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THE EUROPEAN UNION**

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From : COREPER

To : Council

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Subject : Proposal for a Regulation of the European Parliament and of the Council  
concerning the rights of passengers when travelling by sea and inland waterway  
and amending Regulation (EC) No 2006/2004 on cooperation between national  
authorities responsible for the enforcement of consumer protection laws  
- *Political agreement*

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**INTRODUCTION**

On 4 December 2008, the Commission transmitted to the Council and the European Parliament the  
above mentioned proposal.

## ***Content of the proposal***

The objective of the proposed Regulation is to strengthen the rights of passenger travelling by sea and inland waterway, on the one hand, by laying down rules on non-discrimination, accessibility and assistance for disabled persons and persons with reduced mobility (PRMs), on the other hand, by providing for assistance, information and possibly compensation to all passengers in the case of delays or cancellation. Furthermore, the proposed Regulations contains rules on complaint handling and enforcement, in particular an obligation for Member States to designate a national enforcement body.

## ***Work within Council bodies***

The examination of the proposal by the Council preparatory bodies started under the Czech Presidency on 13 January 2009 (with Sweden acting as chair of the Shipping Working Party), and has been pursued under the Swedish Presidency. At the first meeting, the Shipping Working Party examined the impact assessment.

The scope of the proposal was the subject of a progress report and a debate at the TTE Council on 30 March 2009.

The Shipping Working Party has examined the European Parliament amendments on two occasions. A number of them has been integrated into the text.

On 2 October 2009, Coreper examined the text of Presidency compromise proposal. A broad majority of delegations could support the compromise text put forward by the Presidency. To meet the concerns of delegations, some minor drafting adjustments were made by Coreper.

However, some delegations still have reservations on the text. These are indicated under "Outstanding issues" below.

## ***Work within the European Parliament***

On 23 April 2009, the European Parliament (rapporteur Mr Teychenné, PSE-FR) voted on the proposal at first reading. The EP proposed 75 amendments. A new rapporteur (Ms Ayala Sender, S&D-ES) was appointed in September 2009.

## **OUTSTANDING ISSUES**

### **Introduction**

As indicated above, the objective of the proposed Regulation is to strengthen the rights of passenger travelling by sea and inland waterway. At the TTE Council in March 2009, all Member States welcomed the proposal and the effort to protect passengers travelling by sea and inland waterway.

During the deliberations in the Shipping Working Party, a number of Member States have stated that the proposed Regulation should provide passengers with a high level of protection. These delegations have emphasized that the proposed Regulation should have a broad scope of application and that in the event of cancellations and delays of departures passengers should receive assistance in the form of information and if necessary meals, refreshments and accommodation regardless of the cause of the cancellation or delay. It has been pointed out that this is in line with the general principle set out in the other previously adopted Passenger Rights Regulations in the field of air and railway transport, where the exemption for extraordinary circumstances only applies to the liability for paying compensation.

However, a significant number of other Member States have noted that each Regulation must be adapted to the specific features of the transport mode in question. With regard to the proposed Regulation, these Member States have stressed the fact that many sea and inland waterway carriers are small and medium sized companies, that the price of the tickets is often low, that the number of passengers on board a ship could be very high compared to other transport modes, and that sea transport is often affected by adverse weather conditions. The scope of application and the obligations on the carriers need therefore to be adapted to this in order to become a workable solution.

The crucial issue is how to strike a fair balance between those two interests. It is the view of the Presidency that a fair balance was found between the interest to protect passengers and the interest to create a workable solution for carriers. However, after discussion in COREPER, there are still a few elements related to the scope of application of the proposed Regulation and the obligation to provide assistance, especially accommodation, where consensus has yet not been reached. A proposal for a compromise package with a view to reaching consensus at the TTE Council on the 9 October 2009 is therefore presented below.

#### **Key elements of the compromise package**

##### **a) The scope of the proposed Regulation with regard to ships of a certain size or crew of a certain number (Article 2, paragraph 1a)**

In order not to put heavy burdens on small and medium sized carriers, such as the obligation to provide accommodation for a great number of passengers in case of a cancellation or delay, delegations have agreed that small ships and passenger services of a short distance, such as short river crossings, should be left outside the scope of the proposed Regulation. The outstanding issue is now what should be the maximum size of these ships and what method should be used to define these ships.

One delegation has proposed that ships of less than 500 gross tons should be left outside the scope of application of the proposed Regulation. In Coreper, two other delegations indicated they could support this solution. However, a majority of delegations and the Commission have stated that they are strongly against such a solution since this would lead to the exclusion of big ships with several hundred passengers on board from the scope. It has also been noted that the size of seagoing passenger ships and inland waterway vessels are usually not measured in gross tons.

As an alternative to a reference to 500 gross tons it has been proposed that ships of Class C and D should be exempted, in accordance with the definitions in Directive 2009/45/EC on safety rules and standards for passenger ships<sup>1</sup>. However, it has been pointed out that these definitions would be difficult to use in the context of the proposed Regulation. The definitions, of a highly technical nature, are developed for ship safety purposes and refer not to size of the ship, but the area and weather conditions in which the ship is operated in. Using these definitions would make it difficult for a passenger to know if the proposed Regulation would be applicable and if he or she would be entitled to the rights under it.

Regarding the number of passengers and given the different views expressed by delegations during the examination in COREPER, the Presidency suggests a limit of 36 passengers, reflecting certain provisions in the Convention on Safety of Life at Sea (SOLAS) concerning roll-on/roll-off passenger ships. All delegations and the Commission support or, in a spirit of compromise, can accept this proposal, and a vast majority prefers to have no reference to 500 gross tons added.

