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COVER NOTE

From:	Committee of the Regions
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
Subject:	Proposal for a Regulation amending Regulations (EC) No 261/2004, (EC) No 1107/2006, (EU) No 1177/20, (EU) No 181/2011 and (EU) 2021/782 as regards enforcement of passenger rights in the Union (doc. ST 16284/23 - COM(2023) 753 final) Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on passenger rights in the context of multimodal journeys (doc. ST 16307/23 - COM(2023) 752 final) – Opinion of the European Committee of the Regions

Delegations will find attached a copy of the above-mentioned opinion. This opinion is available in all language versions on the following website: DM Search v4.6.0 (europa.eu) .

European Economic and Social Committee

OPINION

European Economic and Social Committee

Review of the passengers' rights framework

Proposal for a regulation of the European Parliament and of the Council amending Regulations (EC) No 261/2004, (EC) No 1107/2006, (EU) No 1177/2010, (EU) No 181/2011 and (EU) 2021/782 as regards enforcement of passenger rights in the Union
[COM(2023) 753 final – 2023/0437 (COD)]
and
Proposal for a regulation of the European Parliament and of the Council on passenger rights in the context of multimodal journeys
[COM(2023) 752 final – 2023/0436 (COD)]

TEN/825

Rapporteur: **Ileana IZVERNICEANU DE LA IGLESIA**

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Referral	Council of the European Union, 29/1/2024 and 1/2/2024 European Parliament, 8/2/2024
Legal basis	Articles 91(1), 100(2) and 304 of the Treaty on the Functioning of the European Union
Section responsible	Transport, Energy, Infrastructure and the Information Society
Adopted in section	28/2/2024
Adopted at plenary	20/3/2024
Plenary session No	586
Outcome of vote (for/against/abstentions)	211/1/2

1. Conclusions and recommendations

1.1 The EESC supports the new regulation proposed by the Commission, which aims to improve passenger rights and ensure travellers receive better information. All parts of this new regulation (package travel, passenger rights and multimodal journeys) should be considered complementary to each other.

1.2 The EESC believes that a proper and effective regulation will not only improve the experience for travellers, but also strengthen European industry in this sector, making it more competitive.

1.3 The EESC is concerned about citizens' general lack of awareness when it comes to their rights and about problems they encounter trying to exercise these rights, and therefore believes information to be the most useful and effective tool available to travellers so that they know their rights and can exercise them if they are breached. The EESC therefore recommends that the Commission ensure that tourism service providers provide extensive, quality information directly to travellers, even if this information is also available elsewhere, for example online.

1.4 The EESC calls on the Commission to make efforts to improve the information that is available to travellers before booking trips – especially if there are any changes or interruptions – and to ensure that the information is understandable to all users. The Committee suggests strengthening outreach through information campaigns.

1.5 The EESC greatly appreciates the improved protection for passengers with disabilities and reduced mobility (PRMs) and recommends that the Commission extend this improved protection to passengers travelling with children, as it is clear that they often face many difficulties.

1.6 The EESC welcomes the fact that this regulation enhances the Green Deal by boosting sustainable mobility and recommends that the importance of having well-trained and well-treated workers in the sector also be recognised.

1.7 The EESC calls for the regulation to be truly effective and enforced and, to this end, that the reports that companies need to submit every two years be monitored, with penalties imposed for non-compliance.

2. Gist of the Commission document

2.1 The Commission has adopted a series of proposals in the Sustainable and Smart Mobility package which aim to improve passenger experiences by strengthening their rights. In drawing up these rules, consideration has been given to recent lessons learned from the COVID-19 crisis and the collapse of various travel operators, all of which have highlighted the need to strengthen compliance with passenger rights in order to encourage the use of public transport over private transport to contribute to the Green Deal.

2.2 The Commission proposal focuses on three aspects. The first is the revision and improvement of passenger rights as regards enforcement of passenger rights in the Union (COM(2023) 753).

The second is the proposal for a European regulation on passenger rights in the context of multimodal journeys, and the third is the revision of the 2015 Package Travel Directive. The first and second aspects of the package of measures adopted by the Commission are the subject of this opinion.

2.3 Multimodal journeys will have an increasing impact in the future. Commission estimates indicate that there were 91 million travellers in 2019, with that number expected to reach 103.6 million in 2030, and 150.9 million in 2050.

3. General comments

3.1 The EESC welcomes the revision of European regulations governing passenger rights in air, rail, waterborne and road transport, as it considers this holistic approach to be the most suitable way to move forward with this regulation, incentivising the use of public transport and thus boosting the Green Deal.

3.2 The EESC fully agrees with the main objectives of the revision of the regulatory framework, namely the right to accessibility and assistance for persons with disabilities and reduced mobility, the right to the fulfilment of the transport contract in case of disruption – whenever feasible – and to compensation, and the right to a quick and accessible system for the easy handling of complaints.

