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PARLIAMENT AND THE COUNCIL**

Strengthening passenger rights within the European Union

EXPLANATORY MEMORANDUM

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INTRODUCTION

- (1) Over the last thirty years, there has been a boom in mobility in Europe. For millions of citizens travel has become a reality, indeed a right. Passenger travel has more than doubled since 1970 (from 2.118 billion passenger kilometres in 1970 to 4.993 billion passenger kilometres in 2002). In 1970, each of us travelled 17 kilometres every day; this figure is now 34 kilometres. This phenomenon is due to a number of factors, but above all economic growth, lower travel costs and progress towards a “European area without internal frontiers” (Article 2 of the European Union Treaty). The first sectors to benefit from this were road (for goods transport) and air (passengers).
- (2) The air transport sector has seen a number of changes: the emergence of low cost airlines, the restructuring of other airlines, the opening up of new routes, and the availability of information or tickets on the Internet with a general reduction in fares. Millions of people have flown as a result of the setting up of an internal aviation market. Progress in the railway sector has led to an increase in intra-Community travel in particular on routes where interoperability is a reality. The opening up of maritime transport markets has led to a wider range of tourist destinations on offer at ever lower prices.
- (3) The removal of borders and the growth in travel have not always been accompanied by sufficient measures to protect passenger rights. At the same time as their numbers have increased, it has to be acknowledged that, sometimes, passengers have been faced with difficult situations such as cancellations, overbooking, loss of luggage, delays etc. At the same time, passengers are subject to certain very strict formalities (controls, registration, reservation) and have already paid for their travel arrangements.
- (4) Voluntary agreements, such as the 2002 undertaking by the major players in the sector, are very important. However, in the absence of Community legislation, in certain difficult circumstances, passengers are confronted with a set of national rules which are largely ineffective. Sometimes, they have no effective legal protection and are subject to significant obligations in a situation which is not normally very familiar, far from home and trying to defend their rights in a foreign language. Moreover, such passengers are deprived of effective solutions, since those that do exist, such as recourse to national courts, are often lengthy, uncertain and expensive. However, a passenger should enjoy a minimum degree of protection wherever he is in Europe. This is a right the exercise of which must be facilitated by the European Community, which is responsible for freedom of movement.
- (5) A point of particular concern in this connection is that there are no passengers' associations at European level for any type of transport which could defend the interests of users of all modes of transport and give voice to their expectations.
- (6) The European Union has focused its attention for now on the air transport sector, beginning with a Regulation on denied boarding. It has adopted other instruments concerning this sector, and the Commission recently presented a proposal for a Regulation on the protection of international rail passengers. Protection of users of other modes of transport has still to be introduced, and this can be effective only if

done at Community level, given the size of the sector and the extent to which these other modes of transport are used by the European public¹.

- (7) Moreover, the Commission made the following undertaking in its “White Paper on European transport policy for 2010”²: *“The next step is to extend the Community’s passenger protection measures to other modes of transport, notably rail and maritime navigation and, as far as possible, urban transport services. Specific new measures are needed on users’ rights in all modes of transport so that, regardless of the mode of transport used, users can both know their rights and enforce them.”*
- (8) To do this, it is important first of all to review the measures already adopted and proposals currently before the Community institutions (Part I) before presenting policy initiatives which could be considered (Part II).

I. REVIEW OF LEGISLATION AND CURRENT PROPOSALS

- (9) Community legislation on passenger protection is limited to air transport. The Community began to involve itself in the protection of passenger rights by adopting legislation in 1991 on compensation in the event of denied boarding in air transport. It then extended the protection of air passengers with the adoption in 1997 of a Regulation introducing a modern system of air carrier liability in the event of accidents, which was amended in 2002 and complemented by another on insurance requirements.

The Commission proposed extending this policy to the railway sector in 2004 with a proposal for a Regulation on the rights and obligations of international rail travellers. This proposal covers, among other things, compensation and assistance where journeys are interrupted, liability of railway companies in the event of accidents and the rights of persons with reduced mobility.