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<sup>1</sup> In Article 4 of the Directive a class C ship is defined as “a passenger ship engaged on domestic voyages in sea areas where the probability of exceeding 2,5 metres significant wave height is smaller than 10 % over a one-year period for all-year-round operation, or over a specific restricted period of the year for operation exclusively in such period (e.g. summer period operation), in the course of which it is at no time more than 15 miles from a place of refuge, nor more than 5 miles from the line of coast, where shipwrecked persons can land, corresponding to the medium tide height”.  
A class D ship is defined as “a passenger ship engaged on domestic voyages in sea areas where the probability of exceeding 1,5 metres significant wave height is smaller than 10 % over a one-year period for all-year-round operation, or over a specific restricted period of the year for operation exclusively in such period (e.g. summer period operation), in the course of which it is at no time more than 6 miles from a place of refuge, nor more than 3 miles from the line of coast, where shipwrecked persons can land, corresponding to the medium tide height.”

**b) Obligations to provide assistance, especially accommodation, in case of cancellations and delayed departures (Article 18 paragraph 2, and Article 20a, paragraph 3)**

A significant number of delegations have asked for an exemption for weather conditions and "extraordinary circumstances", relieving the carrier from having to give assistance when a departure is cancelled or delayed. However, a number of delegations and the Commission have stated that a fundamental element in the corresponding Regulations on passenger rights for air and rail transport is that the carrier should take care of his passengers irrespective of the reasons for the cancellation or delay. These delegations and the Commission have proposed that as a protection carriers should be granted a right to limit the costs for accommodation to an amount of 150 euro per passenger.

Delegations who are in favour of an exemption for weather conditions and "extraordinary circumstances" have stated that even with such a limitation carriers would be exposed to a great risk of having to pay large sums for accommodation. The number of passengers on board a ship might be considerably higher compared to other transport modes (on board smaller ships the number of passengers can be several hundreds and on board big ferries the number of passengers can be up to 7,000). In a worst case scenario, a carrier might feel forced to go out at sea even if the weather conditions are very bad and this to the detriment of the safety of passengers. Therefore, these delegations proposed a general exemption (Article 20a, paragraphs 2 and 3) to the obligation of assistance (Article 18) in case the passenger is informed of the delay before the purchase of the ticket and of the obligation to supply snacks, meals and refreshments and accommodation in case of bad weather conditions or extraordinary circumstances. Two delegations and the Commission strongly opposed these proposals.

**c) Presidency compromise proposal**

The exclusion of ships of a certain size in Article 2(1a) is to a certain extent linked to the obligation to provide accommodation in Article 18(2). From an economic point of view, the obligation to provide accommodation under Article 18(2) is expected to become the most burdensome for carriers, especially for small and medium sized carriers.

As regards cancellation or delays caused by bad weather conditions or the extraordinary circumstances, the restriction of the obligation to provide assistance is limited to accommodation since the costs for providing other forms of assistance, for example the obligation to provide snacks, meals or refreshment, cannot be expected to cause unreasonable burdens for carriers. In other words, the general principle that assistance should be provided regardless of the cause of the cancellation or delay would only be affected to limited extent in this case.

However, when the passenger is aware of the cancellation or delay before he buys the ticket, or the cancellation or delay is caused by the fault of the passenger himself, the passenger should not have the right to any kind of assistance or compensation.

Based on this the Presidency as a compromise package suggests to

- set the limit in Article 2(1a) to 36 passengers;
- add a reference to Article 18 in Article 20a(2);
- add, as an additional exemption in Article 20a(2), a reference to the fault of the passenger;
- keep a reference in Article 20a(3) to Article 18(2) thus making the obligation to provide accommodation subject to the exemption for weather conditions and extraordinary circumstances; and
- add a further specification, “war and other hostilities”, to the list of examples of extraordinary circumstances in recital (11b).

**d) Other outstanding issues**

All delegations maintain their general reservations at this stage. MT and UK also maintain their parliamentary scrutiny reservations.

Furthermore, some delegations still have reservations on the following: DE on Recital 15, Article 2(2) and Article 6; EE on Article 6 and Article 27; FR on Article 12(1)(b); UK on Article 8.

The Commission has reservations on several elements of the Presidency compromise proposal.

**CONCLUSION**

The Council is invited to resolve the outstanding issues and to agree on the text in the Annex to this report.

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Proposal for a  
**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**concerning the rights of passengers when travelling by sea and inland waterway and**  
**amending Regulation (EC) No 2006/2004**

**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 71(1) and 80(2) thereof,

Having regard to the proposal from the Commission<sup>2</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>3</sup>,

Having regard to the opinion of the Committee of the Regions<sup>4</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>5</sup>,

Whereas:

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<sup>2</sup> OJ C [...], [...], p. [...].

<sup>3</sup> OJ C [...], [...], p. [...].

<sup>4</sup> OJ C [...], [...], p. [...].

<sup>5</sup> OJ C [...], [...], p. [...].

- (1) Action by the Community in the field of maritime transport should aim, among other things, at ensuring a high level of protection for passengers that is comparable with other modes of transport. Moreover, full account should be taken of the requirements of consumer protection in general.
- (2) Since the maritime and inland waterway passenger is the weaker party to the transport contract, all passengers should be granted a minimum level of protection. Nothing should prevent carriers from offering contract conditions more favourable for the passenger than the conditions laid down in this Regulation.
- (2a) The protection of passengers should cover not only passenger services between ports situated in the territory of the Member States, but also passenger services between such ports and ports situated outside the territory of the Member States, taking into account the risk of distortion of competition on the passenger transport market. Therefore the term "Community carrier" should, for the purpose of this Regulation, be as broad as possible, but without affecting the corresponding terms in other Community legislation, such as Council Regulation (EEC) No 4056/86 of 22 December 1986 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport<sup>6</sup> and Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage)<sup>7</sup>.
- (3) The single market for maritime and inland waterway passenger services should benefit citizens in general. Consequently, disabled persons and persons with reduced mobility, whether caused by disability, age or any other factor, should have opportunities for using passenger services and cruises that are comparable to those of other citizens. Disabled persons and persons with reduced mobility have the same right as all other citizens to free movement, freedom of choice and non-discrimination.

