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on passenger rights in all transport modes
(2012/2067(INI))

Committee on Transport and Tourism

Rapporteur: Georges Bach

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on passenger rights in all transport modes

(2012/2067(INI))

The European Parliament,

- having regard to Title IV of Part Three of the Treaty on the Functioning of the European Union (TFEU), concerning the free movement of persons,
 - having regard to the Commission communication to the European Parliament and the Council entitled ‘A European vision for Passengers: Communication on Passenger Rights in all transport modes (COM(2011)0898),
 - having regard to the opinion of the European Economic and Social Committee of 23 May 2012,¹
 - having regard to the United Nations Convention on the Rights of Persons with Disabilities,
 - having regard to its resolution of 25 November 2009 on passenger compensation in the event of airline bankruptcy²,
 - having regard to its resolution of 25 October 2011 on mobility and inclusion of people with disabilities and to the European Disability Strategy 2010-2020³,
 - having regard to its resolution of 29 March 2012 on the functioning and application of established rights of people travelling by air⁴,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on the Internal Market and Consumer Protection (A7-0287/2012),
- A. whereas since the relevant goals were charted in the Commission’s 2001 White Paper, a comprehensive EU passenger rights package has been developed for all modes, namely air, rail, waterborne and road transport, affording basic protection to passengers while ensuring a level playing field for carriers;
- B. whereas, however, some of these passenger rights are still not being applied completely by all carriers, nor are they being monitored in a harmonised fashion or enforced properly by all national authorities; whereas some of the existing regulations have failed to provide clarity on passenger rights or the responsibilities of service providers and therefore require

¹ OJ C 229, 31.7.2012, p. 122.

² OJ C 285 E, 21.10.2010, p. 42.

³ Texts adopted, P7_TA(2011)0453.

⁴ Texts adopted, P7_TA(2012)0099.

revision; whereas, in addition, passengers are not well informed about their rights and the quality of service they are entitled to expect, and their legal claims are often difficult to lodge and enforce;

- C. whereas this assessment is confirmed by a survey of Members and EP staff carried out by the rapporteur;
- D. whereas with its latest communication and other very recent initiatives (revision of Air Passenger Rights Regulation (EC) No 261/2004; Package Travel Directive 90/314/EEC), the Commission is seeking to clarify and strengthen passenger rights in all modes;
- E. whereas care needs to be taken to avoid too much bureaucracy for smaller bus operators in rural areas, who often provide a valuable community service for isolated areas;
- F. whereas it is essential to strike a balance between the need for passenger rights in the case of rural bus services and the need to ensure that the burden is not so heavy as to make such services unviable in the future;
- G. whereas a high level of consumer protection is guaranteed by Article 169 of the Treaty on the Functioning of the European Union and Article 38 of the Charter of Fundamental Rights of the European Union;
- H. whereas there is still an ongoing problem with price transparency for consumers booking tickets on the internet,

General framework

1. Endorses the Commission's intention to enforce the current rules on passenger rights more firmly and improve them where necessary, and welcomes its communication as a useful summary of achievements to date;
2. Emphasises that passengers have not only rights but also responsibilities, and that meeting these helps ensure that everything runs safely and smoothly for them and other travellers before, during and after the journey;
3. Is of the opinion that the common criteria (non-discrimination, equal treatment, physical and ICT accessibility, the requirements of 'design for all', fulfilment of the transport contract, exact and accessible information given in good time before, during and after travel, and appropriate assistance without delay in the event of problems and possible compensation), together with the ten specific passenger rights listed in the Commission communication, correspond to the main rights cutting across modes and form a solid basis for establishing a legally enforceable charter of passenger rights;
4. Notes that the preconditions of safety and security, including both the technical safety of the transport equipment and the physical safety of passengers, must continue to have priority;
5. Recommends that the Commission include in its list of passenger rights the right to a minimum quality services standard on the part of carriers and that it set out a clear

definition of such a standard;

6. Points to the need for the forthcoming Commission initiatives concerning passenger rights to tackle what is missing in the fragmented state of the existing regulations, namely a seamless travel chain for all passengers across all modes of transport; in the upcoming reviews of the EU rules on passenger rights (for air, rail, waterborne and road transport), improved convergence between the different legislation in those four areas should be considered as a priority and amendments introduced accordingly;
7. Calls on the Commission to carefully review and oversee the implementation of comprehensive regulations which avoid ambiguities and misunderstandings relating to passenger rights and the responsibilities of service providers;
8. Considers in particular that the definitions of delays and cancellation should not create any distortion between the rights applicable in different transport modes;
9. Is aware that there are structural differences within individual transport modes and that any single cross-cutting regulation on passenger rights must take this into account; recognises that such a regulation cannot be drawn up at present, as the regulations on passenger rights in waterborne and bus and coach transport have not yet entered into force, although it must be the declared aim in the medium term; believes, however, that a holistic approach is needed, so as to integrate all passenger rights – inter alia to compensation, reimbursement and information – into a common legislative framework providing conditions for fair competition between the different transport modes;
10. Calls on the Commission therefore, at this stage, to draw up guidelines on the application and implementation of rights in all transport modes which will not have the effect of either standardising the laws or watering down passenger rights, and which recognise the differing requirements of each mode as well as aspects common to all;
11. Recommends that the Commission prepare a Common Frame of Reference (CFR) for passenger law, containing principles, definitions and model rules for passenger legislation for all modes of transport, in order to form a basis for the further consolidation of passenger law; the Passenger CFR should thus follow the example of the CFR on European contract law;
12. Takes the view that passengers' rights and passenger service must be adapted to changes in patterns of travel, and draws particular attention in this regard to the new challenges posed by intermodal travel and the associated information and reservation systems for both passengers and travel companies; underlines the need to adapt travellers' rights and operators' obligations, inter alia in the field of package travel,⁵ to reflect the current state of affairs, and calls on the Commission speedily to put forward a revised proposal to remedy, as a matter of priority, the current shortcomings affecting the scope of rules, the online sale of travel packages and abusive clauses in contracts;
13. Stresses the importance of the EU continuing to address passenger rights in bilateral and international agreements in relation to all modes of transport, with a view to the