1. Air transport

- (10) The existing regulations protect passengers in the following case:

Denied boarding, cancellation or long delay of a flight

- (11) The reasons for adopting a Regulation on denied boarding are well known: computerised reservation systems enabled airlines to know exactly the number of reservations accepted and tickets actually issued, compared with the limited number of seats on each flight, and to follow a fares strategy based on the number of seats remaining (yield management).
- (12) It has become a common practice of these airlines to sell more tickets than there are actual seats (practice known as overbooking). The airlines adopted this practice because of the flexibility of certain air tickets that passengers can change or even cancel for a refund. In order to offset the risk of not managing to sell a seat for which

¹ In this connection, rail use in Europe 25 can be quantified as totalling 346 billion passenger kilometres per year. In 2001, statistics available to Eurostat showed a total of 383 million ferry passengers in Europe. The coach and bus transport sector is also of considerable importance with a total of 485 billion passenger kilometres on average.

² European transport policy for 2010: time to decide - COM(2001) 370, 12.9.2001.

there is a genuine demand, the airlines assume that some passengers holding tickets will not show up at the check in.

- (13) In 2002, when the Commission presented its new proposal for a Regulation³ some 250 000 were denied boarding. The European legislation did not call into question an established commercial practice but the scale of the problem, its Community dimension and the undeniable inconvenience caused to thousands of passengers each year have made it essential to tighten up the control of this practice in order to protect citizens' rights properly.
- (14) The aim of the new Regulation which will enter into force on 17 February 2005 is to make life easier for passengers suffering this inconvenience through a substantial increase in the level of compensation. The Regulation requires airlines to grant financial compensation⁴ to passengers in the event of denied boarding, assist them in revising their travel plans by giving them the choice between a rescheduling of the ticket or a refund, and pay for their board and lodging. The amount of compensation is as follows:
- €250 for flights of less than 1 500 km;
 - €400 for flights of more than 1 500 km within the EU and other flights of between 1 500 km and 3 500 km;
 - €600 for flights of more than 3 500 km outside the EU.

The main innovation of the new Regulation is that it will give similar rights to passengers who are the victims of cancellations.

- (15) The airlines have brought an action which is currently before the Court of Justice (C-344/04 IATA, European Low Fares Airline Association and Hapag – Lloyd Express) against certain aspects of the new Regulation with a view to establishing possible incompatibility with international law. They continue to show a marked lack of enthusiasm regarding the approaching entry into force of the Regulation.

Passenger protection in the event of accidents

- (16) One of the major achievements of the Community has been the introduction of a modern liability regime in air transport which is much more favourable to passengers than the existing international convention (Warsaw Convention) and applies to both international and domestic flights by community carriers⁵. The Community's initiative spurred the international community to negotiate a new international agreement, the Montreal Convention signed in 1999, to which the Community is a contracting party. The new Convention entered into force for the Community on 28 June 2004, at the same time as the new Community Regulation extending to community carriers the

³ OJ L 140 of 30.5.2002. Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of a flight and repealing Regulation (EEC) No 295/91 - OJ L 046 of 17.2.2004.

⁴ €250, €400 or €600 depending on the distance, compared with €150 or €300 under the old Regulation.

⁵ Council Regulation (EC) No 2027 of 9 October 1997 on air carrier liability in the event of accidents - OJ L 285 of 17.10.1997.

Montreal rules on liability with regard to death, injury, delays and also complaints on baggage⁶. As a consequence, passengers of Community airlines will be well protected whatever their destination and whatever the flight taken, whether international or domestic.

Insurance requirements applicable to air carriers and aircraft operators

- (17) At present, the international conventions on passenger liability (Conventions of Montreal (1999) and Rome (1952)), although requiring carriers to take out insurance to cover liability under each convention, either do not provide a well-defined level of protection or do not even apply in the Community.
- (18) Moreover, Community rules on the liability of carriers (Council Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in the event of accidents, as amended by Regulation (EC) No 889/2002) have not sufficiently clarified the level of insurance required.
- (19) Accordingly, and as a result of the terrorist attacks in the United States of 11 September 2001 and the lack of cover for liability vis-à-vis both passengers and third parties caused by trends on the aviation insurance market shortly afterwards, the Community adopted a Regulation in 2004 which clarifies minimum insurance requirements for air carriers and operators in terms of liability with regard to passengers, baggage, mail, freight and third parties⁷. The main aspect of this legislation, which will apply from 30 April 2005, is that the minimum amounts are much higher than those provided for in the international conventions and are in line with the insurance market practice both for general risks and the risks of war and terrorism.