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<sup>6</sup> OJ L 378, 31.12.1986, p. 4.

<sup>7</sup> OJ L 364, 12.12.1992, p. 7.

- (4) In the light of Article 9 of the United Nations Convention on the Rights of Persons with Disabilities and in order to give disabled persons and persons with reduced mobility opportunities for maritime and inland waterway travel comparable to those of other citizens, rules for non-discrimination and assistance during their journey should be established. Those persons should therefore be accepted for carriage and not refused transport on the grounds of their disability or lack of mobility, except for reasons which are justified on the grounds of health and safety and established by competent authorities. They should enjoy the right to assistance in ports and on board passenger ships. In the interests of social inclusion, the persons concerned should receive this assistance free of charge. Carriers should establish access conditions, using preferably the European standardisation system.
- (5) In deciding on the design of new ports and terminals if any, and as part of major refurbishments, the bodies responsible for those facilities should, where necessary, take into account the needs of disabled persons and persons with reduced mobility. Similarly, carriers should, where necessary, take such needs into account when deciding on the design of new and newly refurbished passenger ships in accordance with Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships<sup>8</sup> and Directive 2006/87/EC of the European Parliament and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels and repealing Council Directive 82/714/EEC<sup>9</sup>.
- (6) Assistance given at ports situated in the territory of a Member State should, among other things, enable disabled persons and persons with reduced mobility to proceed from a designated point of arrival at a port to a passenger ship and from the passenger ship to a designated point of departure of the port, including embarking and disembarking.
- (7) [...]

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<sup>8</sup> OJ L 163, 25.6.2009, p. 1.

<sup>9</sup> OJ L 389, 30.12.2006, p. 1.

- (8) In organising assistance to disabled persons and persons with reduced mobility, and the training of their personnel, carriers should cooperate with organisations representing disabled persons and persons with reduced mobility. In this work they should also take into account the relevant provisions of the International Convention and Code on Standards of Training, Certification and Watchkeeping as well as the Recommendation of the International Maritime Organisation on the Design and Operation of passenger ships to respond to elderly and disabled persons' needs<sup>10</sup>.
- (9) Passengers should be adequately informed in the event of cancellation or delay of any passenger service or cruise. This information should help passengers to make the necessary arrangements and if needed to obtain information about alternative connections.
- (10) Inconvenience experienced by passengers due to the cancellation or long delay of their journey should be reduced. To this end, passengers should be adequately looked after and should be able to cancel their journey and have their tickets reimbursed or to obtain rerouting under satisfactory conditions.
- (11) Carriers should provide for the payment of compensation for passengers in the event of delay or cancellation of a service based on a percentage of the ticket price, except when the delay or cancellation occurs due to weather conditions endangering the safe operation of the ship or to extraordinary circumstances, which could not have been avoided even if all reasonable measures had been taken.
- (11a) Weather conditions endangering the safe operation of the ship should include, but not be limited to, strong winds, heavy sea, strong current, difficult ice conditions and extremely high or low water levels.

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<sup>10</sup> IMO - Maritime Safety Committee, Circ.735, 24 June 1996 at the time of the adoption of this Regulation.

- (11b) Extraordinary circumstances should include, but not be limited to, **war and other hostilities**, labour conflicts, landing any sick, injured or dead person, search and rescue operations at sea or on inland waterways, measures necessary to protect the environment, decisions taken by traffic management bodies or port authorities, or decisions by competent authorities with regard to public order and safety as well as to cover urgent transport needs.
- (12) With the involvement of stakeholders, professional associations and associations of customers, passengers and disabled persons, carriers should cooperate in order to adopt arrangements at national or European level for improving care and assistance offered to passengers whenever their travel is interrupted, notably in the event of long delays or cancellation of travel.
- (13) This Regulation should not affect the rights of passengers established by Council Directive 90/314/EEC on package travel, package holidays and package tours<sup>11</sup>. In cases where a package tour is cancelled for reasons other than cancellation of the passenger service or the cruise, this Regulation should not apply.
- (14) Passengers should be fully informed of their rights under this Regulation, so that they can effectively exercise those rights. Rights of passengers should include the receipt of information regarding the service before and during the journey. All essential information provided to passengers should also be provided in formats accessible to disabled persons and persons with reduced mobility.
- (15) Passengers should be able to exercise their rights by means of appropriate complaint procedures implemented by carriers or, as the case may be, by the submission of complaints to the body or bodies designated to that end by the Member State. Carriers should respond to complaints by passengers within a certain period of time, bearing in mind that the non-reaction to a complaint might be held against them.

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<sup>11</sup> OJ L 158, 23.6.1990, p. 59.

- (16) Taking into account the procedures established by a Member State for the submission of complaints, a complaint concerning assistance in a port or on board a ship should preferably be addressed to the body or bodies designated for the enforcement of this Regulation in the Member State where the port of embarkation is situated and, for passenger services from a third country, where the port of disembarkation is situated.
- (17) Member States should supervise and ensure compliance with this Regulation and designate an appropriate body or bodies to carry out enforcement tasks. This supervision does not affect the rights of passengers to seek legal redress from courts under national law.
- (18) Member States should lay down penalties applicable to infringements of this Regulation and ensure that those penalties are applied. The penalties should be effective, proportionate and dissuasive.
- (19) Since the objectives of this Regulation, namely to ensure a high level of protection of and assistance to passengers throughout the Member States and to ensure that economic agents operate under harmonised conditions in a single market, cannot sufficiently be achieved by the Member States and can therefore, by reason of the scale or effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (20) The enforcement of this Regulation should be based on Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of the consumer protection law (the Regulation on consumer protection cooperation)<sup>12</sup>. That Regulation should therefore be amended accordingly.

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<sup>12</sup> OJ L 364, 9.12.2004, p. 1.

