

Thursday 23 April 2009

**Rights of passengers when travelling by sea and inland waterway \*\*\*I**

P6\_TA(2009)0280

**European Parliament legislative resolution of 23 April 2009 on the 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 (COM(2008)0816 – C6-0476/2008 – 2008/0246(COD))**

(2010/C 184 E/67)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0816),
  - having regard to Article 251(2) and Articles 71(1) and 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0476/2008),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Legal Affairs (A6-0209/2009),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and to the Commission.

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## P6\_TC1-COD(2008)0246

**Position of the European Parliament adopted at first reading on 23 April 2009 with a view to the adoption of Regulation (EC) No .../2009 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**

(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 *Article 71(1)* and *Article 80(2)* thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the procedure laid down in *Article 251* of the Treaty <sup>(3)</sup>,

Whereas:

- (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 to other modes of transport. Moreover, full account should be taken of *general consumer protection* requirements.
- (2) Since the maritime passenger is the weaker party to the transport contract, passengers' rights in this respect should be safeguarded *irrespective* of their nationality or place of residence within the Community.
- (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 *comparable to those available to other citizens* for using commercial passenger maritime services ¶. Disabled persons and persons with reduced mobility have the same right as all other citizens to free movement, freedom of choice and non-discrimination.
- (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. ¶ They should enjoy the right to assistance at ports, and at embarkation/disembarkation points where no port exists, as well as on board passenger ships. In the interests of social inclusion, the persons concerned should receive this assistance free of charge. Carriers should establish accessibility rules, preferably *using* the European standardisation system.

<sup>(1)</sup> OJ C ...

<sup>(2)</sup> OJ C ...

<sup>(3)</sup> *Position of the European Parliament of 23 April 2009.*

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- (5) In deciding on the design of new ports and terminals if any, and as part of major refurbishments, managing bodies of ports and carriers that will operate them should take into account the needs of disabled persons and persons with reduced mobility. Similarly, carriers should take such needs into account when deciding on the design of new and newly refurbished passenger ships in accordance with Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships <sup>(1)</sup>.
- (6) Assistance given at ports situated in the territory of a Member State to which the Treaty applies 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 *embarkation* and *disembarkation*.
- (7) Assistance should be financed in such a way as to spread the burden equitably among all passengers using a carrier and to avoid disincentives to the carriage of disabled persons and persons with reduced mobility. A charge levied on each passenger using a carrier, included in the basic ticket price, appears to be the most effective way of funding *assistance*. The charges should be adopted and applied in a fully transparent manner.
- (8) In organising the provision of assistance to disabled persons and persons with reduced mobility, and the training of their personnel, carriers should have regard to the Recommendation of the International Maritime Organisation on the Design and Operation of Passenger Ships to Respond to Elderly and Disabled Persons' Needs <sup>(2)</sup>.
- (9) ***The provisions governing the embarkation of disabled persons or persons with reduced mobility should be without prejudice to the general provisions applicable to the embarkation of passengers laid down by international, Community or national rules in force.***
- (10) Passengers should be adequately informed in the event of cancellation or delay of any service. This information should help passengers to make the necessary arrangements and if *necessary* to obtain information about alternative connections.
- (11) 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 *re-routing* under satisfactory conditions.
- (12) 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 in extraordinary circumstances, which could not have been avoided even if all reasonable measures had been taken.
- (13) 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.
- (14) 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>(3)</sup>. In *the event that* a package tour is cancelled for reasons other than cancellation of the maritime transport service, this Regulation should not apply.
- (15) Passengers should be fully informed of their rights under this Regulation, so that they can effectively exercise those rights. Rights of maritime and inland waterway passengers should include the receipt of information regarding the service before and during the journey. All essential information provided to maritime and inland waterway passengers should also be provided in formats accessible to disabled persons and persons with reduced mobility.

<sup>(1)</sup> OJ L 144, 15.5.1998, p. 1.

<sup>(2)</sup> IMO - Maritime Safety Committee, Circ.735, 24 June 1996 at the time of the adoption of this Regulation.

<sup>(3)</sup> OJ L 158, 23.6.1990, p. 59.