Passenger information

- (20) To ensure that air passengers are better informed of their rights, and seeing that airlines often refused to do this, the Commission published four years ago the first version of a charter describing the rights that the Community has granted to passengers. This charter is now displayed in most airports in the European Union.
- (21) The Community has established useful information rights to help passengers to choose their flights or travel packages and to know exactly what they have reserved and what they are paying for. The rules on computer reservation systems guarantee factual and accurate information for passengers enquiring about a flight or making a reservation⁸. The Directive on package travel⁹ guarantees that passengers who have purchased a package holiday (i.e. package including travel and other services such as hotel

⁶ Regulation (EC) No 889/2002 of the European Parliament and of the Council of 13 May 2002 amending Council Regulation (EC) No 2027/97 on air carrier liability in the event of accidents - OJ L 140 of 30.5.2002.

⁷ Regulation (EC) No 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators - OJ L 138 of 30.4.2004.

⁸ Council Regulation (EEC) No 2299/89 of 24 July 1989 on a code of conduct for computerised reservation systems, as amended by Regulation (EEC) No 3089/93 of 29 October 1993 and Regulation (EC) No 323/1999 of 8 February 1999 - OJ L 220 of 29.7.1989; OJ L 37 of 25.1.1995; OJ L 40 of 13.2.1999.

⁹ Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours - OJ L 158 of 23.6.1990.

reservation, excursions, car hire, etc.) in the European Union receive accurate information on their trip from the organiser.

2. Rail sector

- (22) Following the air transport sector, the Commission has focused its attention on the railways with initiatives on the protection of passenger rights. International passenger rail services have suffered significant losses in market share over the last few decades, with the exception of high-speed trains. Several national studies have highlighted poor punctuality and a lack of information as causes of this alienation among passengers.
- (23) The proposal for a Regulation¹⁰ presented by the Commission in March 2004 aims to establish minimum rules on information for international passengers, before and during their journey, the problem of interruptions of journeys, rules to be observed in the event of delays, treatment of complaints and assistance for persons with reduced mobility. On the question of the settlement of disputes, this proposal for a Regulation provides for the setting-up of independent bodies.
- (24) This proposal also establishes liability of railway undertakings in the event of accidents. This scheme would go beyond the Convention concerning international carriage by rail (COTIF). The proposal also requires railway undertakings to be insured up to a level that is adequate to meet the requirements set out in the proposal.
- (25) The Commission proposal requires railway undertakings to define criteria for the quality of international services and to introduce a quality management system¹¹. These elements could form the basis for a Community system of reports on the performance of railway undertakings.
- (26) It is by improving the protection of rail passengers and at the same time service quality that the decline in the market share of passenger rail transport will be reversed, which will enable the objective of increasing the overall share occupied by rail to be achieved. The reluctance of the railway sector to offer more rights to passengers on a voluntary basis shows that mere unilateral undertakings would not lead to an improvement in the current situation. It should, however, be pointed out that certain companies (e.g. Thalys) have set up compensation systems. Nor would voluntary undertakings by companies resolve disputes in the event of actions before national courts.

¹⁰ Proposal for a Regulation of the European Parliament and of the Council on international rail passengers' rights and obligations. COM(2004) 143, 3.3.2004.

¹¹ Information on tickets; punctuality of international services, and general principles to cope with disruption of services; cancellations of international services; cleanliness of rolling stock and station facilities (air quality in carriages, hygiene of sanitary facilities, etc.); customer satisfaction survey; complaints handling, refunds or compensation for non-compliance with quality; assistance provided to persons with reduced mobility.

II. THE DEVELOPMENT OF A POLICY ON PASSENGER RIGHTS

(27) Reviewing the measures already proposed or adopted, it is possible to identify those rights that should be strengthened by Community action regardless of the means of transport used:

- specific measures in favour of persons with reduced mobility;
- automatic and immediate solutions when travel is interrupted;
- liability in the event of death or injury of passengers;
- treatment of complaints and means of redress;
- passenger information;
- other initiatives.

1. Specific measures in favour of persons with reduced mobility

(28) A passenger protection policy must include specific measures to protect persons with reduced mobility. Effective access to transport is often necessary for active participation in economic and social life and its absence may seriously compromise the integration of many citizens with reduced mobility. There are some 45 million citizens with reduced mobility, or around 10% of the European population¹². This figure includes not only disabled persons but also those who would be incapable of travelling without assistance, because of their age, reduced mental capacity or illness. The ageing of the population will inevitably increase the number of such persons and their needs will become ever greater.