⁵ Council Directive of 13 June 1990 on package travel, package holidays and package tours (90/314/EEC).

improvement of passenger protection beyond its borders;

Information

14. Welcomes the Commission's decision to maintain its information campaign on passenger rights up to 2014; recommends that national consumer protection authorities and agencies be involved in the campaign, since they can do a great deal to educate passengers about their rights (for instance by producing literature for travel agencies or web content); maintains, meanwhile, that key information including passenger rights and, possibly, operator performance reviews should be made accessible by the same sources so as to facilitate passenger enquiries; invites public authorities, national consumer protection agencies and organisations representing all passengers to launch similar campaigns;
15. Calls for the list of rights common to all modes to be circulated widely, in a concise form and in all official EU languages;
16. Points out that a trip is a contract between the service provider and the consumer that can take various forms, and that the consumer should therefore know all the details of this contract at the point when the contract is drawn up, while any subsequent changes should be made known to those involved in a timely manner; considers that this contract should contain information on relevant aspects of the trip and on the passenger's rights in case of problems;
17. Calls on all transport operators and other service providers concerned to make greater efforts to inform passengers more fully, particular in cases of crossborder travel; considers that information must be readily understandable, accurate, complete, easily accessible for all and available in different formats and in the national language as well as in English, and should include details regarding relevant websites and smartphone applications, as well as postal addresses for complaints and complaint forms;
18. Calls, moreover, for passengers to be informed of their rights in the same way as they are informed of their obligations;
19. Stresses that the rights and obligations of passengers and of other relevant stakeholders (e.g. transport operators, infrastructure managers, persons accompanying disabled passengers) must be set out, and all pre-journey travel information (including websites), reservation systems, real-time travel information and online services must be made available to the passenger in formats that are accessible to persons with disabilities or reduced mobility;
20. Calls on carriers to provide information on passenger rights on travel tickets, especially contacts details for help and assistance;
21. Stresses that where through-ticketing applies, clear information should be provided on the liability of the carriers in the event of damage to baggage during the journey, as well as on differentiated baggage allowances, compensation for delays, and the rules applying between carriers, and also on adequate rerouting in case of travel disruption or missed connections, including intermodal rerouting;

22. Welcomes the Commission's new smartphone application, which provides information on passenger rights in several languages and in a format accessible to passengers with disabilities; calls on the Member States and carriers to press ahead with the development and use of similar modern technologies (including SMS and the use of social networks, video-based sign language services, and text-based services to ensure the inclusion of deaf, hard-of-hearing and speech-disabled users); calls on public authorities, consumer protection bodies and organisations representing the interests of all passengers to launch similar initiatives; invites the Commission, furthermore, to take account at all moments of the circumstances of elderly people, who are not always equipped with modern technology when travelling; takes the view, moreover, that consideration should be given to making the internet available free of charge at airports, stations and other major departure points, so as to enable fuller use of these services;
23. Urges the Commission to promote the use of new technologies for all modes of transport, to be applied to the issuing of boarding cards that can be retained, are valid and can be shown using electronic devices, in order to speed up boarding procedures and make travel more environmentally sustainable;
24. Recommends that adequately staffed information points and helpdesks which are physically and ICT-accessible and whose staff are adequately trained to respond to persons with disabilities or with reduced mobility need be set up at visible and centrally located places of departure and arrival (airports, railway stations, bus terminals, and ports) in order to provide more comprehensive assistance to passengers in the event of individual or collective travel disruption, paying particular attention to passengers travelling with children and to persons with disabilities or reduced mobility; recommends that there should be properly trained personnel at hand who are able to take immediate decisions on rerouting or rebooking, assist in cases of lost, delayed or damaged luggage, and deal with claims for compensation or reimbursement; at small and unstaffed railway and bus stations, alternative solutions, such as an information phone number or a web-page, should be made available;
25. Takes the view that all transport companies must provide accessible and effective telephone assistance for all passengers once a trip has been booked; such assistance must include the provision of information and alternative proposals in the event of disruption and, in the case of air, maritime and rail transport, its cost should in no circumstances exceed that of a local call;
26. Believes that when buying tickets passengers should be properly informed about overbooking;
27. Calls on the Commission to update all sources of information ((its website, documents, brochures) regarding passenger rights as applying to the different transport modes, taking account of the latest legal decisions and particularly those of the European Court of Justice;

Transparency

28. Calls on the Commission to extend the obligation to report on the standard of service, which already applies to railway undertakings, so as to cover carriage by other modes,

taking account of their respective specificities; is of the opinion that published comparative data could help to guide passengers and could be used by carriers for advertising purposes;

29. Calls on the Commission to oblige the Member States to gather statistical data on infringements of passenger rights and ways of dealing with all complaints, on the number and length of delays, and on lost, delayed or damaged baggage; calls on it to analyse the statistical data as provided by the Member States, publish the results and create a data bank for the exchange of information; also calls on the Commission, in cooperation with the Member States and the national enforcement bodies, to take the necessary measures in this regard;
30. Considers that the websites of many transport operators are still rather unclear and can mislead consumers when they are booking tickets; calls on the Commission to enable the current legislation on price transparency and unfair commercial practices to be implemented and enforced effectively, in accordance with Directives 2011/83/EC and 2005/29/EC, and to consider introducing a system of penalties to be applied should it be established that EU legislation on price transparency has been infringed;
31. Calls on the Commission to ensure that, notably in computerised reservation systems governed by Regulation 1008/2008/EC, non-optional operational costs are included in fares, and that genuinely optional items are published and bookable with all necessary information and fees for ancillary services (such as charges for payment by credit card or handling luggage), so that no extra costs are added just before a purchase is made and passengers can clearly differentiate between non-optional operational costs included in fares and bookable optional items;
32. Calls on the Commission to ensure closer monitoring of websites and to notify the national enforcement bodies where there are misapplications of the existing regulations, with a view to their reinforcement;
33. Calls on the Commission, in cooperation with the national authorities, to consider the implementation of a harmonised, intermodal vision of the content of passenger transport services and of the elements of the price to be included in the basic fare for all transport modes;
34. Believes that the hard core of services to be included in the basic fare should at least cover all operational costs indispensable to transport passengers (including those linked to the carrier's legal obligations, such as safety, security and passenger rights), all aspects essential for travel from the passenger's perspective (such as the provision of tickets and boarding cards and the carrying of a minimum amount of luggage and personal belongings), and all costs related to payment (such as credit card costs);
35. Calls on the Commission to address the proliferation of unfair terms in air carrier contracts, such as the unfair requirement that passengers must use the outgoing part of a return ticket in order to be able to use the return part and that they must use all the tickets for a journey in consecutive order;
36. Calls on the Commission to ensure that ticketing and transparent pricing are available to

everybody without discrimination, independently of the location or nationality of the consumer or the travel agency, and that price discrimination against passengers on the basis of their country of residence is more thoroughly investigated and, where identified, fully eliminated;