- (21) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>13</sup> should be strictly respected and enforced in order to guarantee respect for the privacy of legal and natural persons, and ensure that the information and reports requested serve solely to fulfil the obligations laid down in this Regulation and is not used to the detriment of such persons.
- (22) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union,

HAVE ADOPTED THIS REGULATION:

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<sup>13</sup> OJ L 281, 23.11.1995, p. 31.

## **Chapter I**

### **General provisions**

#### *Article 1*

#### *Subject matter*

This Regulation establishes rules as regards the following:

- (1) non-discrimination between passengers with regard to transport conditions offered by carriers;
- (2) non-discrimination and assistance for disabled persons and persons with reduced mobility;
- (3) the rights of passengers in cases of cancellation or delay;
- (4) minimum information to be provided to passengers;
- (5) the handling of complaints;
- (6) general rules on enforcement.



## *Article 2*

### *Scope*

1. This Regulation shall apply in respect of passengers travelling:
  - (a) with passenger services where the port of embarkation is situated in the territory of a Member State;
  - (b) with passenger services where the port of embarkation is situated outside the territory of a Member State and the port of disembarkation is situated in the territory of a Member State, provided that the service is operated by a Community carrier;
  - (c) on a cruise where the port of embarkation is situated in the territory of a Member State. However, Articles 17(2), 19, 20 and 20a(1) and (3) shall not apply to these passengers.

- 1a. This Regulation shall not apply in respect of passengers travelling:
- (a) with ships certified to carry up to 36 passengers;
  - (b) with ships having a crew responsible for the operation of the ship composed of not more than three persons or where the distance of the overall passenger service is less than 500 meters, one way; or
  - (c) on excursion and sightseeing tours other than cruises.
2. Member States may exempt from the provisions of this Regulation passenger services covered by public service obligations, public service contracts or integrated services provided that the rights of passengers under this Regulation are adequately guaranteed under national law.
3. Nothing in this Regulation shall be understood to constitute technical requirements imposing obligations on carriers, terminal operators or other entities to modify or replace their ships or, respectively, infrastructure and equipment in ports, including port terminals.

*Article 3*  
*Definitions*

For the purposes of this Regulation the following definitions shall apply:

- (a) ‘disabled person’ or ‘person with reduced mobility’ means any person whose mobility when using transport is reduced as a result of any physical disability (sensory or locomotor, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or as a result of age, and whose situation needs appropriate attention and adaptation to his particular needs of the service made available to all passengers;
- (-aa) ‘territory of a Member State’ means a territory to which the Treaty applies as referred to in Article 299 of the Treaty, under the conditions set out therein;
- (aa) ‘access conditions’ means relevant standards, guidelines and information on the accessibility of port terminals and ships including their facilities for disabled persons or persons with reduced mobility;
- (b) [...]
- (c) [...]
- (d) ‘carrier’ means a person offering transports by passenger services or cruises to the general public;
- (da) ‘Community carrier’ means a carrier established within the territory of a Member State or offering transports by passenger services operated to or from the territory of a Member State;
- (e) ‘passenger service’ means a commercial passenger transport service by sea or inland waterways operated according to a published timetable;

- (ea) ‘integrated services’ means interconnected transport services within a determined geographical area with a single information service, ticketing scheme and timetable;
- (f) ‘performing carrier’ means a person other than the carrier, who actually performs the whole or a part of the carriage;
- (fa) ‘inland waterway’ means a natural or artificial navigable inland body of water, or system of interconnected bodies of water, used for transportation, such as lakes, rivers or canals or any combination of these;
- (g) ‘port’ means a place or a geographical area made up of such improvement works and facilities as to permit the reception of ship from which passengers regularly embark or disembark;
- (ga) ‘port terminal’ means a terminal, manned by a carrier or a terminal operator, in a port with facilities and staff for the embarkation or disembarkation of passengers travelling with passenger services or on a cruise, such as check in, ticket counters or lounges;
- (h) [...]
- (i) ‘ship’ means a vessel used for navigation at sea or on inland waterways;
- (j) ‘transport contract’ means a contract of carriage between a carrier and a passenger for the provision of one or more passenger services or cruises;
- (k) ‘ticket’ means a valid document or other evidence of a transport contract;
- (l) ‘ticket vendor’ means any retailer concluding transport contracts on behalf of a carrier;

- (la) ‘travel agent’ means any retailer acting on behalf of a passenger for the conclusion of transport contracts;
- (m) ‘tour operator’ means an organiser, other than a carrier, within the meaning of Article 2(2) and (3) of Directive 90/314/EEC;
- (n) ‘reservation’ means a booking of a specific departure of a passenger service or a cruise;
- (o) [...]
- (p) [...]
- (q) ‘terminal operator’ means a private or public body in the territory of a Member State responsible for the administration and management of a port terminal;
- (r) ‘cruise’ means a transport service by sea or inland waterway, operated exclusively for the purpose of pleasure or recreation, supplemented by accommodation and other facilities, exceeding two overnight stays on board.
- (s) ‘shipping incident’ means shipwreck, capsizing, collision or stranding of the ship, explosion or fire in the ship, or defect in the ship.

#### *Article 4*

##### *Tickets and non-discriminatory contract conditions*

1. Carriers shall issue a ticket to the passenger, unless under national law other documents give entitlement to transport. A ticket may be issued in an electronic format.
2. Without prejudice to social tariffs, the contract conditions and tariffs applied by carriers or ticket vendors shall be offered to the general public without any direct or indirect discrimination based on the nationality of the final customer or on the place of establishment of carriers or ticket vendors within the Community.