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- (16) Member States should supervise and ensure compliance with this Regulation and designate an appropriate body to carry out enforcement tasks. *That* supervision does not affect the rights of passengers to seek legal redress from courts under national law.
- (17) *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 ■ designated to that end by the relevant Member State.
- (18) Complaints concerning assistance given at a port or an embarkation/disembarkation point should be addressed to the body ■ designated for the enforcement of this Regulation by the Member State where the port is situated. Complaints concerning assistance given by a carrier at sea should be addressed to the body ■ designated for the enforcement of this Regulation by the Member State which has issued the operating licence to the carrier. The body designated for the enforcement of this Regulation should have the power and capacity to investigate individual complaints and to facilitate out of court dispute settlements.
- (19) *The Commission should propose clear rules for passengers' rights with regard to responsibility, liability, accessibility, and rights of disabled persons or persons with reduced mobility at points of transfer of passengers between land and sea or inland waterway transport.***
- (20) Member States should lay down penalties applicable to infringements of this Regulation and ensure that those penalties are applied. The penalties, which could include ordering the payment of compensation to the *passenger* concerned, should be effective, proportionate and dissuasive.
- (21) Since the objectives of this Regulation, namely to ensure high and equivalent levels 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.
- (22) *In the event of a future European legislative initiative relating to passenger rights, a horizontal legislative approach covering all means of transportation would be sensible, in light of the need to use combined transportation.***
- (23) 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 ||consumer protection laws (the Regulation on consumer protection cooperation) <sup>(1)</sup>. That Regulation should therefore be amended accordingly.
- (24) 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>(2)</sup> should be strictly enforced in order to guarantee respect for the privacy of maritime and inland waterway passengers, and ensure that the information requested serves solely to fulfil the assistance obligations laid down in this Regulation and is not used to the detriment of passengers.
- (25) This Regulation respects the fundamental rights and *complies with* the principles recognised in particular by the Charter of Fundamental Rights of the European Union,

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

<sup>(2)</sup> OJ L 281, 23.11.1995, p. 31.

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HAVE ADOPTED THIS REGULATION:

## 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 mandatory assistance for disabled persons and persons with reduced mobility;
- (3) the obligations of carriers towards passengers in *the event* of cancellation or delay;
- (4) minimum information to be provided to passengers;
- (5) the handling of complaints;
- (6) the enforcement of passengers' rights.

## Article 2

## Scope

1. This Regulation shall apply to **the commercial transport of passengers travelling by sea** and inland waterway **by passenger ship**, including cruises, between or at ports or any embarkation/disembarkation point situated in the territory of a Member State to which the Treaty applies.
2. Member States may exempt services covered by public service contracts if such contracts ensure a comparable level of passenger rights to that required by this Regulation.
3. **Member States shall be authorised to exclude urban and suburban transport services from the scope of this Regulation if they give assurances that the aims of this Regulation can be achieved by means of regulatory measures and guarantee a level of passenger rights comparable to that required by this Regulation.**

## 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 **or psychosocial** 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 the service made available to all passengers;
- (b) 'cancellation' means the non-operation of a service which was previously scheduled and for which at least one reservation was made;
- (c) 'delay' means a difference between the time the passenger was scheduled to depart or to arrive in accordance with the published timetable and the time of his actual or expected departure or arrival;
- (d) 'carrier' means a person by or on behalf of whom a contract of carriage has been concluded, or the performing carrier whether the carriage is actually performed by him or by a performing carrier, other than a tour operator;