37. Calls on the Commission to deal with the transparency and neutrality of distribution channels which have developed outside the scope of Regulation 80/2009 on computerised reservation systems;
38. Reiterates its call on the Commission to propose measures for the introduction of common standards for the carriage of hand luggage, so as to protect passengers against excessive restrictions and allow them to carry on board a reasonable amount of hand luggage, including purchases from airport shops;
39. Urges the Commission to accelerate the tabling of a legislative proposal revising the Package Travel Directive 90/314/EEC, in order to ensure that consumers and firms in the sector have a clear legal framework, for both standard situations and exceptional situations; believes, moreover, that in its revision the Commission should consider making the same legislation applicable to all parties offering tourism services, since the quality of services provided to the consumer and fair competition should be prime factors in this context;
40. Expects the Commission, in its revision of the Package Travel Directive, to fully examine the impact of e-commerce and digital markets on consumer behaviour within the European tourism industry; believes it should step up its efforts to improve the quality and content of information provided to tourists and that such information should be reliable and easily accessible to consumers;

Application and enforcement

41. Notes that EU passenger rights law is still not being applied and enforced in the same way in all transport modes and in all parts of the EU, a fact which impedes free movement within the internal market, since it affects the confidence of citizens when travelling and undermines fair competition among carriers;
42. Urges the Commission to provide a clear set of rules for the establishment of national enforcement bodies, in order to facilitate a more transparent and easier access of passengers to those bodies;
43. Considers the fusion of national enforcement bodies from different modes of transport to be a necessary step towards achieving a consistent implementation of passenger rights;
44. Calls on the Commission to ensure that the national enforcement bodies work more closely together, adopt more uniform working methods, and exchange information intensively at national level and EU-wide with a view to networking and implementing, and to use all its powers, including resort to the infringement procedure where necessary, to ensure that the relevant EU legislation is implemented more consistently;
45. Recalls that the application of a uniform working method for all national enforcement

bodies will ensure the harmonised enforcement of passenger rights in all Member States;

46. Calls on the Member States to deploy adequate resources so as to ensure effective enforcement and collaboration with national enforcement bodies in other Member States; underlines the importance of uniform, effective, dissuasive and proportionate sanctions and compensation schemes in order to create a level playing field and introduce powerful economic incentives for all actors involved to comply with the provisions on passenger rights;
47. Calls on the Commission to use its influence to create joint complaint-handling machinery for the national enforcement bodies, in the form of a central electronic clearing house; believes that this clearing house should advise passengers lodging complaints and, to save time and costs, refer them to the appropriate national enforcement body; recommends, as regards the information and advice to be obtained through the clearinghouse, that a standard email address be adopted and a free EU-wide hotline set up;
48. Calls on the Commission to promote guidelines for the prompt settlement of complaints using simplified procedures;
49. Calls on the Commission to produce, in cooperation with the Member States and in consultation with all stakeholders concerned, a specific standard EU-wide complaint form for each transport mode, which should be translated into all EU Member States' official languages and should be accessible for all passengers, including the blind, and available in different modes, at the booking stage, at all terminals and online; calls on the Commission to propose a maximum time limit which should be laid down for all modes and should apply to both passengers submitting complaints and transport operators and national enforcement bodies handling complaints;
50. Asks the Commission to ensure that all passengers have the possibility to get in touch with the transport operator, particularly for information or complaint purposes, at non-premium rates by all the methods of communication that can be used when booking;
51. Considers that contact details for the after-sales services provided by transport operators, such as passenger information and complaint-handling services, should be clearly indicated on the ticket, in the same way as all the indispensable features of a transport service such as the price and the summary of terms and conditions of travel;
52. Urges the Commission, together with the Member States, to locate any structural or procedural flaws in the national complaint-handling services and eliminate them, and to ensure that the legislation is implemented in conjunction with the planned EU measures in the area of alternative dispute resolution (ADR), and that there is an effective collective redress mechanism to ensure that passengers can exercise their rights to an affordable, expedient and accessible Europe-wide system, with the proviso that the parties to a dispute must continue to have the option of appealing to the courts; urges the Member States, with the support of the Commission, to set up and develop well-regulated mediation instruments for dealing with conflicts between passengers and service providers, for all transport modes managed by enforcement bodies and other independent bodies;

53. Commends the increased use of mobile applications for core services, especially in air transport, such as ticket purchases and check-in, and urges the industry to speed up the development of similar tools for complaint handling and missing baggage management;

Liability

54. Points to the need, for all modes, for a unambiguous definition of the relevant terms and especially of ‘extraordinary circumstances’, as this would enable carriers to apply the rules more consistently, give passengers a valid tool with which to assert their rights, and reduce the variations that now exist as regards national enforcement, as well as the scope for legal challenges to compensation rules; calls on the Commission to draw up the necessary legislative proposals, involving transport stakeholders and taking note of the relevant ECJ rulings; emphasises that such a definition needs to take into consideration the differences between modes of transport; notes that technical failure should not be considered as an extraordinary circumstance and falls within the liability of a carrier; emphasises that carriers should not be made liable for disruption they did not cause if they took all reasonable steps to avoid its occurrence;
55. Considers that current levels of consumer protection in the event of airline bankruptcy or insolvency are inadequate, and that optional insurance policies are not a substitute for statutory entitlements; calls on the Commission to submit a legislative proposal encompassing suitable measures to protect passengers in the event of the insolvency or bankruptcy of an airline or the withdrawal of an airline’s operating licence, which would cover such areas as the repatriation of stranded passengers in the event of cessation of operations, compulsory airline insurance or the creation of a guarantee fund; draws attention, in this connection, to its resolution of 25 November 2009 on passenger compensation in the event of airline bankruptcy⁶; urges the Commission to work towards an international agreement extending the provisions for such action to third-country airlines;
56. Reminds the Member States of their obligations under Regulation (EC) No 1008/2008 to carry out regular assessments of air carriers’ financial situation and to take the steps provided for in cases of failure to meet the stipulated conditions, including the possible withdrawal of an airline’s operating licence; urges the Commission to ensure that national authorities comply with these obligations;
57. Urges the Commission to propose an obligation on service providers in the different transport modes to provide for a final guarantee to cover their liability in the case of insolvency, bankruptcy or removal of an operating licence;
58. Welcomes the Commission’s intention to revise Regulation (EC) No 261/2004; asks it, in this context, to examine the effects of the Sturgeon judgment as part of its assessment of the impact of its legislative proposal⁷;

