn (Germany)  
Schlichtungsstelle öffentlicher Personenverkehr (SÖP)  
Unione Nazionale Consumatori (Italy)\*  
Verkehrsclub Deutschland (VCD) (Germany)

#### **Industry groups - European**

Community of European Railway and Infrastructure Companies (CER)  
Cruise Lines International Association - Europe\*  
European Business Aviation Association\*  
European Passenger Transport Operators

#### **Industry groups - National**

Association of Train Operating Companies (United Kingdom)  
Fahrgastverband Frankreich (FNAUT) (Germany)  
German Association of Passenger Rail Authorities (Germany)  
Réseau Ferré de France (France)\*  
Union des Transports Publics et ferroviaires (UTP) (France)

#### **Specialist organisations**

AGE Platform Europe  
European Cyclists Federation  
European Disability Forum\*  
Lawyers Association Heinke, Skribe & Partner (Austria)  
Schlichtungsstelle fuer den oeffentlichen Personenverkehr e.V. (Germany)

(\*indicates either non-response or unavailable for interview)

## Annex B: EU Tourism Interventions

Table 7: European Union tourism interventions since 2010

Name	Description	Funding sources
Calypso	Initiative for disadvantaged people (underprivileged 18-30 year olds, families in financial difficulty, people with disabilities and over 65 year olds or pensioners who require support organising travel). Off-season tourism and less-frequented destinations benefit from a model which promotes the structural changes across Europe to facilitate off season exchange of social tourism.	European Commission, Entrepreneurship and Innovation Programme (EIP), 2-4 projects per year
Tourism for seniors	CALYPSO highlighted the need for a new Senior Tourism Initiative, which increases provision of tourism for older people by developing new offers, transnationally and partnerships between the public and private sector. Off season tourism and competitiveness for the European tourism industry benefits because this demographic has less time pressure.	Entrepreneurship and Innovation Programme (EIP)
Low season tourism	Because there is a degree of spare capacity in the air travel and accommodation sectors during low season, this initiative focused on travel between the EU and Argentina, Brazil and Chile.	
Cultural Tourism	A collection of projects and studies which identify potential for enhancing the culture of Europe through tourism. They include transnational collaboration and exchange, preservation of culture and heritage. European Cultural Routes, a set of trails which cross nation borders are aimed at developing sustainable tourism to rural and more remote areas.	European Commission, 4-5 projects per year
Cycling Routes	To promote environmentally friendly sustainable tourism, the EuroVelo cycling routes are under development, co-ordinated by the ECF (European Cycling Federation). The EC offer grants to projects which develop long distance cycling trails such as the Iron Curtain Trail.	CIP, 6 projects in 2010
EDEN	The European Destinations of Excellence project champions sustainable development of destinations. Each European nation designates a 'destination of excellence' annually. The theme changes each year and includes rural tourism and protected areas. They are a means of sharing good practice in sustainable tourism development across Europe.	European Commission, Directorate-General for Enterprise and Industry, 27 participating nations
European Tourism Quality Principles	This set of principles for quality tourism development was constructed by the EC in order to promote service quality for tourism providers and increase the confidence of consumer in the product. Service quality is broken down into employee training, consumer satisfaction policy, cleaning and maintenance and information provision for tourists.	Competitiveness of enterprises and SMEs Programme (COSME)

Name	Description	Funding sources
Promoting Europe Internationally	The basis is to promote Europe as a destination to the rest of the world and increase tourist arrivals. It includes implementing changes to VISA rules to simplify the process for travellers and support economic growth. There is also a campaign to develop media to promote Europe as a destination through printed media, blogs and video by journalists, bloggers and travel writers.	
Conferences	Several conferences for tourism stakeholders are held by the EC each year to share good practice, identify contemporary issues in tourism development and prepare the industry for the future.	





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Cost of Non-Europe Reports identify the possibilities for economic or other gains and/or the realisation of a 'public good' through common action at EU level in specific policy areas and sectors. This Cost of Non-Europe Report seeks to analyse the costs for citizens, businesses and relevant stake-holders of remaining gaps and barriers in the Single Market in transports, as well as to examine the benefits from further action in the tourism sector.

This particular study - the third in a series - looks at the cost of non-Europe in European tourism policy and passenger rights legislation. For passenger rights, it analyses existing legislation and policy measures, identifying specific gaps where legislation or further initiatives at European level could be beneficial. In the tourism area, it quantifies in economic terms the potential for efficiency gains and identifies the main areas, in which EU action would further support the development of tourism and help realise the potential gains identified.

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