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- (e) 'commercial passenger maritime service' means a passenger maritime transport service operated by a carrier through a scheduled or non-scheduled route offered to the general public for valuable consideration, whether on its own or as part of a package;
- (f) 'performing carrier' means a person other than the carrier and the tour operator, who actually performs *all* or a part of the carriage;
- (g) 'port' means an area of land and water made up of such improvement works and equipment as to permit, principally, the reception of ships, their loading and unloading, the storage of goods, the receipt and delivery of these goods by inland transport, and the embarkation and disembarkation of passenger ships;
- (h) 'embarkation/disembarkation point' means an area of land and water other than a port, from and to which passengers regularly embark and disembark.
- (i) 'ship' means a seagoing or ***inland waterway*** vessel, excluding an air-cushion vehicle;
- (j) 'transport contract' means a contract of carriage between a carrier **■** and a passenger for the provision of one or more transport services, ***irrespective of whether the ticket was purchased from a carrier, a tour operator or a ticket vendor, or on the Internet;***
- (k) 'ticket' means a valid document giving entitlement to transport, or something equivalent in paperless form, including electronic form, issued or authorised by a carrier or its authorised ticket vendor;
- (l) 'ticket vendor' means any ***intermediary selling*** maritime transport services, ***including services sold as part of a package,*** on behalf of a carrier or ***tour operator;***
- (m) 'tour operator' means an organiser, **■** other than a carrier, within the meaning of Article 2(2) **■** of Directive 90/314/EEC;
- (n) 'reservation' means an authorisation, on paper or in electronic form, giving entitlement to transportation subject to previously confirmed personalised transport arrangements;
- (o) 'passenger ship' means a ship which carries more than 12 passengers;
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- (p) 'port authority' or 'managing body of the port' means a body which, whether or not in conjunction with other activities, has as its objective under national law or *regulations* the administration and management of the port infrastructures, and the coordination and control of the activities of the different operators present in a port or port system. It may consist of several separate bodies or be responsible for more than one port.
- (q) 'cruise' means a passenger shipping activity supplemented by accommodation and other facilities, exceeding a one day (overnight) stay, which is not a regular or scheduled passenger service between two or more ports, but with passengers usually returning to the port of embarkation.
- (r) '***accessible formats***' means that all passengers can access the same information using text, Braille, audio, video and/or electronic formats. Examples of accessible formats include, but are not limited to, pictograms, vocal announcement and subtitling and may vary according to technological developments.

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- (s) *'passenger' means any person travelling under a contract of carriage other than those persons accompanying vehicles, trailers or goods that are being carried as freight or commercial goods.*
- (t) *'arrival' means the actual time the vessel is secured at the arrival berth.*
- (u) *'departure' means the actual time at which the vessel is secured for sea.*
- (v) *'ticket price' means the cost paid for the transport and accommodation on board. It excludes the costs of meals, other activities and any on-board purchases.*
- (w) *'force majeure' is an event or circumstance, which could not have been avoided even if all reasonable measures had been taken, such as war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or military or illegal confiscation, terrorist activities, nationalisation, government sanction, blockage, embargo, labour dispute, strike, lockout, interruption or failure of electricity or acts of God, including fire, flood, earthquake, storm, hurricane or other natural disasters. Cases of force majeure can also be caused by extreme tidal conditions, strong winds, significant wave heights being exceeded and ice formation.*

#### Article 4

##### Transport contract and non-discriminatory contract conditions

1. Carriers shall provide passengers with a proof of the conclusion of the transport contract by issuing one or more tickets. The tickets shall be considered prima facie evidence of the conclusion of the contract and thus give rights as provided for in this Regulation.
2. Without prejudice to public service obligations requiring social tariffs, contract conditions and tariffs applied by carriers or ticket vendors shall be offered to the general public without any discrimination based on the nationality or the place of residence of the final customer or on the place of establishment of carriers or ticket vendors within the Community.

#### Article 5

##### Exclusion of waiver

1. Obligations pursuant to this Regulation shall not be limited or waived, inter alia by a derogation or restrictive clause in the contract of carriage.
2. Carriers may offer contract conditions that are more favourable for the passenger than the conditions laid down in this Regulation.

#### Chapter II

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

#### Article 6

##### Prevention of refusal of carriage

1. Carriers, ticket vendors and tour operators shall not refuse, on the grounds of disability or of reduced mobility:
  - (a) to accept a reservation, or to issue a ticket, for a journey to which this Regulation applies;

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- (b) to embark a disabled person or a person with reduced mobility at a port or embarkation/disembarkation point, provided that the person concerned has a valid ticket or reservation.
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, carriers, ticket vendors or tour operators may refuse to accept a reservation from or to issue a ticket to or to embark a disabled person or a person with reduced mobility where the structure of the passenger ship makes the embarkation or carriage of the disabled person or person with reduced mobility physically impossible **and where they cannot be afforded the normal level of service in a safe, dignified and operationally feasible manner.**

In the event of refusal to accept a reservation on the grounds referred to in the first subparagraph, carriers, ticket vendors or tour operators shall make reasonable efforts to propose an acceptable alternative to the person in question.