(29) People with reduced mobility should be able to count on fair treatment – the Commission has received many complaints in this connection. These people should be guaranteed appropriate assistance, wherever they go and whatever the form of transport used, so that they can travel with confidence throughout the European Union. They should never be refused travel or a reservation because of their reduced mobility. Moreover, they should receive, free of charge, the assistance that they need, both in airports, stations and ports and on board the means of transport itself.

(30) As we stated above, the proposal for a Regulation on the rights of passengers using international rail services contains specific provisions to make such services more accessible to persons with reduced mobility. These provisions establish the rights of persons with reduced mobility to have access to such services; the railway undertaking or tour operator cannot refuse them access. They also impose obligations in relation to assistance in stations to facilitate access to trains and connections. Moreover, as regards pre-travel information, the Regulation requires railway undertakings to provide comprehensive information on the accessibility conditions for people with reduced mobility throughout the journey. Finally, the performances of the railway

¹² Towards a barrier-free Europe for people with disabilities. COM(2000) 284, 12.5.2000.

undertakings in this area form part of the seven criteria for assessing service quality for which a quality management system has to be introduced.

- (31) As regards air transport, the Commission has been made aware of many cases where disabled people, including children, have not benefited from the services and attention to which they are entitled. Consulting the parties concerned revealed broad support for Community legislation¹³. The attached proposal for a Regulation is intended first of all to guarantee fair treatment by preventing carriers or tour organisers from refusing access to transport because of reduced mobility (except where there are well-founded security reasons). The proposal then calls on airport managers to provide, free of charge, assistance in airports and requires carriers to provide, also free of charge, assistance on board aircraft. The Regulation would apply to departures, arrivals and transit flights at airports situated in the Member States.

The Commission is enclosing a proposal for a Regulation on the rights of persons with reduced mobility in air transport. It intends to examine how to guarantee the rights of persons with reduced mobility when they use maritime transport and international coach services.

2. Automatic and immediate solutions where travel is interrupted

- (32) Where a service is interrupted because of delay, cancellation or denied boarding, the passengers should be entitled to automatic solutions to overcome the difficulties they encounter whatever the method of transport. They can always bring judicial proceedings against carriers, but given the cost and length of such proceedings, they will only very rarely be successful. In all these cases, action brought months after the event took place is no remedy for the immediate difficulties encountered. It cannot guarantee passengers either alternative transport in the event of cancellation or accommodation when the delay incurred means that passengers have to wait until the following day to continue their journey.
- (33) In such a situation, following for example denied boarding or cancellation, adequate protection on the lines of what is already approved in air transport and what has been proposed in the railway sector could for example take the form of financial compensation. Not only will passengers benefit directly from such solutions but these will also help to improve the quality of the service by discouraging denied boarding and cancellation without notification.
- (34) Certain shipping companies are already considering offering such solutions on a voluntary basis, but they should be available in the same way throughout the Community. Where travel is interrupted, users of international bus or coach services should also receive protection which is equivalent to that granted to other passengers wherever possible.

In the light of the results of the solutions offered by the shipping companies, the Commission will study how to guarantee compensation and assistance in the event of interrupted travel in maritime transport and in international coach transport.

¹³ "Contract between airlines and passengers" Consultation paper from Directorate-General for Transport and Energy, 21.6.2002. The Consultation paper, responses and detailed summary of reactions is available on the Internet: http://europa.eu.int/comm/transport/air/rights/consult_contract_en.htm.

3. Liability in the event of death or injury of passengers

- (35) Whatever the mode of transport, Community legislation should ensure a minimum degree of high-level cover in the event of death or injury as a result of an accident and cover passengers for both domestic and international travel while taking account of the obligations incumbent upon the Community through its accession to international conventions.
- (36) It is also important to ensure that carriers have the financial means to cover their liabilities. Taking out insurance is therefore a necessity. Although as a general rule they are insured against the risk of physical damage to passengers and third parties, the requirements vary considerably at national level. With the exception of the aviation sector, there is no guarantee of a sufficient and uniform level of insurance in all circumstances.
- (37) As regards maritime transport, the 1974 Athens Convention on the carriage by sea of passengers and their luggage was amended two years ago, when the parties concluded a new protocol on liability. According to the Commission, the 2002 Athens Protocol could serve as a basis for new Community rules. The Commission has already proposed that the Community and the Member States should become contracting parties to the Protocol as soon as possible¹⁴. However, the provisions of the Protocol would not apply to purely national services. It would be necessary therefore to extend them to all Community maritime transport services.

