
(2009/C 317/18)

Rapporteur: Ms DARMANIN

On 19 January 2009, the Council decided to consult the European Economic and Social Committee, under Article 71 of the Treaty establishing the European Community, on the


The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 26 June 2009. The rapporteur was Ms Darmanin.

At its 455th plenary session, held on 15 and 16 July 2009 (meeting of 16 July), the European Economic and Social Committee adopted the following opinion by 75 votes and 3 votes against:

1. Conclusions and recommendations

1.1 The EESC welcomes the proposal of the Commission in relation to the rights of passengers in bus and coach transport, identifying that this is a means of transport, which is widely used, and which provides a cheaper alternative for travel for passengers.

1.2 The proposal outlines various fundamental rights that are recognised in the Charter of Fundamental Rights of the European Union, such as the free movement of people, non-discrimination on the grounds of disability, and consumer protection. The EESC therefore broadly supports the Commission’s proposal for a Regulation, yet also has suggestions as to how it could be improved.

1.3 The EESC is concerned on some clarifications that ought to be made which currently give rise to misinterpretation in the text. Such clarifications consist in:

— The onus of the provision of service to disabled persons, whereby the text ought to be more understandable on the fact that the main drive of the Commission is to reduce discrimination in terms of information given to passengers (or lack thereof) of the services which are accessible to disabled people.

— The responsibility of the Operator in terms of the luggage loss should be clearly specified and some form of check-in system needs to be set up.

— It is very difficult to provide information at bus or coach stops once the journey has started and therefore practicality of the origination and communication of such information should be made.

— The use of the word terminal is inappropriate for Bus and Coach transportation as very often no terminals exist but merely bus stops and when the former do exist they are not under the jurisdiction of the Operator.

1.4 The EESC notes that the extension of the provisions on passenger rights to urban and sub-urban transport would improve the quality of service and the image of the sector. However the EESC does identify a number of differences between the service of urban buses and that of international bus transportation and hence recognises that it might be more practicable to separate passenger rights in respect to these two distinct modes of transportation and to draw up specific passenger rights for all urban and suburban transport. The EESC therefore believes that the provisions of the proposed regulation should not necessarily apply to urban and sub-urban transport.

1.5 Staff training is paramount for the provision of services to disabled people. To this effect the EESC strongly supports the inclusion of Article 18 specifying the training that ought to be provided to bus and coach drivers.

2. Commission proposal

2.1 The Commission started its consultation process for the provision of the rights of passengers using international coaches and buses in 2005. There has been extensive responses from specialised organisations, civil society, national agencies and Member States.

2.2 The Commission has also carried out an impact assessment for policy options which included:

— maintaining status quo;
— giving minimum protection;
— providing maximum protection;
— voluntary commitment and self regulation.

Following this assessment a mix of options has been used for the various protection aspects identified.

2.3 In essence the proposal aims at establishing rights of coach and bus passengers in order to improve the attractiveness of and confidence in coach and bus transport as well as to achieve a level playing field between carriers from different Member States and between other modes of transport.

2.4 In principle the proposal lays down provisions on:
— liability in the event of death or injury of passengers and loss or damage to their luggage;
— non-discrimination on grounds of nationality or place of residence with regard to transport conditions offered to passengers by bus or coach undertakings;
— assistance for disabled persons and persons with reduced mobility;
— obligations of bus and coach undertakings in the event of cancellation or delay of a journey;
— information obligations;
— handling of complaints;
— general rules on enforcement.

3. General comments

3.1 The EESC welcomes the proposal of the Commission on the rights of passengers in bus and coach transport, which to date vary considerably from one Member State to another. The EESC believes that clear guidelines are required to protect the rights of passengers using this mode of transportation, especially since in most countries bus and coach transport is the least regulated mode of transport.

3.2 The EESC welcomes the way in which the proposal strengthens the principle of non-discrimination and supports people with disabilities or reduced mobility. However the EESC calls for specific clarifications of the text of the Commission in order to diminish areas of vagueness whereby interpretation of such text may be misleading.