In case of advanced booking, a disabled person or a person with reduced mobility who has been denied embarkation and any person accompanying that person pursuant to paragraph 2 shall be offered the right to reimbursement or re-routing as provided for in Annex I.

2. A carrier or a ticket vendor or a tour operator 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 that person if this is strictly necessary.
3. When a carrier or a ticket vendor or a tour operator exercises a derogation provided for in paragraphs 1 or 2, it shall immediately inform the disabled person or person with reduced mobility of the reasons therefor. On request, the carrier, the ticket vendor or the tour operator shall communicate these reasons in writing to the disabled person or person with reduced mobility, within five working days of the request.

#### Article 8

##### Accessibility and information

1. Carriers shall establish, **under the supervision of the national enforcement bodies and** with the active involvement of *representative organisations of ports*, of disabled persons and of persons with reduced mobility, non-discriminatory access rules that apply to the carriage of disabled persons and persons with reduced mobility, **and accompanying persons**, as well as any restrictions on their carriage or on that of mobility equipment due to the structure of passenger ships, in order to meet applicable safety requirements. These rules shall *set out* all the access conditions of the maritime service in question, including accessibility of the ships operated and their facilities on board, **and of the fitted assistive equipment.**

2. The rules provided for in paragraph 1 shall be made publicly available by carriers or ticket vendors, **physically or on the Internet**, at least at the time a reservation is made, **in accessible formats**, in appropriate ways, 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.

3. Upon request carriers shall make available, *in accessible formats*, international, Community or national law establishing the safety requirements, on which non-discriminatory access rules are based.

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4. Tour operators shall make available the rules 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, their ticket vendors or tour operators shall ensure that all relevant information concerning the conditions of carriage, journey information, information on accessibility of services **and written confirmation of the provision of assistance** is available in accessible formats for disabled persons and persons with reduced mobility including online booking and information.

#### Article 9

##### Right to assistance at ports

1. On departure from, transit through or arrival at a port, the Carrier shall be responsible for ensuring the provision of the assistance specified in Annex II to disabled persons and persons with reduced mobility free of charge in such a way that person is able to board the departing service, or to disembark from the arriving service for which he purchased a ticket without prejudice to the access rules referred to in Article 8(1). **The assistance shall be adapted to the individual needs of the disabled person or person with reduced mobility.**

2. A carrier may provide assistance itself or may contract with one or more other parties for the supply of the assistance. The carrier may enter into such a contract or contracts on its own initiative or on request, including from a port authority, and taking into account the existing services at the port concerned.

Where a carrier contracts with one or more other parties for the supply of the assistances, the carrier shall remain responsible for provision of the assistance and for ensuring compliance with the quality standards referred to in Article 14(1).

3. Carriers may, on a non-discriminatory basis, levy a specific charge on all passengers for the purpose of funding assistance at ports. The specific charge shall be reasonable, cost-related, and transparent.

■

4. Carriers shall make available to the enforcement body or bodies designated pursuant to *article 27(1)*, an audited annual overview of charges received and expenses made in respect of the assistance provided to disabled persons and persons with reduced mobility.

**5. In accordance with Article 12, the managing body of a port shall be responsible, where necessary, for ensuring it is accessible to disabled persons and persons with reduced mobility.**

#### Article 10

##### Right to assistance at embarkation / disembarkation points

Where no port exists for a particular destination or leg, the assistance shall be organised by the carrier at the embarkation / disembarkation point in accordance with Article 9.

#### Article 11

##### Right to assistance aboard ships

Carriers shall at least provide the assistance specified in Annex III free of charge to disabled persons or persons with reduced mobility departing from, arriving at or transiting through a port to which this Regulation applies.