3.3 The EESC considers this proposal in line with the Commission's commitment, as part of the Smart and Sustainable Mobility Strategy, to ensure that the rights of passengers in the EU are properly implemented, that they are clear for the parties involved and that they provide for assistance and reimbursement where there are problems, from a multimodal perspective, and above all that appropriate sanctions are applied where there is a breach of these rules that infringes on passenger rights and competition.

3.4 However, the EESC considers the Commission's proposal to be unambitious, seeking only to reform the shortcomings in the implementation and enforcement of existing passenger rights identified through various studies and EU bodies, and not explicitly establishing any new rights for passengers. It is primarily aimed at striking a balance between passenger protection and the obligations of carriers and infrastructure managers, which until now has been lacking. The proposal also fails to recognise the vital role of workers in the sector, who need to be well-trained and well-treated.

3.5 The EESC is concerned about citizens' general lack of awareness when it comes to their rights and about problems they encounter trying to exercise these rights. A special 2019 Eurobarometer survey concluded that less than half of all EU citizens know that passengers have rights. Only one third know their travel rights. This is a recurring problem that distances citizens from the EU's objectives to build an economy that works for the people. The EESC believes that the Commission proposal should help to improve the situation of public transport users within the European Union.

3.6 In its opinion on the *Functioning and application of established rights of people travelling by air*, the EESC already recommended improving information on passenger rights and establishing quick and effective mechanisms for reimbursements in cases of delays or cancellations. Despite this, the problems identified either persist or have been exacerbated by the various crises in the air transport sector.

3.7 The EESC believes that the legislative proposal must be carried out in a harmonised way and be consistent with the revision of Directive (EU) 2015/2302 on package travel and linked travel arrangements, as even though these services are of a different legal nature, it is difficult for consumers to differentiate between them when contracting a service. The EESC recommends that both proposals harmonise consumer protection in the interest of avoiding differences that would affect competition between the various market players.

3.8 The failure to enforce consumer protection legislation is a problem that has not been solved by the tools available to consumers. Undertaking collective legal action is very difficult in practice. Taking conflicts from such a massive sector to court leads to problems, additional costs and inefficiencies for all those involved. The EESC believes that public mechanisms that are quick, effective and that ensure the compliance of all forms of transport procurement options available to consumers (directly with the provider or through physical, digital or intermodal intermediaries) should be promoted so as to ensure equality between all market players. It therefore recommends that travel documents include: 1) where to submit complaints to the travel service operator; and 2) to which alternative dispute resolution systems the consumer can resort if they do not receive a satisfactory response.

3.9 The EESC calls for greater efforts to make cross-border dispute resolution mechanisms more effective, as a substantial proportion of trips and travel arrangements are made in a country other than that of the contracting party. In this regard, the EESC wishes to highlight TRAVEL-NET, a network which focuses on facilitating cross-border dispute resolution, and recommends that the Commission take its observations into account in this legislative proposal.

3.10 In this vein, the EESC points out that passenger protection increased substantially after passenger rights were harmonised at EU level, with the aim of ensuring a level playing field for all actors involved in the provision of transport services. Like the Commission, the EESC believes that greater passenger protection would incentivise public transport use, contributing substantially to the Green Deal and promoting effective and fair competition between the various actors (carriers, infrastructure managers and intermediaries), which would encourage the development of a strong, employment-friendly industry around passenger transport.

3.11 Despite the improved protection mentioned above, the bankruptcies of airlines and operators and, above all, the impact of COVID-19 have demonstrated that the various operators involved in any one trip have differing and unequal obligations to take out insolvency insurance or guarantee funds. Although the Commission has proposed to look into the matter in future legislative acts, the EESC believes it necessary to create solid insolvency regimes applicable to all actors and operators involved in each trip, regardless of their size (SMEs and large companies), so that similar rules are applied for similar risks.

4. **Specific comments**

4.1 The EESC believes that the Commission's proposal to clearly regulate the right to reimbursement – in money and where tickets were booked through an intermediary – is appropriate. The option for the carrier to decide, with the agreement of the intermediary, which of the two parties receives the request from the consumer is appropriate, as it tells the consumer, from the time of booking, to whom they should address a claim for compensation or reimbursement if problems arise. However, the EESC believes that the regulation specifically applicable to intermediaries in air travel should be extended to other means of transport to ensure harmony and equality between the various means of transport.

4.2 The EESC supports the proposed rules for reimbursement through intermediaries set out in the proposal. The proposal provides clarity by introducing an obligation to inform the consumer of the terms and conditions for reimbursements in a clear and simple way at the time of booking and confirmation, guaranteeing a reimbursement free of charge and within 14 days.