The Commission will examine the possibilities of creating a homogeneous liability and insurance scheme in the event of death or injury of passengers travelling by sea, regardless of where the ship is registered.

- (38) Coach travellers are not protected more effectively by an international agreement on liability. Where compensation is claimed in the event of death or injury¹⁵, they are often faced with different national rules and do not know before which court they should bring their action. There is also the question of whether operators have sufficient insurance cover to meet any actions which may be brought against them.

The Commission will examine how to guarantee an adequate level of cover and a uniform approach to liability in international coach transport.

4. Treatment of complaints and means of redress

- (39) Once passengers have been made aware of their rights, the exercise of such rights should be as simple as possible. It is for Member States to introduce means of redress. The Community, for its part, can assure that the Member States provide for appropriate penalties and clearly define liability for the purposes of implementation of the legislation and the treatment of complaints so that passengers know to whom they should turn. The designation of such bodies by the Member States, which is already

¹⁴ Proposal for a Council Decision on the conclusion by the European Community of the 2002 Protocol to the 1974 Athens Convention.

¹⁵ According to information available through Eurostat, there are some 100 fatalities on average each year in Europe as a result of accidents involving coaches engaged in international travel.

provided for in the aviation and railway sectors, will help citizens to enforce their rights.

- (40) As already underlined, most of the time the judicial proceedings are complex or very lengthy. Hence the usefulness of extra-judicial mechanisms for solving disputes which offer significant advantages: speed, transparency, reasonable cost and flexibility. The Commission has worked to promote the use of extra-judicial mechanisms for settling disputes. It has adopted two recommendations on the principles applicable¹⁶ in these cases and has established a European network of national bodies aimed at facilitating access to non-judicial procedures for the resolution of cross-border disputes¹⁷. Moreover, as regards such disputes, consumers will soon benefit from the merger of the European Extra-Judicial Network (EEJ-Net) and the Network of European Consumer Centres (also known as “Euroguichets” (consumer information offices)). The new bodies will provide EU consumers with a “one-stop-shop” which will offer a complete service ranging from general information to dispute resolution.

5. Passenger information

5.1 Identity of carrier

- (41) The first right for a passenger is to know, when he buys his ticket, which operator will actually transport him. The lack of specific information on the identity of the air carrier involved prevents passengers from making an informed choice as to the airline with which they are going to fly. Passengers should not only know the identity of the carrier who will operate the flight but also be certain that information which could affect the safety of the carrier and which could therefore concern them is indeed communicated rapidly and effectively between States so that they can take the necessary protective measures, possibly including banning, in the event of shortcomings. These problems were highlighted by the tragic Flash Airlines accident on 3 January 2004. The attached proposal for a Regulation aims among other things to ensure:
- that the passenger is informed when concluding the contract of carriage of the identity of the airline which will operate the flight, but also that he is kept informed before departure of any change of carrier;
 - there is greater transparency of information on the safety of carriers and adequate dissemination of such information: Member States are required to publish and exchange the information in their possession concerning the safety standards of air carriers using airports in their territory.

The Commission is presenting the attached proposal for a Regulation on information for passengers regarding the identity of the air carrier and the communication of information on safety by the Member States. The Commission will also examine to what extent such provision of information gives an adequate level of protection to passengers.

¹⁶ Commission Recommendation 98/257/EC of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes - OJ L 115 of 17.4.1998. Commission Recommendation 2001/310/EC of 4 April 2001 on the principles for out-of-court bodies involved in the consensual resolution of consumer disputes - OJ L 109 of 19.4.2001.

¹⁷ See http://europa.eu.int/comm/consumers/redress/index_en.htm.