⁶ OJ C 285 E, 21.10.2010, p. 42

⁷ The Sturgeon judgment made compensation compulsory in the event of delays of more than three hours. This has had a considerable financial impact on airlines, as well as consequences for passengers (cancellations, reduction in the number of routes available, etc). The impact of this judgment ought therefore to be examined critically.

59. Requests the Commission to deal with the matter of liability for damage to baggage and specifically to mobility or other assistive devices, given that the cost of replacing these frequently exceeds the maximum reimbursement permitted by international law; insists that any damage to the mobility equipment of persons with reduced mobility or persons with disabilities resulting from handling by carriers/service providers must be compensated in full, since such equipment is important for their integrity, dignity and independence and is therefore in no way comparable with luggage;
60. Calls on the Member States to clarify the competences of their national enforcement bodies with respect to handling complaints related to mishandled luggage in maritime and aviation transport;
61. Considers that if luggage is lost, delayed or damaged, airlines must in the first instance compensate the passengers with whom they have concluded a contract, but that at a later stage airlines must have a right to seek redress from the airports or service providers where they are not necessarily responsible for any prejudice that has occurred;

People with disabilities or reduced mobility

62. Calls on carriers to pay the utmost attention to safety and security issues, including both the technical safety of the transport equipment and the physical safety of passengers, and to train their staff to enable them to cope with emergencies, including maintaining contact with persons with reduced mobility and persons with disabilities; stresses that such training must be carried out in cooperation with representative organisations of persons with reduced mobility and persons with disabilities;
63. Calls on the Commission to review, in cooperation with the carriers, the safety standards relating to persons with disabilities and persons with reduced mobility in order to set specific standards to apply to the various transport sectors, primarily air transport;⁸
64. Calls on carriers, together with representatives of industry, service providers and representative organisations of persons with disabilities, to devise comprehensible standard notification procedures and, if possible, set up coordinated notification systems, so as to make travel, and in particular intermodal travel, easier and barrier-free for people with disabilities or reduced mobility and enable them to easily communicate their assistance needs in advance at no additional cost, so that carriers can adapt to specific requirements and thus meet their obligation to assist;
65. Considers it essential to establish minimum standards for assisting people with disabilities and reduced mobility in all modes of transport, so as to ensure a harmonised approach throughout the EU;
66. Calls on the Commission to establish harmonised minimum rules across modes on the minimum level of care to be provided in case of long delays at the transport terminal/station or on the vehicle/train/boat/plane; accommodation or alternative transport

⁸ For example, recent experience points to discrepancies in the maximum numbers of deaf people allowed by different air carriers, the justifications for which are unclear. See the relevant written question to the Commission: E-005530/12.

arrangements for persons with disabilities must be accessible, and adequate assistance must be provided;

67. Notes that accessibility has a direct impact on the quality of health and social life of older persons, who are often faced with mobility, sensory or mental impairments that affect their ability to travel and continue to be active participants in society;
68. Calls on the Commission to formulate a general set of standards regarding the accessibility of transport infrastructure and services, including aspects such as the issuing of tickets, real-time travel information and online services, so as to ensure equal and unrestricted access for people with disabilities to products and services in the transport sector;
69. Maintains that transport infrastructures must be of such a nature as to enable people with disabilities or reduced mobility to have barrier-free access without discrimination and ensuring accessible formats (e.g. Braille, easy-to-read) to all means of transport and related services complying with the requirements of 'design for all', including transfer from one mode to another and at all stages of travel, from being able to book a ticket, access the platform, and board the vehicle to being able to lodge a complaint if needed;
70. Takes the view that, although much progress has been made in the quality of assistance, there are still too many architectural barriers which prevent people with reduced mobility from fully benefiting from services, in particular as regards access to transport vehicles (planes, trains, coaches, etc); believes that carriers must improve the quality of assistance for people with disabilities or reduced mobility, and train their staff to be more aware of and capable of responding to the needs of people in those categories; stresses that such training must be carried out in cooperation with representative organisations of persons with reduced mobility and persons with disabilities;
71. Urges carriers to take account of the needs of people with disabilities or reduced mobility in the development of any new service, notably of new means of payment such as smartphones and smart cards;
72. Wishes to see the elimination of the abusive and/or discriminatory practices pursued by some carriers that require people with reduced mobility to be accompanied; emphasises that a carrier may not routinely require such passengers to be accompanied by another person; regarding the cases where unaccompanied people with disabilities are denied boarding on grounds of safety regulations, draws attention to the judgment handed down by the High Court of Bobigny on 13 January 2012;
73. Is of the opinion that where it is necessary for a disabled passenger to travel accompanied, the accompanying person should travel free of charge, since that person's presence is needed for the passenger to travel;
74. Emphasises that, in this regard, the right to use mobility devices as well as to be accompanied by a recognised guide dog or assistance dog should be guaranteed in all circumstances;
75. Believes that in case of travel disruption, information regarding delays or cancellations,

hotel accommodation, alternative transport arrangements, reimbursement schemes and continuation or rerouting options must be communicated in formats accessible for persons with disabilities or reduced mobility;

