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

Committee on Transport and Tourism

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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 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 2012,
 - having regard to its resolution on the functioning and application of established rights of people travelling by air¹,
 - having regard to its resolution of 25 November 2009 on passenger compensation in the event of airline bankruptcy²,
 - 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 (A7-0000/2012),
- A. whereas since the goals were charted in the Commission’s 2001 White Paper, a comprehensive package of EU passenger rights 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 rights are still not being applied and enforced completely or properly by carriers and national authorities; whereas, in addition, passengers are not well informed about their rights and the quality of service that they are entitled to expect, and their legal claims are often difficult to 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 261/20004; package travel, Directive 90/314/EEC), the Commission is seeking to clarify and strengthen passenger rights in all modes;

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

¹ Texts adopted, P7_TA(2012)0099.

² OJ C 285 E, 21.10.2010, p. 42.

summary of achievements to date;

2. Is of the opinion that the common criteria (non-discrimination, fulfilment of the transport contract, exact and accessible information in good time, and appropriate assistance without delay in the event of problems), together with the ten specific passenger rights listed in the Commission communication, form a core of rights cutting across modes;
3. Is aware that there are structural differences within individual transport modes and that a single cross-cutting regulation on passenger rights as a whole cannot be drawn up at present, because the regulations on passenger rights in waterborne and bus and coach transport have not yet entered into force;
4. Therefore calls on the Commission, at this stage, to draw up guidelines on the application and implementation of rights in all transport modes, which should not serve either to standardise the laws or to water down passenger rights;

Information

5. Welcomes the Commission's decision to continue its information campaign on passenger rights until 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);
6. Calls on carriers to make greater efforts to inform passengers more fully; considers that information must be provided in time and be readily understandable, exact, and complete, and that, as regards possible travel problems, passengers must be made aware of their rights at the outset, when they book a trip;
7. Welcomes the Commission's new smartphone application, which provides information about 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);
8. Recommends that adequately staffed info points and help desks be set up at places of departure and arrival (airports, railway stations, bus terminals, and ports) and that both carriers and the operators of the above facilities provide more comprehensive assistance to passengers in the event of massive travel disruption;

Transparency

9. 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; is of the opinion that published comparative data could help to guide passengers and be used by carriers for advertising purposes;
10. Calls for a European data bank to be set up to enable information to be exchanged on infringements of passenger rights and ways of dealing with them; calls on the Commission, in cooperation with the Member States and the national enforcement bodies, to take the necessary steps;

11. Calls on the Commission to enable the current law on price transparency and unfair commercial practices to be implemented and enforced effectively, in accordance with Directive 2011/83/EC, and to ensure that the headline price corresponds exactly to the final price and that no unreasonable extra costs (e.g. handling charges or a charge for payment by credit card) are added just before a purchase is made;

Application and enforcement

12. Notes that EU passenger rights law is still not being applied and enforced in the same way in all parts of the EU, a fact which not only creates uncertainty for passengers wishing to exercise their rights, but also impedes fair competition among carriers;

13. Calls on the Commission to make 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 to implementing the relevant EU legislation more consistently;

14. Calls on the Commission to use its influence in order to provide joint complaint-handling machinery for the national enforcement bodies in the form of a central electronic clearing-house; believes that the 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 clearing-house, that a standard e-mail address be adopted and an inexpensive EU-wide hotline set up;

15. Calls on the Commission to produce a standard EU-wide complaint form, to be translated into all EU languages and used for all modes, which should be given to passengers when they make a reservation; believes that a fixed maximum time limit for handling complaints should be laid down for all modes;

16. Urges the Commission, together with the Member States, to ascertain where the structural and procedural flaws lie within the national complaint-handling services and eliminate them, and to ensure that the laws are implemented in conjunction with the planned EU measures in the area of alternative dispute resolution (ADR), with the proviso that passengers must continue to have the option of appealing to the courts;

Liability

17. Points to the need, as far as all modes are concerned, for a clearer definition of the term 'extraordinary circumstances', as this would enable carriers and national enforcement authorities to apply the rules more consistently and ensure that citizens could be informed to more useful effect about their rights; calls on the Commission to draw up the necessary legislative proposals;

18. Calls on the Commission to consider what action to take should airlines go bankrupt, and draws attention in this connection to its resolution of 25 November 2009;

19. Requests the Commission to deal with the matter of liability for damage to baggage and specifically to mobility devices, given that the cost of replacing these frequently exceeds

the maximum amount of reimbursement permitted by international law;

20. Calls on carriers to give the utmost attention to passenger safety and train their staff to cope with emergencies;

People with disabilities or reduced mobility

21. Calls on carriers, together with industry, to devise comprehensible standard notification procedures and, if possible, set up coordinated notification systems, so as to make travel easier for people with disabilities or reduced mobility and enable them to communicate their assistance needs in advance;
22. Maintains that the transport infrastructure must be such as to enable people with disabilities or reduced mobility to have access without discrimination to all means of transport; as regards the cases in which unaccompanied people with disabilities are denied boarding on account of safety regulations, draws attention to the judgment handed down by a French court in January 2012;
23. Maintains that carriers must improve the quality of assistance to people with disabilities or reduced mobility and train their staff to be more aware of the needs of people in those categories;

Intermodality

24. Calls on the Member States, when applying the Rail and Bus Regulations, largely 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;
25. Urges the industry to develop a clear system for ‘through tickets’ (i.e. transport contracts for several legs of a journey using the same mode) and integrated tickets (i.e. contacts for intermodal transport chains); 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;
26. Urges the Commission to continue its efforts to develop a European multimodal travel planner, and calls on the Member States, together with the Commission, to remove the obstacles to access to public traffic data and data transfer;
27. Instructs its President to forward this resolution to the Council and the 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 cancellations¹, delays², and extraordinary circumstances³.

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

¹ Case C-83/10 – issued on 13 October 2011.

² Joined Cases C-402/07 and C-423/07 – judgment issued on 19 November 2009.

³ 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.

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 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).