3.3 As some of the obligations are taken from the UN Convention on the Rights of Persons with Disabilities, Member States should set up a system of penalties to be applied to transport undertakings whenever these rights are infringed.

3.4 The rights of disabled passengers is an area for which the Committee firmly believes that the approach of the maximum protection is the adequate approach. Such approach ensures that respect, dignity and rights of the individual are truly maintained. The Committee is however concerned in relation to the correct implementation of such rules whereby it is imperative that such regulatory standards are put in practice at the earliest and are closely monitored.

3.5 It is appropriate that the proposal contains provisions on bus and coach services. Article 2.2 of the proposal for a Regulation guarantees a similar level of rights throughout the Union, which is in line with the principle of subsidiarity and takes account of the diversity of situations.

3.6 As regards the liability of bus and coach undertakings for their passengers and luggage, it should be made clear that the levels of compensation set out in the proposal should not preclude the consumers affected from seeking legal protection, if appropriate. A system of compensation should be set up which is similar to that used for other modes of transport.

3.7 The EESC points out that very often it is the most vulnerable sectors of the population which opt to use such means of cross border transportation, hence the Committee is pleased to see the new measures of protection which the Commission would like to enforce.

3.8 The EESC believes that action plans should be established to ensure people with reduced mobility are given the assistance they need at bus stations, bus stops and on board the vehicle itself, and that representatives of people with disabilities and representatives of bus or coach undertakings should play a key role in this process.

3.9 Whereas the Committee believes that the minimisation of the inconveniences to passengers should always be the primary goal, the considerations in relation to the compensation and reimbursement should cover the following aspects:

— injury or death as a result from the use of such transportation;
— cancellation, delays or diversions;
— loss of property by the operator; and
— lack of information.

3.10 However in all circumstances mentioned above it is imperative that the responsibility of the Operator is proved and that the burden of compensation is not such that it would make the operator go out of business. Hence compensations should be realistic and timely for the consumer but also for the Operator.

3.11 Redress should be easily accessible and regulations on the location of where such address can be sought ought to include whichever Member State the passenger has travelled to and also the country of residence.
3.12 Access to information is of great importance and hence the EESC welcomes the maximum protection approach taken in this respect particularly since information is a main tool at reducing inconveniences in transportation for consumers.

4. Specific comments

4.1 Urban Transport

4.1.1 The EESC supports the Commission proposal to the extent that, in general terms, application of the regulation will entail deepening of the internal market and of passengers’ rights, especially the rights of those with disabilities.

The EESC welcomes the fact that Member States are able to exclude from the scope of this regulation the urban, suburban and regional transport services covered by Regulation 1370/2007 of 23 October 2007.

The EESC believes however that having to protect consumer rights to the extent advocated by this proposal for a regulation would involve having to amend a whole raft of public service contracts which were agreed under Regulation 1370/2007. Similarly, given the major difference between the conditions, infrastructure and equipment required for road transport services (covered by Regulation 1370/2007) and those required for the international carriage of passengers by bus and coach, they are not really comparable.

The EESC would rather that urban, suburban and regional transport services were completely excluded from this proposal and that the rights of users of these methods of public transport were dealt with in a separate regulation.

4.2 Accessibility

4.2.1 The EESC regrets that the proposal does not specifically and in a more detailed way recognise the situation of people with disabilities or lay down more advanced standards for the protection of the rights of people with disabilities and those with reduced mobility; it is essential that these groups be guaranteed access to transport.

The practical enforcement of the rights of people with disabilities would not entail new burdens on companies, as most of the obligations set out in the regulation derive from the provisions of other Community legislative instruments, such as Directive 2001/85/EC (1), the eleventh recital of which states that “…it is also necessary to provide technical prescriptions to allow accessibility for persons of reduced mobility to the vehicles covered by the Directive, in accordance with the Community transport and social policies. Every effort must be made to improve access to these vehicles."

4.2.2 The Committee therefore believes that the new obligations for the Operator should be seen as public service obligations and financial compensation should therefore be provided, as established by Regulation (EC) No 1370/2007 on public passenger transport services by rail.