#### *Article 4a*

##### *Other performing parties*

1. If the performance of the obligations under this Regulation has been entrusted to a performing carrier, ticket vendor or any other person, the carrier, travel agent, tour operator or terminal operator, who has entrusted such obligations, shall nevertheless be liable for the acts and omissions of that performing party, **acting within their scope of employment**.
2. In addition, the party to whom the performance of an obligation has been entrusted by the carrier, travel agent, tour operator or terminal operator shall be subject to the provisions of this Regulation, including provisions on liabilities and defences, with regard to the obligation entrusted.

#### *Article 5*

##### *Exclusion of waiver*

1. Obligations pursuant to this Regulation shall not be limited or waived, in particular by a derogation or restrictive clause in the transport contract.
2. [...]

## **Chapter II**

### **Rights of disabled persons and persons with reduced mobility**

#### *Article 6*

#### *Right to transport*

1. Carriers, travel agents and tour operators shall not refuse to accept a reservation, to issue or otherwise provide a ticket or to embark persons on the grounds of disability or of reduced mobility as such.
  - (a) [...]
  - (b) [...]
2. Reservations and tickets shall be offered to disabled persons and persons with reduced mobility at no additional cost.

#### *Article 7*

#### *Derogations and special conditions*

1. Notwithstanding the provisions of Article 6(1), carriers, travel agents and tour operators may refuse to accept a reservation from, to issue or otherwise provide a ticket to or to embark a person, on the grounds of disability or of reduced mobility:
  - (a) in order to meet applicable health and safety requirements established by international, Community or national law or in order to meet health and safety requirements established by competent authorities;

- (b) where the design of the passenger ship or infrastructure and equipment of the port, including port terminals, makes it impossible to carry out the embarkation, disembarkation or carriage of the disabled person or person with reduced mobility in a safe or operationally feasible manner.
- 1a. In the event of refusal to accept a reservation or to issue or otherwise provide a ticket on the grounds referred to in paragraph 1, carriers, travel agents and tour operators shall make reasonable efforts to propose to the person concerned an acceptable alternative transport with a passenger service or a cruise operated by the carrier.
- 1b. If a disabled person or a person with reduced mobility, **who** holds a reservation or has a ticket **and has complied with the requirements in Article 12(1a), is** anyway denied embarkation on the grounds of his disability or reduced mobility, that person and any accompanying person pursuant to paragraph 2 shall be offered the choice between the right to reimbursement and re-routing as provided for in Annex I. The right to the option of a return journey or re-routing shall be conditional upon all health and safety requirements being met.
2. Under the same conditions as referred to in paragraph 1, carriers, travel agents and tour operators may require that a disabled person or person with reduced mobility be accompanied by another person who is capable of providing the assistance required by the disabled person or person with reduced mobility. As regards passenger services, such an accompanying person shall be carried free of charge.



3. When carriers, travel agents and tour operators exercise a derogation provided for in paragraphs 1 or 2, they shall immediately inform the disabled person or person with reduced mobility of the specific reasons therefore. These reasons shall be notified to the disabled person or person with reduced mobility, no later than five working days after that the person was informed. In case of refusal according to paragraph 1(a), reference shall be made to the applicable health and safety requirements.

### *Article 8*

#### *Accessibility and information*

1. In cooperation with representative organisations of disabled persons and persons with reduced mobility, carriers and terminal operators shall, where appropriate through their organisations, establish, or have in place, non-discriminatory access conditions for the transport of disabled persons or persons with reduced mobility.
2. The access conditions provided for in paragraph 1 shall be made publicly available by carriers and terminal operators physically or on the Internet in the same languages as those in which information is generally made available to all passengers.
3. [...]
4. Tour operators shall make available the access conditions provided for in paragraph 1 which apply to journeys included in package travel, package holidays and package tours which they organise, sell or offer for sale.
5. Carriers, travel agents and tour operators shall ensure that all relevant 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 including online booking and information.

## *Article 9*

### *Right to assistance in ports and on board ships*

Subject to the access conditions referred to in Article 8(1), carriers and terminal operators shall, within their respective areas of competence, provide assistance free of charge to disabled persons and persons with reduced mobility, as specified in Annexes II and III, in ports, including embarkation and disembarkation, and on board ships.

2. [...]

3. [...]

4. [...]

5. [...]

## *Article 10*

[...]

## *Article 11*

[...]

## *Article 12*

### *Conditions on which assistance is provided*

1. Carriers and terminal operators shall, within their respective areas of competence, provide assistance to disabled persons and persons with reduced mobility as set out in Article 9 on the following conditions:
  - (a) that the carrier or the terminal operator is notified of the person's need for such assistance at the latest two working days before the assistance is needed, and;
  - (b) that the disabled person or person with reduced mobility presents himself in the port or at the designated point as referred to in Article 12a(3):
    - at a time stipulated in writing by the carrier which shall be not more than 60 minutes before the published embarkation time, or
    - if no embarkation time is stipulated, no later than 60 minutes before the published departure time.
- 1a. In addition, disabled persons or persons with reduced mobility shall notify the carrier of their specific needs of accommodation or seating or their need for bringing medical equipment at the time of reservation or advance purchase of the ticket, **provided the need is known at that time.**
2. A notification made in accordance with paragraphs 1(a) and 1a may always be submitted to the travel agent or the tour operator with which the ticket was purchased. Where the ticket permits multiple journeys, one notification shall be sufficient provided that adequate information on the timing of subsequent journeys is provided.

3. If no notification is made in accordance with paragraphs 1(a) and 1a, carriers and terminal operators shall make all reasonable efforts to ensure that the assistance is provided in such a way that the disabled person or person with reduced mobility is able to embark, disembark and travel with the ship.
4. Where a disabled person or person with reduced mobility is accompanied by a recognised assistance dog, that dog shall be accommodated together with that person, provided that the carrier, travel agent or tour operator is notified in accordance with applicable national rules on the carriage of recognised assistance dogs on board passenger ships, where such rules exist.