76. Calls for specific facilities for severely disabled passengers requiring changing and toilet facilities (so-called ‘changing places’) to be provided at no cost to the passenger at all airports in the EU having an annual passenger throughput of more than 1 000 000;

Intermodality

77. Recognises that, with the entry into force of the Waterborne⁹ and Bus¹⁰ Regulations in December 2012 and March 2013 respectively, the EU will have established the first integrated area of passenger rights for all modes of transport in the world; notes that the relevant EU legislation will now need to be implemented fully in a concerted and coordinated manner by all Member States in order to transform the Union’s passenger transport policy from being strategically purely modal to being intermodal;
78. Calls on the Commission to create new models of communication embracing passenger representative bodies, carriers and transport stakeholders, in order to promote the principle of intermodality in practice;
79. Calls on the Member States, when applying the Rail and Bus Regulations, to make every effort to refrain from making use of derogations, in order to reduce the problems posed by intermodal travel from the point of view of passenger rights;
80. Stresses that intermodality should be facilitated by the carriage of bicycles, wheel-chairs and prams in all modes and all services, including transborder and long-distance connections as well as high-speed trains;
81. Calls on the Commission to create an intermodal stakeholder group to provide advisory support on issues relating to the application of the respective regulations;
82. Urges the industry to develop a clear infrastructure which is ICT-accessible to everyone for ‘through tickets’ (i.e. transport contracts for several legs of a journey using the same mode) and integrated tickets (i.e. contracts for intermodal transport chains), with an emphasis on smart cards; draws attention in this connection to the Rail Regulation, which requires computer-assisted information and reservation systems to be adapted to common standards, so as to enable travel information and ticketing services to be organised on an EU-wide basis;
83. Urges the Commission strongly to continue its efforts to develop a European multimodal travel planner, considered as a key element of the deployment of Intelligent Transport Systems (ITS), in order to provide passengers with ‘door-to-door’ information covering both cost and duration of journeys, and calls on the Member States, together with the Commission, to remove the obstacles now existing to access to public traffic data and data transfer, without prejudice to appropriate data protection arrangements;

⁹ OJ L 334, 17.12.2010, p. 1.

¹⁰ OJ L 55, 28.2.2011, p. 1.

84. Instructs its President to forward this resolution to the Council and Commission.

EXPLANATORY STATEMENT

The Commission communication lists the rights applying to all modes, a package affording basic protection to passengers in the EU. The regulations relating to air and rail transport are already in force; those relating to waterborne and bus/coach transport will not enter into force until December 2012 and March 2013 respectively. The implementation of the latter regulations will therefore be assessed at a later date.

The air transport regulations govern compensation and assistance to passengers in the event of denied boarding, cancellations, or long delays (Regulation (EC) No 261/2004, in force since 2005) and the liability of air carriers when luggage is lost, delayed, or damaged (Regulation (EC) No 889/2002, in force since 2002). In anticipation of amendment of the Air Passenger Rights Regulation (Regulation (EC) No 261/2004), Parliament adopted a resolution on 29 March 2012 in which it set out its views at length and called on the Commission to clarify a number of points related to passenger rights and air carrier liability.

Regulation (EC) No 1107/2006 lays down the rights of persons with disabilities or reduced mobility travelling by air. This is another subject on which Parliament commented in detail in its resolution of 29 March, focusing on, for example, better quality of service to people in this category, including barrier-free access to airport facilities, proper staff training, and liability for damage to, or the loss of, mobility devices. The rapporteur welcomes the Commission's forthcoming guidelines for interpretation of this regulation.

As regards rail transport, Regulation (EC) No 1371/2007 (in force since 2009) has led to significant improvements in the protection of passengers and their baggage in the event of delays or accidents. International rail transport has since 2010 been subject to the requirement to reimburse 25% of the fare for a hour's delay and 50% for two hours' delay. Other rights relate to personal safety at stations and on trains, guaranteed assistance, and the requirement for stations and trains to be fully accessible to people with reduced mobility. Ticket availability and the transport of bicycles are also covered. The Rail Regulation applies in principle to all railway undertakings throughout the EU, but it allows Member States to exempt certain national, regional, and urban rail services for a further 15 years from the application of passenger rights.

The EU rules have been so drafted as to provide proportionality and the differentiation required by the diverse nature of the individual modes and their markets, that is to say, the type of journeys. Together they constitute a core of common passenger rights: non-discrimination, implying that passengers and carriers must not be discriminated against on account of their place of residence or nationality; information about travel conditions; transparency, including price transparency; should travel problems occur, assistance in the form of rerouting and reimbursement of the full ticket price in the event of cancellation or long delays; compensation (except in extraordinary circumstances); care (food or possibly payment of hotel costs); and assistance and accessibility for people with disabilities or reduced mobility. The Commission communication lists 10 passenger rights.

Depending on the mode, passenger rights differ in terms of their scope and possible exceptions, especially as regards the definition of delays, the extent of assistance and care while passengers are waiting to be rerouted, the amount of compensation (a flat rate or a

percentage of the fare), the circumstances in which compensation is not (or no longer) payable, and the time-frame for handling complaints. Essentially, the crux of passenger rights is considered to be the entitlement to fulfilment of the transport contract. Delays are accordingly the case in which the compensation arrangements are most clear cut. Interpreting the relevant regulations, the Court of Justice has ruled on the scope of passenger rights as regards cancellations¹¹, delays¹², and extraordinary circumstances¹³.

The Commission communication makes the point that the laws are not being implemented completely or consistently by carriers and national authorities, creating uncertainty for passengers and carriers alike. In addition, passengers are not fully informed about their rights and are unhappy about what it takes (cost included) to assert them. One particular source of unease is the complexity of the procedures, in which customers making their claims have to face large international companies.

The Commission's assessment is borne out by a survey which your rapporteur conducted in the EP while he was preparing this report. Out of the replies analysed, 214 in all, covering the period from 2009 to 2012, 70% related to incidents in air transport and 30% to incidents in rail transport. In the case of air transport 40% of the respondents mentioned delays, missed connections, and cancellations. Other problems arose in connection with inadequate information and baggage handling. Low-cost airlines have a disturbing tendency to advertise prices in which the charges and extra costs are not all included at the outset. As regards individual cases, the repeated failures to assist people with disabilities or reduced mobility are a cause of complaint that must be viewed as an infringement of Regulation (EC) No 1107/2006. Out of those respondents who complained, or submitted a claim for compensation, to the airline or the national enforcement body, 23.5% received no reply.