5.2 Right to comparative information

- (42) A system for providing information on the quality of the services provided by the various carriers could be based on a number of relevant indicators. The results of these comparisons should be published and circulated widely. This practice will encourage improvements in carriers' performances given that passengers will be able to make their choice in full knowledge of the facts.
- (43) The Commission has already developed a system of indicators which will give air passengers access to key information on the quality of service, so that they can easily and immediately compare the performance of carriers. The proposed indicators cover delays, denied boarding, cancellations and poor baggage handling (see in Annex 2 an example of the information to be provided). The Commission has launched a pilot project under which airlines provide information on a voluntary basis but the participation rate is disappointing.

The Commission will work more closely with the aviation industry to improve the pilot system and increase the participation rate. If difficulties persist, it will study whether to present legislation imposing a general requirement on airlines to provide the information necessary for the publication of reports allowing the quality of their service to be compared.

5.3 The right to know one's rights

- (44) The establishment of new rights for the benefit of passengers will be useful only if passengers are correctly informed of those rights so that they can use them. If they are not aware of them, they are not in a position to exercise them. It is of the utmost importance that passengers' awareness of their rights be improved. The posting up of these rights in the premises of service providers and travel agents and in railway stations and airports will increase awareness.
- (45) The Commission will pursue its information campaign to publicise the rights created by Community legislation. It has updated the charter of air passengers' rights to include the new Community legislation on denied boarding, cancellation and long delays of flights and on the liability of air carriers (see Annex 1).
- (46) Following the same approach, the Commission will publish a charter of the rights and obligations of rail transport users as soon as the relevant Regulation is adopted at Community level. This charter will be posted up in the main stations and railway ticket offices in the European Union.

The Commission will publish a charter setting out the rights and obligations of rail passengers after the adoption of the Regulation establishing them.

5.4 The right to transparency in real time

- (47) A final aspect is the availability of adequate information in real time on interruptions to services (delays, cancellations, changes to timetables, etc.). Where the journey does not proceed as planned, passengers are frequently left without information, although cancellations and delays are more readily accepted if complete information is promptly available. However, the reality in airports, stations and ports is that passengers are often kept in the dark, without explanation as to the reasons for the disruption and

without knowing when the service might return to normal. Providing clear and complete information to passengers in real time before and during the journey should become the norm. There should be a central point in all the major airports, stations and ports to immediately collect information on disruption of services and communicate it to passengers.

Nevertheless, in accordance with the principle of subsidiarity, the Commission considers that it is not appropriate to introduce mandatory regulations in this area. It is for the competent authorities and operators to provide passengers with adequate information in real time.

6. The right to integrated ticketing

- (48) It should be a simple matter for passengers to combine several modes of transport in one journey, but the traditional method of organising transport by sectors constitutes a barrier to intermodality. The traveller is too often dissuaded from combining different means of transport for the same journey and encounters difficulties for example in obtaining information and ordering tickets where the journey involves different modes. However, the first examples of integrated ticketing already exist in Germany and Switzerland; similarly, passengers using the combined Thalys-Air France service purchase their ticket in a single transaction. As already emphasized in the White Paper on European transport policy for 2010: *“To facilitate transfers from one network or mode to another, encouragement needs to be given to the introduction of ticketing systems which are integrated”*. A recent expert report¹⁸ identified the technical feasibility of going further than is the case at present and greatly extending the possibilities of combined and integrated ticketing.

The Commission will meet representatives of airlines and railway companies in order to obtain a voluntary undertaking on their part to set up integrated ticketing system.

7. Passenger rights in the event of bankruptcy of the air carrier

- (49) Passengers are likely to lose more if an air carrier goes bankrupt than another company because they may have paid a considerable sum of money in advance and may be left to their own devices far from home. The passenger may then have to pay a return ticket, probably at a higher rate than that paid originally.
- (50) Passengers purchasing a package tour are already protected by Directive 90/314/EEC on package travel¹⁹, which requires the organiser to provide evidence of security for the refund of money paid over and for repatriation in the event of insolvency. The Commission has launched a study on the protection of other air passengers against insolvency of the carrier, the results of which are expected in mid-2005. This will first of all show the extent to which passengers are affected by bankruptcies and then compare the various means of protection.

Following this study, the Commission will examine, with the industry, the possibilities of strengthening the rights of passengers in the event of bankruptcy of airlines.

¹⁸ See http://europa.eu.int/comm/transport/intermodality/raiff/index_en.htm.

¹⁹ Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours - OJ L 158, 23.6.1990, p. 59.

