Council of the European Union

Brussels, 14 July 2016
(OR. en)

11240/16

Interinstitutional File:
2015/0278 (COD)

TRANS 300
MI 505
CODEC 1065

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Transport aspects of the European Accessibility Act – Information from Denmark

Following the Land Transport Working Party meeting of 11 July 2016, please find attached the information note provided by DK on the European Accessibility Act. This note should be read in conjunction with document ST 10913/16.

Information on the transport aspects of the European Accessibility Act

The European Accessibility Act (EAA) is being negotiated in the Social Questions Working Group. There have been two rounds of article by article assessment during the Dutch Presidency, and a progress report was presented at the EPSCO-Council in June.

The Presidency's ambition is now to progress on the file, and they have presented the first draft amendments prior to the meeting in the SQWP next week the 20th of July. The main focus will be on the scope of the proposal, the definitions, and the accessibility requirements (art. 1-3 and annex I).

1. In the new proposals, transport services are still in the scope, meaning when the requirements of the EAA enters into force the websites, the mobile device-based services, smart ticketing, real-time information, self-service terminals, ticketing machines and check-in machines used for provision of passenger transport services shall all comply with the requirements of the EAA. As compared to current regulation on passenger rights this is new requirements on top of existing ones.

This means that e.g. ticketing machines would have to be altered, replaced or removed 5 years after the entry into force of the directive if they do not meet the requirements in annex I, section IV. The Commission have explained that it is not enough if alternatives to ticketing machines such as mobile device based ticketing is available – if ticketing machines exists they will have to be accessible in the meaning of the Directive.

Denmark is of the position that accessibility requirements for transport services are best dealt with in passenger rights legislation that is already in place. In this regulation provisions are in place requiring operators to provide information about the service, including in accessible formats, and here we find an overlap between the EAA and the passenger rights legislation. By keeping provisions on accessibility in sector specific regulation it will make it easier for the sector to apply them, and easier for the relevant bodies to enforce them.

Furthermore, in passenger rights legislation a system is put in place where disabled persons can request assistance in order to be able to use the service. With the EAA the Commission seem to take a different approach so that the disabled person should be able to use the service on their own without assistance, which is a desirable goal, but also very costly if equipment at stations etc. shall be made accessible in a short timeframe, and not when naturally obsolete.

2. Article 21 in the EAA stipulates that when certain other Union acts, e.g. the PSO-regulation (reg. 1370/2007) and the TEN-T guidelines (reg. 1315/2013), referred to in the EAA, requires compliance with accessibility requirements or provides for the option for accessibility aspects to be taken into account, National Authorities would be required to apply the accessibility requirements defined in annex I, section IX.

a. This means when National Authorities decide to establish accessibility requirements in PSO contracts, they would have to apply the requirements of annex I, section IX. Annex I, section IX also contains requirements on vehicles and build environment, suggesting an overlap with the TAP TSI's and the TSI PRM's.

b. Article 21 also covers TEN-T network through the article 37 in the TEN-T guidelines on "Accessibility for all users". When implementing the guidelines the design and construction of transport infrastructure shall comply with annex I, section IX of the EAA.

From the Danish side, we would like to encourage you to make your Capitals aware of this stage of the negotiations of the EAA, and to make sure that your positions on the transport-aspects of this file are properly articulated at the meeting the 20th of July.
From the Danish side we would recommend that **point 2, litra c in article 1** on transport services be deleted from the scope of the EAA, in order to handle accessibility requirements in the sector specific transport regulations.

Facts on Passenger Rights in Transport

Persons with disabilities or reduced mobility enjoy specific rights and protection under European passenger rights legislation which covers all modes of transport including air, road, rail and maritime transport.

The European passenger rights regulations contain the following definition of a "disabled person":

'disabled person' or 'person with reduced mobility' means any person whose mobility when using transport is reduced due to any physical disability (sensory or locomotor, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or age, and whose situation needs appropriate attention and the adaptation to his or her particular needs of the service made available to all passengers.

This definition by and large covers the definition of persons with disabilities in the UN Convention on the Rights of Persons with Disabilities:

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.

Air transport
In air transport a dedicated regulation 1107/2006 is in place concerning rights of disabled persons and persons with reduced mobility when travelling by air.

Information on the service
Article 4 (3) contains obligations on the air carrier or its agent to provide information in accessible formats about the safety rules that it applies to the carriage of disabled persons and persons with reduced mobility, as well as any restrictions on their carriage or on that of mobility equipment due to the size of aircraft. A tour operator shall make such safety rules and restrictions available for flights included in package travel, package holidays and package tours which it organises, sells or offers for sale.

Assistance
According to article 7 (1) a disabled person or person with reduced mobility has the right to assistance provided that a notification of the person's particular needs for such assistance has been made to the air carrier or its agent or the tour operator concerned at least 48 hours before the published time of departure of the flight.

Rail Transport
Regulation 1371/2007 on rail passenger rights and obligations provides for the protection of and assistance to, disabled persons and persons with reduced mobility travelling by rail.

Information on the service
According to article 20 (1) a ticket vendor or a tour operator shall provide disabled persons and persons with reduced mobility with information on the accessibility of rail services and on the access conditions of rolling stock and shall inform disabled persons and persons with reduced mobility about facilities on board.

Assistance
According to article 24 (a) a disabled person or person with reduced mobility shall be provided assistance on condition that the railway undertaking, the station manager, the ticket vendor or the tour operator with which the ticket was purchased is notified of the person's need for such assistance at least 48 hours before the assistance is needed.

Stations, platforms and rolling stock
According to article 21 (1) railway undertakings and station managers shall, through compliance with the Technical Specifications for Accessibility (TSI) for persons with reduced mobility, ensure that the station, platforms, rolling stock and other facilities are accessible to disabled persons and persons with reduced mobility.

Road Transport
Regulation 181/2011 concerning the rights of passengers in bus and coach transport provides for non-discrimination and mandatory assistance for disabled persons and persons with reduced mobility.

Information on the service
Article 11 (2) stipulates that the access conditions on which the non-discriminatory access are based, shall be made publicly available by carriers and terminal managing bodies physically or on the Internet, in accessible formats on request, in the same languages as those in which information is generally made available to all passengers. When providing this information particular attention shall be paid to the needs of disabled persons and persons with reduced mobility.

Article 11 (5) stipulates that carriers, travel agents and tour operators shall ensure that all relevant general information concerning the journey and the conditions of carriage is available in appropriate and accessible formats for disabled persons and persons with reduced mobility including, where applicable, online booking and information.

Assistance
According to article 14 (a) a disabled person or person with reduced mobility shall be provided assistance on condition that the person's need for such assistance is notified to carriers, terminal managing bodies, travel agents or tour operators at the latest 36 hours before the assistance is needed.

Maritime Transport

Regulation 1177/2010 concerning the rights of passengers when travelling by sea and inland waterways provides for non-discrimination and assistance for disabled persons and persons with reduced mobility.

Information on the service

Article 9 (2) contains an obligation for the carriers and terminal operators to make access conditions publicly available physically or on the Internet, in accessible formats on request, and in the same languages as those in which information is generally made available to all passengers.

Article 9 (4) stipulates that carriers, travel agents and tour operators shall ensure that all relevant information, including online reservation and information, concerning the conditions of carriage, journey information and access conditions is available in appropriate and accessible formats for disabled persons and persons with reduced mobility.

Assistance

According to article 14 (a) a disabled person or person with reduced mobility shall be provided assistance on condition that the person's need for such assistance is notified 48 hours before the assistance is needed, unless a shorter period has been agreed.