4.3 The EESC believes that, for a reimbursement mechanism to be effective, it is essential that information on consumers be properly transferred between intermediaries and airlines, while also ensuring adequate levels of competition. It therefore considers it appropriate to regulate this aspect, in particular with regard to the safeguards on the maximum period and defining the purpose for retaining data, in compliance with the General Data Protection Regulation (GDPR).

4.4 The Commission's various works have repeatedly highlighted the low levels of compliance with passenger rights across all modes of transport. One reason for this is users' lack of awareness of the very existence of these rights. The EESC welcomes the introduction of a standardised reimbursement and compensation procedure for all modes of transport. The adoption of this model will save costs for businesses and provide consumers with a better understanding of the procedure. In addition, national enforcement bodies (NEBs) will have to check that the relevant form is always available to consumers, which will promote its widespread use and help improve compliance, which is the main objective of the proposed reform. Carriers should also be required to be transparent when applying the force majeure argument during complaints procedures. If a carrier states that a force majeure incident has caused a trip to be delayed or cancelled, they can be expected to show evidence that the incident actually occurred, such as a weather forecast from the place and time in question, for example. The force majeure argument should not be used arbitrarily to reject claims.

4.5 Similarly, the EESC considers the "risk-based" approach adopted by the legislation to be appropriate. Through this approach, the NEBs will develop monitoring programmes to monitor the compliance of carriers, infrastructure managers and intermediaries with the obligations laid down in the regulations, based on consumer complaints and follow-up activities. This system should provide transparency and improve the effectiveness of the protection mechanisms set out in the rules.

4.6 The NEBs, which should have the same duties in all Member States, should be responsible for monitoring individual operators' compliance with the provisions of the regulations. At the same time, the Commission should still play an active role, particularly when it comes to practices

that are put in place across various EU Member States. The EESC believes it necessary to extend the Commission's scope for action in investigating and sanctioning practices suspected of going against the regulations. The proposed text includes the possibility to request information, without detailing possibilities for action. In addition, this possibility is restricted to road, rail and maritime transport. The exclusion of air transport is not adequately justified, and therefore differences in treatment between the various transport alternatives should be avoided.

4.7 The EESC welcomes the Commission's proposal on passenger rights in multimodal trips. The ability to take multimodal trips is intended to encourage the use of public transport as an alternative to private vehicles. Effective multimodal mobility is key to making transport more sustainable and also contributes to the European Green Deal.

4.8 However, the EESC warns that travellers considering a multimodal journey to travel long distances are faced with a major problem: a lack of adequate protection, particularly where travel interruptions are concerned. The EESC believes that improving and harmonising these trips in this respect will certainly make multimodal mobility more attractive for travellers. The EESC also highlights that this legislation substantially improves the protection of persons with reduced mobility (PRMs) by specifically providing for the right to assistance both during the journey and in multimodal passenger centres.

4.9 The EESC welcomes the structure of the proposed regulation, as it facilitates the harmonisation of rules on the protection of transport users, regardless of the mode of transport, avoiding inequalities and favouring competition and complementarity between different modes of transport.

4.10 Although the initiative is a positive one, the EESC believes that the protection offered to travellers by the proposed regulation is limited. It should be improved for single multimodal contracts. In the EESC's view, care and assistance obligations need to be more clearly defined, so that those obliged to provide these services are not able to easily circumvent them. Unless the terms for assistance are more clearly defined, there is a risk of leaving the responsibility entirely in the hands of the carrier, who could in practice fail to provide assistance, causing harm to the passenger which is very difficult to repair. In the same vein, the EESC finds it unfortunate that the proposal does not provide for compensation for fully integrated tickets.

4.11 The EESC believes that it is vital to set up a European mobility data space to overcome the obstacles caused by data fragmentation across numerous companies, operators and administrators, which makes it difficult to provide users with real-time information. This is a major obstacle that prevents us from reaping the benefits offered by the digital transformation of the transport sector and from creating a level playing field for the provision of digital mobility and transport services in the EU that would increase the quality of services, multimodality, road safety and sustainability, while allowing market actors to benefit from new business opportunities and innovation, enabling more efficient and cost-effective transport.

4.12 Similarly, although not the subject of this opinion, the EESC considers it necessary to draw attention to a serious problem: the distortion of competition caused by the lack of a specific regulation on hand luggage and its inclusion in ticket prices. The EESC highlights the CJEU's

ruling in case C-487/12[1], according to which hand luggage should not be subject to a price supplement, and therefore points out that the scope and specific requirements for the weight and dimensions of hand luggage need to be defined as soon as possible. In line with previous opinions, the EESC believes that the *acquis* of the Court of Justice of the Union in this area should be incorporated into legislation on consumer protection.

Brussels, 20 March 2024

Oliver RÖPKE
The president of the European Economic and Social Committee

1 Judgment of the Court (Fifth Chamber) of 18 September 2014.Vueling Airlines SA v Instituto Galego de Consumo de la Xunta de Galicia, C-487/12, ECLI:EU:C:2014:2232.