8. Evaluation and monitoring

- (51) Community policy on passenger protection should be based on a dynamic view of developments. In order to determine whether additional initiatives will be necessary beyond those set out in this Communication, the Commission will launch a study covering the various modes of transport on trends in passenger requirements, quality of services and treatment of passengers. It is also necessary to verify the results of voluntary undertakings in the air and rail transport sectors in order to improve passenger services. The Commission will encourage airlines, airports and railway companies to carry out an analysis of the situation concerning voluntary agreements and make reports on compliance.

The Commission will launch a study on trends regarding passenger requirements, the quality of services and treatment of passengers and will ask airlines, airports and railway companies to present an analysis of compliance with their voluntary undertakings concerning service quality.

CONCLUSIONS

- (52) The Commission invites the European Parliament and the Council to adopt as soon as possible the proposal for a Regulation of March 2004 on the rights and obligations of rail travellers and to examine with a view to adoption the two proposals for Regulations attached to this Communication concerning, firstly, the rights of persons with reduced mobility in air transport and, secondly, the need to inform passengers of the identity of the air carrier.

In accordance with its undertaking in the White Paper, the Commission will examine in 2005, following an impact assessment, the best way of improving and guaranteeing the rights of passengers using other modes of transport.

Air Passenger Rights

*Having problems with your journey?
The European Union (EU) has strengthened your rights.
Here are the most important.**

Denied boarding and cancellation

If you are denied boarding or your flight is cancelled, the airline operating your flight must offer you financial compensation and assistance. These rights apply, provided you check in on time, for any flight, including charters:

- from an EU airport, or
- to an EU airport from one outside the EU, when operated by an EU airline.

Denied boarding

When there are too many passengers for the seats available, an airline must first ask for volunteers to give up their seats in return for agreed benefits. These must include the choice of either refund of your ticket (with a free flight back to your initial point of departure, when relevant) or alternative transport to your final destination.

If you are not a volunteer, the airline must pay you compensation of:

- €250 for flights of 1 500 km or less,
- €400 for longer flights within the EU, and for other flights between 1 500 and 3 500 km,
- €600 for flights over 3 500 km outside the EU.

Compensation may be halved if you are not delayed more than 2, 3 or 4 hours, respectively.

The airline must also give you:

- a choice of either a refund of your ticket (with a free flight back to your initial point of departure, when relevant) or alternative transport to your final destination, and
- meals and refreshments, hotel accommodation when necessary (including transfers) and communication facilities.

Cancellation

Whenever your flight is cancelled, the operating airline must give you:

- a choice of either a refund of your ticket (with a free flight back to your initial point of departure, when relevant) or alternative transport to your final destination, and
- meals and refreshments, hotel accommodation when necessary (including transfers) and communication facilities.

The airline may also have to compensate you, at the same level as for denied boarding, unless it gives you sufficient advance notice. You shall be informed about alternative transport.

Refunds may be in cash, by bank transfer or cheque or, with your signed agreement, in travel vouchers, and must be paid within 7 days.

If you do not receive these rights, complain immediately to the airline operating the flight.

Long delays

Immediate assistance

If you check in on time for any flight, including charters:

- from an EU airport, or
- to an EU airport from one outside the EU, when operated by an EU airline,

and if the airline operating the flight expects a delay:

- of 2 hours or more, for flights of 1 500 km or less,
- of 3 hours or more, for longer flights within the EU, and for other flights between 1 500 and 3 500 km,
- of 4 hours or more for flights over 3 500 km outside the EU,

the airline must give you meals and refreshments, hotel accommodation when necessary (including transfers) and communication facilities.

When the delay is 5 hours or more, the airline must also offer to refund your ticket (with a free flight back to your initial point of departure, when relevant).

If you do not receive these rights, complain immediately to the airline operating the flight.

Later claims

When an EU airline is responsible for the delay of a flight anywhere in the world, you may claim up to 4 150 SDR** for any resulting damages. If the airline does not agree with your claim, you may go to court.

You can claim from the airline with which you have a contract or from that actually operating the flight, if they are different.

Baggage

You may claim up to 1 000 SDR** for damages caused by the destruction, damage, loss or delay of your baggage on a flight by an EU airline, anywhere in the world. If the airline does not agree with your claim, you may go to court.

For damage to checked-in baggage, you must claim in writing within 7 days of its return and for delayed baggage within 21 days of its return.