As far as rail transport is concerned, 50% of the problems were caused by delays and missed connections, and in this case too the respondents spoke of cancellations and of information gaps, not just during train journeys, but also at stations. They also mentioned examples of failure to assist people with disabilities or reduced mobility. Out of all the requests for information and complaints, only 15% – contrasting with the figure for air transport – went unanswered by railway undertakings or national enforcement authorities.

Your rapporteur applauds the Commission's aim of adapting EU law, improving its application to all modes, strengthening its enforcement by national enforcement authorities, and communicating the rules more actively to passengers. A further cause for satisfaction is that the Commission's information campaign – in all the official languages – on passenger rights in the different modes is to be continued until 2014 (<http://ec.europa.eu/passenger-rights>).

It should be possible in the medium term to draw up a single cross-cutting passenger rights regulation, and it is essential to do so in order to promote intermodality. At present, the conditions are not in place. Your rapporteur is therefore calling on the Commission to propose appropriate guidelines, which should not, however, weaken rights or seek to bring about more

¹¹ Case C-83/10 – issued on 13 October 2011.

¹² Joined Cases C-402/07 and C-423/07 – judgment issued on 19 November 2009.

¹³ Case C-294/10 – judgment handed down on 12 May 2011; Case C-549/07 – judgment of 22 December 2008; Case C-12/11 – Advocate-General's opinion issued on 22 March 2012.

thoroughgoing harmonisation, as this would detract from the flexibility and proportionality required by the diverse nature of the modes.

Selected problem areas and proposed solutions

Information and transparency

Information about rights should be simple, clear, and accessible, from the time of booking to the journey's end. Carriers and terminal operators should set up info points or help desks in departure and arrival halls in order to provide passengers with the necessary information, and thus help them to make their decisions, in the event of travel problems or if baggage has been lost or delayed. A standard complaint form, a single e-mail address, and an inexpensive hotline should be introduced, and a central electronic clearing-house set up not only to give advice, but also, if need be, to pass on complaints to the appropriate national bodies. New technologies such as smartphone apps should, in addition, be put to use.

There is also room for improvement as regards information about air fares. Prices offered on the Internet should, from the outset, include all the costs payable. Customers must be in a position to ascertain the actual total price from the moment that they start booking. The Commission must prohibit every unfair commercial practice.

In the interests of transparency, the obligation to report on the quality of service should be extended to cover all modes.

Application and enforcement/National complaint-handling bodies

Under Regulation (EC) No 1371/2007 Member States are required to set up complaint-handling machinery in the form of independent national rail transport enforcement bodies (NEBs) able to ensure that regulation is properly implemented and to punish carriers guilty of infringements. If a carrier fails to respond, they can, in the second instance, accept individual complaints. The Commission oversees the Member States' enforcement of the regulation and may, if necessary, institute proceedings for persistent non-compliance.

The role of the NEBs is central to better implementation and enforcement. Your rapporteur is putting forward some practical proposals with a view to making their work more efficient and enabling them to network on an EU-wide basis. The main difficulty lies in the fact that their status differs from one Member State to another and they are separated according to modes. Germany, for example, has a Federal Railway Office and a Federal Civil Aviation Office, but the equivalent responsibilities in Romania, Sweden, and the UK are exercised by national consumer protection authorities. When the rights enter into force in waterborne and bus and coach transport, two further NEBs will thus have to be set up in each Member State. Merging the bodies at national level is one option to consider here.

As regards a future European data bank to exchange information about infringements of passenger rights and ways of dealing with them, the Commission will have to rely on the cooperation of national enforcement bodies.

Liability/Extraordinary circumstances/Insolvency

If they can prove that travel problems were due to ‘extraordinary circumstances’, air carriers and waterborne transport operators may be exempted from the requirement to pay compensation. The interpretation of the above term does, however, give rise to uncertainty. Court rulings should be used as a reference point to help the Commission and national enforcement bodies to word EU rules more clearly and apply the law more consistently to all modes. It is to be welcomed that, as a result of amendment of Regulation (EC) No 261/2004, the Commission will be called upon to assess whether the costs incurred by carriers by way of compensation for extraordinary circumstances are in due proportion.

The recent cases in January 2012, involving Spanair and Malev, show how important it is to protect passengers when the economic situation forces airlines out of business. Flight cancellations resulting from such cases are normally covered by Regulation (EC) No 261/2004, and the persons concerned must accordingly be reimbursed or offered a rerouting option. Practical experience shows, however, that insolvency arrangements entail a degree of uncertainty, which extends indirectly to package tour operators. EU law therefore needs to be improved in this area. Compensation in the event of airline insolvency should not be called into question.

Intermodality

Your rapporteur considers that a common core of rights applying to all modes, a basic level of service, and a standard way of proceeding for carriers and enforcement bodies as a whole are the sine qua non that has to be brought about if intermodal travel is to work and become a matter of course on the EU internal market. As cross-border mobility develops, the EU principles governing passenger protection should be widened to cover travel outside the EU: this aim should be negotiated under international and bilateral agreements with non-EU countries.

To pursue the aim of promoting intermodal travel to the greatest extent possible, through and integrated tickets would need to be introduced, and information and reservation systems adapted to common standards. Regrettably, the Commission has so far failed in its attempt to develop a European multimodal travel planner that would enable passengers to plan their journeys across Europe using a whole variety of means of transport. The Member States, together with the Commission, should seek to remove the obstacles preventing carriers from developing a travel planner of this kind (e.g. access to public traffic data, data transfer rules).