#### *Article 12a*

##### *Reception of notifications and designation of meeting points*

1. Carriers, terminal operators, travel agents and tour operators shall take all measures necessary for the reception of notifications made in accordance with Article 12(1)(a) and 12(1a). This obligation shall apply at all their points of sale, including sale by telephone and via the Internet.
2. If travel agents or tour operators receive such a notification they shall, within their normal office hours, transfer the information to the carrier or terminal operator without delay.
3. Carriers and terminal operators shall designate a point inside or outside port terminals at which disabled persons or persons with reduced mobility can announce their arrival and request assistance. That point shall be clearly signposted and shall offer basic information about the port terminal and assistance provided, in accessible formats.

### *Article 13*

[...]

### *Article 14*

#### *Quality standards for assistance*

1. Terminal operators and carriers operating port terminals or passenger services with in total more than 100,000 commercial passenger movements during the previous calendar year shall, within their respective areas of competence, set quality standards for the assistance specified in Annex II and III and shall, where appropriate through their organisations, determine resource requirements for meeting those standards, in cooperation with organisations representing disabled persons and persons with reduced mobility.
2. [...]
3. The quality standards provided for in paragraph 1 shall be made publicly available by terminal operators and carriers physically or on the Internet in accessible formats and in the same languages as those in which information is generally made available to all passengers.

*Article 15*  
*Training and instructions*

Without prejudice to the International Convention and Code on Standards of Training, Certification and Watchkeeping **and to the regulations adopted under the Revised Convention for Rhine Navigation and the Convention regarding the Regime of Navigation on the Danube**, carriers and, where appropriate, terminal operators shall establish **disability-related** training procedures, **including instructions**, and ensure that:

- a) their personnel, including those employed by any other performing party, providing direct assistance to disabled persons and persons with reduced mobility **are trained** or instructed as described in Annex IV A and B; and
- b) their personnel who are otherwise responsible for the reservation and selling of tickets or embarkation and disembarkation, including those employed by any other performing party, **are trained** or instructed as described in Annex IV A.

*Article 16*  
*Compensation in respect of mobility equipment or other specific equipment*

- 1. Carriers and terminal operators shall be liable for loss suffered as a result of loss of or damage to mobility equipment or other specific equipment, used by a disabled person or person with reduced mobility, if the incident which caused the loss was due to the fault or neglect of the carrier or the terminal operator. The fault or neglect of the carrier shall be presumed for loss caused by a shipping incident.
- 1a. The compensation referred to in paragraph 1 shall correspond to the replacement value of the equipment concerned or, where applicable, to the costs relating to repairs.

- 1b. Paragraphs 1 and 1a shall not apply in case Article 4 of Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents<sup>14</sup> applies.
2. Every effort shall be undertaken to rapidly provide temporary replacement equipment.

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<sup>14</sup> OJ L 131, 28.5.2009, p. 24.

### **Chapter III**

#### **Obligations of carriers in the event of interrupted travel**

##### *Article 17*

##### *Information in case of cancelled or delayed departures*

1. In the case of a cancellation or a delay in departure of a passenger service or a cruise, passengers departing from port terminals shall be informed by the carrier and, where appropriate, by the terminal operator, of the situation as soon as possible and in any event no later than 30 minutes after a scheduled departure, and of the estimated departure time and estimated arrival time as soon as this information is available.
2. If passengers miss a connected transport service due to a cancellation or delay, the carrier or, where appropriate, the terminal operator shall make reasonable efforts to inform the passengers concerned of alternative connections.
3. The carrier or, where appropriate, the terminal operator, shall ensure that disabled persons or persons with reduced mobility receive the information required under paragraphs 1 and 2 in accessible formats.



## *Article 18*

### *Assistance in case of cancellations and delayed departures*

1. Where a carrier reasonably expects the departure of a passenger service or a cruise to be cancelled or delayed for more than 120 minutes beyond its scheduled time of departure, passengers departing from port terminals shall be offered free of charge snacks, meals **or** refreshments in reasonable relation to the waiting time, provided they are available, or can reasonably be supplied.
2. In the case of a cancellation or a delay in departure where a stay of one or more nights or a stay additional to that intended by the passenger becomes necessary, where and when physically possible, the carrier shall offer passengers departing from port terminals adequate accommodation free of charge on board, or ashore, and transport to and from the port terminal and place of accommodation in addition to the **snacks**, meals **or** refreshments provided for in paragraph 1.
- 2a. [...]
3. [...]
4. In applying paragraphs 1 and 2, the carrier shall pay particular attention to the needs of disabled persons and persons with reduced mobility and any accompanying persons.

## *Article 19*

### *Re-routing and reimbursement in case of cancellation and delayed departures*

1. Where a carrier reasonably expects a passenger service to be cancelled or delayed in departure from a port terminal for more than 120 minutes, the passenger shall immediately be offered the choice between:
  - (a) re-routing to the final destination, under comparable conditions, as set out in the transport contract, at the earliest opportunity;
  - (b) reimbursement of the ticket price and, where relevant, a return service free of charge to the first point of departure, as set out in the transport contract, at the earliest opportunity.
2. Where a passenger service is cancelled or delayed in departure from a port for more than 120 minutes, passengers shall have the right of such re-routing or reimbursement of the ticket price from the carrier.
3. The payment of the reimbursement provided for in paragraphs 1(b) and 2 shall be made within seven days, paid in cash, by electronic bank transfer, bank orders or bank cheques of the full cost of the ticket at the price at which it was purchased, for the part or parts of the journey not made, and for the part or parts already made if the journey no longer serves any purpose in relation to the passenger's original travel plan.

## *Article 20*

### *Compensation of the ticket price in case of delay in arrival*

1. Without losing the right of transport, passengers may request compensation from the carrier if they are facing a delay in arrival at the final destination as set out in the transport contract. The minimum levels of compensation shall be 25 % of the ticket price for a delay of:
  - (a) at least one hour in case of a scheduled journey of up to four hours; or
  - (b) at least two hours in case of a scheduled journey of more than four hours, but not exceeding eight hours; or
  - (ba) at least three hours in case of a scheduled journey of more than eight hours, but not exceeding 24 hours; or
  - (bb) at least six hours in case of a scheduled journey of more than 24 hours.