4.2.3 The aim is to give people with reduced mobility, including people suffering from obesity, opportunities for travelling by bus and coach which are comparable to those enjoyed by other members of the public. The EESC therefore supports the establishment of rules to prevent discrimination and require the provision of en route assistance to these groups of passengers along the lines proposed, albeit inadequately, in the draft regulation. To this end the EESC believes that it is imperative that Associations of Carriers and Associations of Disabled People get together to identify which are the accessibilities in a service.

4.2.4 Accessibility can be denied for valid reasons such as road safety however purely economic reasons ought not be the sole deterrent from providing such service. Access should be denied only for objective, non-discriminatory reasons, proportionate to the aim, which have been previously published and which are interpreted in a limited way, as they restrict the free movement of persons. These are inalienable rights, as Article 5 of the proposal correctly makes clear.

4.2.5 The EESC calls on the Commission to begin the process required to standardise the production of wheelchairs and wheelchair tie-down systems, so that they can be used safely on buses and coaches.

4.2.6 The EESC supports initiatives such as transportation on demand, which can often be a good alternative for transportation of disabled persons. To this end the Committee would encourage the inclusion of such a service when transport tenders are issued.

4.2.7 Chapter III of the proposal prohibits refusal of access and contains provisions on the right to assistance at terminals and on board, the conditions under which assistance is provided, the transmission of information and compensation in respect of wheelchairs and mobility equipment which are adequate but leave room for improvement. The EESC would recommend that an award be set up for those Operators who do go beyond what is required to truly offer disabled friendly transportation services.

4.3 Training of staff

4.3.1 The EESC believes that Training is paramount in providing a service to disabled. Hence the Committee fully supports Article 18. Furthermore the Committee believes that this would be an excellent opportunity for further cooperation between Associations of Transport Operators and Associations for Disabled People whereby the latter may the providers of such training.

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4.4 Payment of damages in the case of death

4.4.1 The EESC recognises that currently advances on compensation to dependents who have lost a dear one in a transport accident may sometimes take too long to be disbursed. However on the other hand the EESC considers that fifteen days is a reasonable period for the payment of advances for immediate economic needs to the families of victims of fatal accidents, taking account of the damage they have suffered, or to the victims themselves who have suffered physical or mental injury as a result of an accident.

4.4.2 In this respect the EESC recommends that clarification of the text in Article 8 is made so as to define dependents specifically as minors who have lost the parent (on in the lack of that the guardian) who supports them.

4.5 Loss of Luggage

4.5.1 The EESC recognises passengers rights should be upheld when their luggage is stolen or lost and are hence entitled to compensation. Bus and coach operators should be liable for the loss of luggage actually entrusted to them. The Commission should therefore clarify the provisions of Article 9 of the proposal with a view to legal certainty, as the current wording is unclear and provides for different responses to a variety of circumstances.

4.5.2 To this effect the EESC specifies that it is not the obligation of the Operator to provide a check in service to the consumer.

4.5.3 The EESC also believes that particular provisions should be made in the event of loss or damage to equipment used by disabled people.

4.6 Information in relation to interrupted service

4.6.1 The EESC believes that all endeavours should be made so as to ensure that information is passed on to the passengers in a timely manner when a service is delayed or interrupted. To this effect the EESC however believes that such information is sometimes very difficult to pass on. Hence in this respect Article 21 is considered impracticable and very difficult to implement due to the nature of bus stops and how these are generally unmanned.

4.6.2 The EESC would propose that investment through research and development funds within the Commission should be devoted to developing and implementation of ICT tools for passenger information systems, which are reliable, timely and safe to be situated in bus stops, as well as light, on-board intelligent transportation systems (ITS).

4.7 Terminals in bus and coach transportation

4.7.1 The proposal makes a number of references to terminals on the route of the bus or coach. It is pertinent to note that such terminals generally do not exist and in locations where they do exist most of the time this is under the responsibility of a rail station or airport. In most other circumstances there would not be terminals but merely stops that are unmanned.


The President
of the European Economic and Social Committee
Mario SEPIL