17.7.2012

OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION

for the Committee on Transport and Tourism

Passenger rights in all transport modes
(2012/2067(INI))

Rapporteur: Sirpa Pietikäinen

SUGGESTIONS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Transport and Tourism, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Emphasises that a high level of consumer protection is guaranteed in Article 169 of the Treaty on the Functioning of the European Union and Article 38 of the Charter of Fundamental Rights of the European Union;
2. Reiterates that passenger rights have to be addressed as consumer rights; calls on the Commission to ensure coherent enforcement of these rights;
3. Urges the Commission to carry out continuous extensive consultation with all stakeholders in the tourism industry, especially consumers and operators, on the enforcement of rights and compensation, with a view to ensuring the adoption of a single simplified, uniform and comprehensive approach to the rights of tourists as consumers;
4. Stresses that consumers have the right to a high level of effective and equal protection regardless of their means of transport; calls for greater harmonisation of provisions and principles relating to passenger rights in different transport modes – such as the right to cancel travel when a trip is disrupted, the right to choose between reimbursement or re-routing and the right to assistance and care in the event of long delays – in order to reduce fragmentation and reconcile inconsistencies across the different areas of passenger rights; stresses that such harmonisation should in no way lead to a reduction in existing passenger rights, but rather eliminate inconsistencies and align those rights for all transport modes, based on the highest standards; considers in particular that the definitions of delays and cancellation should not create any distortion between the rights applicable in

different transport modes;

5. Suggests that further research be carried out to examine the advisability and feasibility of establishing a single regulation encompassing all the provisions and principles relating to passenger rights, including for passengers with disabilities or reduced mobility;
6. Recognises that, with the entry into force of the Waterborne¹⁴ and Bus¹⁵ Regulations in December 2012 and March 2013 respectively, the EU will establish the first integrated area of passenger rights for all modes of transport in the world; notes that the relevant EU legislation will now need to be implemented fully in a concerted and coordinated manner by all Member States in order to transform EU passenger transport policy from being strategically purely modal to being intermodal;
7. Stresses that, once all the regulations concerning passenger rights and transport have entered into force, the Commission, together with the Member States, must carry out an immediate assessment of their implementation in practice;
8. Notes that existing commercial practices (such as fees for check-in, priority boarding, card payment and luggage) can lead to substantive differences between the advertised and the final price, and stresses, therefore, the need for transparency regarding the total ticket price and what is included, so that passengers can make fully informed choices before purchasing a ticket;
9. Stresses the need to ensure effective implementation and enforcement of the legislation on price transparency in line with the provisions of the Consumer Rights Directive¹⁶; calls for the definition of core passenger transport services which must be consistently included in the basic fare regardless of transport mode;
10. Urges the Commission to extend its monitoring activity to the websites of companies and transport service providers so as to increase transparency for passengers, particularly regarding online ticket purchases, and to seek to prevent such websites from misleading consumers, for instance by banning the use of pre-ticked boxes or supplementary charges about which proper information is not given in advance; calls on the Commission to draw up guidelines including examples and evaluations of commercial practices, such as contractual terms relating to the transferability of tickets, *force majeure*, the prohibition on using tickets separately and mishandled, delayed or damaged luggage, thus informing both consumers and businesses about unfair contractual terms in the transport field;
11. Believes that the hard core of services to be included in the basic fare should at least cover all operational costs indispensable to transport passengers (including those linked to the carrier's legal obligations, such as safety, security and passenger rights), all aspects essential for travel from the passenger's perspective (such as the provision of tickets and boarding cards and the carrying of a minimum amount of luggage and personal belongings) and all costs related to payment (such as credit card costs);

¹⁴ OJ L 334, 17.12.2010, p. 1.

¹⁵ OJ L 55, 28.2.2011, p. 1.

¹⁶ OJ L 304, 22.11.2011, p. 64.

12. Notes that there is a problem with the existing Regulation (EC) 261/2004¹⁷ where non-EEA air carriers refuse to pay compensation to passengers flying from third countries to the Union, when operating air carrier services on behalf of EEA air carriers; calls on the Commission to remedy this situation by applying the important principle that the EU operator with whom the passenger has a contract must ensure that EU passenger rights are respected, even when the EU operator is not responsible for transporting the passengers itself;
13. Calls for full implementation, in all forms of transport, in all Member States and in all types of cross-border travel, of the 10 rights of passengers as laid down by the Commission in its communication; suggests that the Commission, when implementing its public awareness campaign on EU passenger rights, seriously consider adopting the Citizens' Rights Charter as proposed in a recent opinion submitted by Parliament's Committee on the Internal Market and Consumer Protection on 'the EU Citizenship Report 2010: dismantling the obstacles to EU citizens' rights'; believes that the inclusion of EU passenger rights in this proposed handbook for EU citizens will be essential in ensuring that they are fully informed as to what is or is not available to them under EU legislation when encountering problems during their travels;
14. Stresses the need to ensure consistency among the different aspects of legislation on passenger rights and to ensure that passengers buying seat-only tickets are equally effectively protected in the event that a company becomes insolvent or loses its operating licence, as is already the case for package travellers, in order to prevent any discrimination against passengers based on the type of ticket purchased or unfair competition between different service providers;
15. Insists that passengers should be better protected when using different successive transport modes during a single journey and have a single integrated ticket, and that in such circumstances they should benefit from the most extensive rights applicable in any one of those transport modes;
16. Stresses the need to ensure that passengers receive timely, accurate and comprehensive information on their rights before purchasing travel services, and that such information, especially on rights and procedures for receiving help in the event of long delays/cancellation and requesting compensation, is made available throughout the various stages of travel and is always available on the travel service's website; believes that efforts to publicise passenger rights could be extended and combined by means of cooperation between national authorities, consumer organisations, national enforcement bodies, transport companies, etc.; calls for action to strengthen the role of consumer centres in resolving consumer problems and disputes and increase the resources allocated to them, and to ensure that effective mechanisms for alternative dispute resolution and collective redress are available with a view to protecting passenger rights effectively and guaranteeing proper compensation; invites the Commission to set fixed deadlines for responding to passenger's complaints which are identical for all transport modes; calls on the Commission to set up a single, easy-to-understand helpline website, available in all official EU languages, to provide information on passenger rights (www.travel.eu);

¹⁷ OJ L 46, 17.2.2004, p. 1.