If the delay exceeds double the time set out in points (a) to (bb), the compensation shall be 50 % of the ticket price.

- 1a. Passengers who hold a travel pass or a season ticket and who encounter recurrent delays in arrival during its period of validity may request adequate compensation in accordance with the carrier's compensation arrangements. These arrangements shall state the criteria for determining delay in arrival and for calculation of compensation.
- 1aa. Compensation shall be calculated in relation to the price which the passenger actually paid for the delayed passenger service.
- 1b. Where the transport is for a return journey, compensation for delay in arrival on either the outward or the return leg shall be calculated in relation to half of the price paid for the transport by that passenger service.

2. [...]
3. The compensation shall be paid within one month after the submission of the request for compensation. The compensation may be paid in vouchers and/or other services, provided the terms are flexible, in particular as regards the period of validity and destination. The compensation shall be paid in money at the request of the passenger.
- 3a. The compensation of the ticket price shall not be reduced by financial transaction costs such as fees, telephone costs or stamps. Carriers may introduce a minimum threshold under which payments for compensation will not be paid. This threshold shall not exceed EUR 10.
4. [...]

*Article 20a*

*Exemptions*

1. Except for passengers holding a travel pass or a season ticket, Articles 18, 19 and 20 shall not apply to passengers with open tickets as long as the time of departure is not specified.
2. Articles **18 and 20** shall not apply if the passenger is informed of the **cancellation or** delay before the purchase of the ticket **or if the cancellation or delay is caused by the fault of the passenger**.
3. Articles 18(2) and 20 shall not apply where the delay or cancellation is caused by weather conditions endangering the safe operation of the ship or by extraordinary circumstances hindering the performance of the passenger service, which could not have been avoided even if all reasonable measures had been taken.

*Article 21*  
*Further claims*

Nothing in this Regulation shall preclude passengers from seeking damages in accordance with national law in respect of loss resulting from cancellation or delay of transport services before national courts, including under Directive 90/314/EEC.

*Article 22*

[...]

## **Chapter IV**

### **General rules on information and complaints**

#### *Article 23*

##### *Right to travel information*

Carriers and terminal operators shall, within their respective areas of competence, provide passengers with adequate information throughout their travel in accessible formats and in the same languages as those in which information is generally made available to all passengers. Particular attention shall be paid to the needs of disabled persons and persons with reduced mobility.

#### *Article 24*

##### *Information on passenger rights*

1. Carriers and terminal operators shall, within their respective areas of competence, ensure that information on the rights of passengers under this Regulation is publicly available on board ships and in port terminals. The information shall be provided in accessible formats and 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.
  - 1a. In order to comply with this information requirement, carriers and terminal operators may use a summary of the provisions of this Regulation prepared by the Commission in all the official languages of the European Union and made available to them.
2. Carriers and terminal operators shall inform passengers in an appropriate manner on board ships and in port terminals, of the contact details of the enforcement body designated by the Member State pursuant to Article 26(1).

*Article 25*  
*Complaints*

1. Carriers shall set up or have in place a complaint handling mechanism for rights and obligations covered by this Regulation.
2. If a passenger covered by this Regulation wants to make a complaint to the carrier, he shall submit it within two months from the date on which the service was performed or when a service should have been performed. Within one month of receiving the complaint, the carrier shall give notice to the passenger that his complaint has been substantiated, rejected or is still being considered. The time taken to provide the final reply shall not be longer than three months from the receipt of a complaint.
3. [...]

## **Chapter V**

### **Enforcement and national enforcement bodies**

#### *Article 26*

##### *National enforcement bodies*

1. Each Member State shall designate a new or existing body or bodies responsible for the enforcement of this Regulation as regards passenger services and cruises from ports situated on its territory and passenger services from a third country to such ports. Each body shall take the measures necessary to ensure compliance with this Regulation.

Each body shall, in its organisation, funding decisions, legal structure and decision-making, be independent of carriers, tour operators and terminal operators.

2. Member States shall inform the Commission of the body or bodies designated in accordance with this Article.
3. Any passenger may submit a complaint, in accordance with national law, to the appropriate body designated under paragraph 1, or to any other appropriate body designated by a Member State, about an alleged infringement of this Regulation.

A Member State may decide:

- a) that the passenger as a first step shall submit the complaint covered by this Regulation to the carrier; and/or
  - b) that the national enforcement body or any other appropriate body designated by the Member State shall act as an appeal body for complaints not resolved under Article 25.
4. Member States that have chosen to exempt certain services pursuant to Article 2(2) shall ensure a comparable mechanism of enforcement of passenger rights.



*Article 27*  
*Report on enforcement*

1. On 1 June every two years from the date of application of this Regulation, the enforcement bodies designated pursuant to Article 26 shall publish a report on their activity in the previous two calendar years, containing inter alia a description of actions taken in order to implement the provisions of this Regulation, details of sanctions applied and statistics on complaints and sanctions applied.
2. [...]

*Article 28*  
*Cooperation between enforcement bodies*

National enforcement bodies as referred to in Article 26(1) shall, **whenever appropriate**, exchange information on their work and decision-making principles and practice. The Commission shall support them in this task.

*Article 29*  
*Penalties*

The Member States shall lay down rules on penalties applicable to infringements of the provisions of this Regulation and shall take all the measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify those rules and measures to the Commission by [24 months after the publication of the Regulation] and shall notify it without delay of any subsequent amendment affecting them.

## **Chapter VI**

### **Final Provisions**

#### *Article 30*

##### *Report*

The Commission shall report to the European Parliament and to the Council at the latest three years after the date of application of this Regulation, on the operation and the effects of this Regulation. The report shall be accompanied where necessary by legislative proposals implementing in further detail the provisions of this Regulation, or amending it.