You can claim from the airline with which you have a contract or from that actually operating the flight, if they are different.

Injury and death in accidents

You may claim for damages caused by injury or death resulting from an accident on a flight by an EU airline, anywhere in the world. You have the right to an advance payment for immediate economic needs. If the airline does not agree with your claim, you may go to court.

You can claim from the airline with which you have a contract or from that actually operating the flight, if they are different.

Package holidays

In addition to the rights described above, you may claim damages from your tour operator if it fails to provide the services you have booked within the EU, whatever your destination. These rights apply to failure to provide any flight included in your package. Moreover, if the tour operator does not provide a significant part of the package booked, it is obliged to assist you and make alternative arrangements, including travel, without extra cost to you.

*** For your information, this document summarises the main elements of the relevant EU legislation. Any legal claim or action taken in the event of a dispute should be based solely on the legal texts concerned.**

**** 1 SDR = €1.18 at 30.9.2004. For the current exchange rate, contact Europe Direct.**

Help and further information

If you are affected by denied boarding, a cancellation or a long delay and the airline does not give you what you are entitled to, complain to the relevant national enforcement body. For its name and address, contact the Europe Direct freephone on **00 800 6 7 8 9 10 11** or send an e-mail to **mail@europe-direct.ec.eu.int**. Europe Direct can also give you details of organisations that advise or help with other complaints.

You may also inform the European Commission's Energy and Transport DG, B-1049 Brussels, of the follow-up given to your complaint, by fax **(32-2) 29-91015** or by e-mail to **tren-aprights@cec.eu.int**.

Leaflets with the information on this poster and more details may be found at the information desk and on the Internet (http://europa.eu.int/comm/transport/air/rights/index_en.htm).

YOUR CONTRACT WITH AN AIRLINE SETS OUT OTHER RIGHTS AND OBLIGATIONS. ASK YOUR AIRLINE OR TRAVEL AGENCY FOR A COPY OF THESE.




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ANNEX 2

Punctuality




Directorate General for Energy and Transport




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COMPARE

Air Carrier	Passenger	Total Flight	Denied Boarding	
			Denied Boarding	%
			+Details	+Details
			Total	Total
Alpha	500000	10059	500	0.08%
Beta	400000	9934	435	0.07%
Gamma	300000	8343	400	0.06%
Teta Airlines	200000	7345	325	0.07%
Omega	100000	6534	300	0.09%
Epsilon	99999	5000	210	0.05%
Iota	99000	4564	180	0.06%
Test	98000	4000	100	0.09%
Test2	97000	3450	50	0.05%
Total	1893999	59229	2500	0.07%

See also statistical data referred to:

Last 3 MonthsLast 6 MonthsLast 12 Months

Legend

Note: Denied boarding means a refusal to carry passengers on a flight, although they have presented themselves for boarding, except where there are reasonable grounds to deny them boarding, such as reasons of health, safety or security, or inadequate travel documentation.

+Details / - Details : Unhide/Hide detailed information

Air Carriers: The company having a valid operating license that operates aircraft for the transport of passengers.

Passenger: Number of passenger.

Total Flights: Number of flights.

Denied Boarding: Number of denied boarding passenger.

Total: Total number of denied boarding passenger.

Volun.: Total number of voluntary denied boarding passenger.

N.Volun.: Total number of not voluntary denied boarding passenger.

Ratio (per 100 Passenger): Number of delayed or lost baggage per 100 passenger.

Total: Number of denied boarding passenger per 100 passenger.

Volun.: Number of voluntary denied boarding passenger per 100 passenger.

N.Volun.: Number of not voluntary denied boarding passenger per 100 passenger.

****:** Partially Available

--: Not Available

Period Selection: Select a specific period (month and year) to retrieve the information

Period comparison: Compare a specific period (month and year) to another one.

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Denied boarding

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Select Year

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			+Details	+Details
			Total	Total
Alpha	500000	10059	500	0.08%
Beta	400000	9934	435	0.07%
Gamma	300000	8343	400	0.06%
Teta Airlines	200000	7345	325	0.07%
Omega	100000	6534	300	0.09%
Epsilon	99999	5000	210	0.05%
Iota	99000	4564	180	0.06%
Test	98000	4000	100	0.09%
Test2	97000	3450	50	0.05%
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