17. Takes the view that the shift in approach from modal to intermodal EU passenger rights will prove successful only if accessible complaint handling procedures, alternative dispute resolution mechanisms and consumer complaint centres are equipped with the necessary human and economic resources and fully interlinked, thus enabling passengers to obtain quick, cheap and expedient redress on matters relating to quality of service and the conditions they experience when travelling;
18. Draws special attention to the rights of consumers booking package travel, either via a travel agent or by themselves online;
19. Calls for the development of EU-wide tools to ensure optimised multimodality in efficient, high-quality and interoperable cross-border public transport services, in order to vouchsafe both the free movement of people and the competitiveness of such services vis-à-vis the use of private vehicles; considers that cross-border passengers should be given the possibility of buying a single ticket when travelling across more than two countries;
20. Calls for a holistic approach to people with limited mobility, especially elderly people; believes that the whole transport chain from home and back has to be taken into consideration, including access to public transport; wishes to address the need for a coherent focal point system in order to help people with limited mobility;
21. Expects the Commission, in its revision of the Package Travel Directive¹⁸, to examine fully the impact of e-commerce and digital markets on consumer behaviour within the European tourism industry; takes the view that the Commission must step up its efforts to improve the quality and content of information provided to tourists and that such information should be reliable and easily accessible to consumers;
22. Points out that it is often not possible to improvise solutions on the spot and that it must be ensured that carriers have the necessary competent staff and tools at terminals in order to allow passengers to make choices quickly;
23. Stresses that, at each terminal or airport from which a carrier operates, it should post at least one representative, and/or provide a complaint desk, authorised to take immediate decisions in the event of disruption;
24. Calls on the Commission to propose measures aimed at setting up harmonised and accessible complaint handling procedures and means of redress which will ensure effective protection of passenger rights and make sure passengers receive the compensation to which they are entitled in a timely and efficient manner;
25. Is concerned about the difficulties passengers face, in particular when travelling across borders, in obtaining enforcement of their rights vis-à-vis companies which fail to respect those rights; considers, in this connection, that independent national enforcement bodies should have the task of mediating between passengers and companies so that passengers can obtain enforcement of their rights without having to bear court costs; stresses that cooperation between these national enforcement bodies would be much needed in order to address the difficulties encountered by cross-border passengers seeking to obtain

¹⁸ OJ L 158, 23.6.1990, p. 59.

enforcement of their rights;

26. Stresses that the enforcement of existing passenger rights should be a key priority; invites the Commission to consider introducing complementary measures to improve the application and enforcement of the legislation on passenger rights, for instance by publishing and updating documents providing information on passenger rights on its website and fostering the dissemination of best practices and collaboration between Member States, national enforcement bodies, consumer organisations and transport companies; calls on the Member States to deploy adequate resources to ensure effective enforcement and collaboration with national enforcement bodies in other Member States; underlines the importance of uniform, effective, dissuasive and proportionate sanctions and compensation schemes in order to create a level playing field and introduce powerful economic incentives for all actors involved to comply with the provisions on passenger rights;
27. Calls on the Commission to clarify the definition of ‘extraordinary circumstances’ and draw up guidelines on what is covered, and to include this definition in future amendments of the legislation on passenger rights so as to prevent incorrect interpretations of circumstances having led to cancellations or delays and to create legal certainty for the benefit of both consumers and companies;
28. Stresses that passengers with reduced mobility or disabilities must be given equal travel opportunities and unrestricted, barrier-free access to transport infrastructure, vehicles, assistance services and all the information they need;
29. Emphasises the need to provide staff with suitable training in serving passengers with disabilities or reduced mobility and to harmonise booking procedures, procedures for requesting assistance and security control policies, including policies on the handling of mobility and medical equipment; stresses the need to provide better information on these issues, in accessible format, from the time of booking until the passenger has reached his or her destination; stresses that no additional fees connected with a person’s disability, reduced mobility or medical equipment can be charged, or boarding denied, except on strictly safety grounds;
30. Calls on the Commission to formulate a general set of standards regarding the accessibility of transport infrastructure and services, including aspects such as the issuing of tickets, real-time travel information and online services, so as to ensure equal and unrestricted access for people with disabilities to products and services in the transport sector.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	10.7.2012
Result of final vote	+: 32 -: 0 0: 0
Members present for the final vote	Pablo Arias Echeverría, Adam Bielan, Cristian Silviu Buşoi, Sergio Gaetano Cofferati, Birgit Collin-Langen, Lara Comi, Anna Maria Corazza Bildt, António Fernando Correia de Campos, Cornelis de Jong, Vicente Miguel Garcés Ramón, Evelyne Gebhardt, Louis Grech, Philippe Juvin, Sandra Kalniete, Edvard Kožušník, Toine Manders, Hans-Peter Mayer, Sirpa Pietikäinen, Phil Prendergast, Mitro Repo, Robert Rochefort, Heide Rühle, Christel Schaldemose, Andreas Schwab, Catherine Stihler, Emilie Turunen, Barbara Weiler
Substitute(s) present for the final vote	Raffaele Baldassarre, Jürgen Creutzmann, María Irigoyen Pérez, Emma McClarkin, Anja Weisgerber

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	18.9.2012
Result of final vote	+: 43 -: 0 0: 1
Members present for the final vote	Magdi Cristiano Allam, Inés Ayala Sender, Georges Bach, Erik Bánki, Izaskun Bilbao Barandica, Philip Bradbourn, Antonio Cancian, Michael Cramer, Joseph Cuschieri, Luis de Grandes Pascual, Christine De Veyrac, Saïd El Khadraoui, Ismail Ertug, Carlo Fidanza, Knut Fleckenstein, Jacqueline Foster, Mathieu Grosch, Jim Higgins, Juozas Imbrasas, Dieter-Lebrecht Koch, Georgios Koumoutsakos, Werner Kuhn, Jörg Leichtfried, Marian-Jean Marinescu, Gesine Meissner, Mike Nattrass, Hubert Pirker, Dominique Riquet, Vilja Savisaar-Toomast, Olga Sehnalová, Brian Simpson, Keith Taylor, Silvia-Adriana Țicău, Giommaria Uggias, Dominique Vlasto, Artur Zasada, Roberts Zile
Substitute(s) present for the final vote	Spyros Danellis, Nathalie Griesbeck, Zita Gurmai, Anna Rosbach, Sabine Wils, Janusz Władysław Zemke
Substitute(s) under Rule 187(2) present for the final vote	Isabella Lövin