#### *Article 31*

##### *Amendment to Regulation (EC) No 2006/2004*

In the Annex to Regulation (EC) No 2006/2004 the following point [19] is added:

"19. Regulation of the European Parliament and of the Council of [...] concerning the rights of passengers traveling by sea and inland waterway and amending Regulation EC No 2006/2004<sup>15</sup>"

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<sup>15</sup> OJ C [...], [...], p. [...].

*Article 32*  
*Entry into force*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from [two years] after publication.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [...]

*For the European Parliament*

*The President*

[...]

*For the Council*

*The President*

[...]

**Right to reimbursement or re-routing in case of advanced booking for disabled persons and persons with reduced mobility as referred to in Article 7**

1. Where reference is made to this Annex, disabled persons and persons with reduced mobility shall be offered the choice between:
  - (a) - reimbursement within seven days, paid in cash, by electronic bank transfer, bank orders or bank cheques of the full cost of the ticket at the price at which it was purchased, for the part or parts of the journey not made, and for the part or parts already made if the journey no longer serves any purpose in relation to the passenger's original travel plan, plus, where relevant,
    - a return service to the first point of departure, at the earliest opportunity; or
  - (b) re-routing to the final destination as set out in the transport contract, under comparable conditions, at the earliest opportunity; or
  - (c) re-routing to the final destination as set out in the transport contract, under comparable conditions, at a later date at the passenger's convenience, subject to availability of tickets.
2. Paragraph 1(a) shall also apply to passengers whose journeys form part of a package, except for the right to reimbursement where such a right arises under Directive 90/314/EEC<sup>16</sup>.
3. When, in the case where a town, city or region is served by several ports, a carrier offers a passenger a journey to an alternative port to that for which the booking was made, the carrier shall bear the cost of transferring the passenger from that alternative port either to that for which the booking was made, or to another nearby destination agreed with the passenger.

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<sup>16</sup> OJ L 158, 23.6.1999, p. 55.

**Assistance in ports, including embarkation and disembarkation, as referred to  
in Articles 9 and 14**

Assistance and arrangements necessary to enable disabled persons and persons with reduced mobility to:

- communicate their arrival at a port terminal and their request for assistance,
- move from an entry point to the check-in counter, if any, or to the ship,
- check-in and register baggage, if necessary,
- proceed from the check-in counter (if any) to the ship, through emigration and security points,
- embark the ship, with the provision of lifts, wheelchairs or other assistance needed, as appropriate,
- proceed from the ship door to their seats/area,
- store and retrieve baggage on the ship,
- proceed from their seats to the ship door,
- disembark from the ship, with the provision of lifts, wheelchairs or other assistance needed, as appropriate,
- retrieve baggage (if necessary), and proceed through immigration and customs points,
- proceed from the baggage hall or the disembarkation point to a designated point of exit,
- make their way to the toilet facilities (if any) if required.

Where a disabled person or person with reduced mobility is assisted by an accompanying person, this person must, if requested, be allowed to provide the necessary assistance in the port and with embarking and disembarking.

Handling of all necessary mobility equipment, including equipment such as electric wheelchairs.

Temporary replacement of damaged or lost mobility equipment, albeit not necessarily on a like for like basis.

Ground handling of recognised assistance dogs, when relevant.

Communication in accessible formats of information needed to embark and disembark.

**Assistance on board ships as referred to in Articles 9 and 14**

Carriage of recognised assistance dogs on board the ship, subject to national regulations.

Carriage of medical equipment and of the mobility equipment necessary for the disabled person or person with reduced mobility, including electric wheelchairs.

Communication of essential information concerning a route in accessible formats.

Making of all reasonable efforts to arrange seating to meet the needs of disabled persons or persons with reduced mobility on request and subject to safety requirements and availability.

Assistance in moving to toilet facilities (if any), if required.

Where a disabled person or person with reduced mobility is assisted by an accompanying person, the carrier shall make all reasonable efforts to give such person a seat or a cabin next to the disabled person or person with reduced mobility.

**Disability-related training, including instructions, as referred to in Article 15**

**A. Disability-awareness training, including instructions**

Disability-awareness training, **including** instructions, includes:

- awareness of and appropriate responses to passengers with physical, sensory (hearing and visual), hidden or learning disabilities, including how to distinguish between the different abilities of persons whose mobility, orientation, or communication may be reduced;
- barriers faced by disabled persons and persons with reduced mobility, including attitudinal, environmental/physical and organisational barriers;
- recognised assistance dogs, including the role and the needs of an assistance dog;
- dealing with unexpected occurrences;
- interpersonal skills and methods of communication with hearing impaired people, visually impaired people, speech impaired people and people with a learning disability;
- general awareness of IMO guidelines relating to the Recommendation of the Design and Operation of passenger ships to respond to elderly and disabled persons' needs.



## **B. Disability-assistance training, *including* instructions**

Disability-assistance training, **including** instructions, includes:

- how to help wheelchair users make transfers into and out of a wheelchair;
  - skills for providing assistance to disabled persons and persons with reduced mobility travelling with a recognised assistance dog, including the role and the needs of those dogs;
  - techniques for escorting visually impaired passengers and for the handling and carriage of recognised assistance dogs;
  - an understanding of the types of equipment which can assist disabled persons and persons with reduced mobility and a knowledge of how to carefully handle such equipment;
  - the use of boarding and deboarding assistance equipment used and knowledge of the appropriate boarding and deboarding assistance procedures that safeguard the safety and dignity of disabled persons and persons with reduced mobility;
  - understanding of the need for reliable and professional assistance. Also awareness of the potential of certain disabled persons and persons with reduced mobility to experience feelings of vulnerability during travel because of their dependence on the assistance provided;
  - a knowledge of first aid.
-