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Article 12

Conditions on under which assistance is provided

Carriers, managing bodies of ports, ticket vendors and tour operators shall cooperate in order to provide assistance to disabled persons and persons with reduced mobility in line with Articles 9, 10 and 11 in accordance with the following points:

- (a) Assistance shall be provided on condition that the carrier, the ticket vendor or the tour operator with which the ticket was purchased is notified of the person's need for such assistance **when the reservation is made or** at least 48 hours before the assistance is needed, **unless a shorter notification period is agreed between the assistance provider and the passenger, with the exception of cruise journeys, where the need for assistance shall be notified at the time of reservation.** Where the ticket permits multiple journeys, one notification shall be sufficient provided that adequate information on the timing of subsequent journeys is provided;
- (b) carriers, ticket vendors and tour operators shall take all measures necessary for the **request and** reception of notifications of the need for assistance made by disabled persons or persons with reduced mobility. **The passenger shall receive a confirmation, stating that the assistance needs have been notified.** Those obligations shall apply at all their points of sale, including sale by telephone and via the Internet;
- (c) if no notification is made in accordance with point (a), carriers, ticket vendors and tour 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 board the departing service, to change to the corresponding service or to disembark from the arriving service for which he has purchased a ticket;
- (d) without prejudice to the powers of other entities regarding areas located outside the port premises, the managing body of a port or any other authorised person shall designate points of arrival and departure within the port boundary, both inside and/or outside terminal buildings as the case may be, at which disabled persons or persons with reduced mobility can announce their arrival and request assistance; these points shall be clearly signed and shall offer basic information about the port and assistance provided in accessible formats;
- (e) assistance shall be provided on condition that the disabled person or person with reduced mobility present *himself* at the designated point:
  - at a time stipulated by the carrier which shall be not more than 60 minutes before the *scheduled time of departure*,
  - if no time is stipulated, no later than 30 minutes before the *scheduled embarkation* time, **unless otherwise agreed between the passenger and the assistance provider**, or
  - **in the case of cruises, at a time stipulated by the carrier, which shall not be more than 60 minutes before the check-in time;**
- (f) Where a disabled person or person with reduced mobility requires the use of an assistance **dog**, that **dog** shall be accommodated provided that the carrier or the ticket vendor or the tour operator are notified in accordance with applicable national rules covering the carriage of recognised assistance **dogs** on board passenger ships, where such rules exist.

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## Article 13

## Transmission of information to a third party

1. Where provision of the assistance has been subcontracted, and the carrier ■ receives a notification of the need for assistance at least 48 hours before the *scheduled time of departure* for the journey, it shall transmit the relevant information so that the sub-contractor receives it **as soon as possible, and in any event** at least 36 hours before the *scheduled time of departure* for the journey.
2. Where provision of the assistance has been subcontracted, and the carrier ■ does not receive a notification of the need for assistance at least 48 hours before the *scheduled time of departure* for the journey, the carrier ■ shall transmit the information to the sub-contractor as soon as possible.

## Article 14

## Quality standards for assistance

1. Carriers shall set quality standards for the assistance specified in Annex II and III and shall determine resource requirements for meeting those standards, in cooperation with organisations representing disabled passengers and passengers with reduced mobility.
2. In the setting of quality standards, full account shall be taken of internationally recognised policies and codes of conduct concerning facilitation of the transport of disabled persons or persons with reduced mobility, notably the International Maritime Organisation's Recommendation of the Design and Operation of Passenger Ships to Respond to Elderly and Disabled Persons' Needs.
3. Carriers shall publish their quality standards **in accessible formats**.

## Article 15

## Training

Carriers shall:

- (a) Ensure that all their personnel, including those employed by any sub-contractor, providing direct assistance to disabled persons and persons with reduced mobility have knowledge of how to meet the needs of persons having various disabilities or mobility impairments;
- (b) provide disability-assistance and disability-awareness training as described in Annex IV to all their personnel working at the port who deal directly with the travelling public;
- (c) ensure that, upon recruitment, all new employees **who come into direct contact with passengers** attend disability-related training and that personnel receive refresher training courses when appropriate.

## Article 16

## Compensation in respect of wheelchairs and mobility equipment

1. **Unless the passenger to whom the equipment belongs has already been compensated under 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>(1)</sup>, where** wheelchairs or other mobility equipment or parts thereof are lost or damaged whilst being handled at the port or transported on board a ship, before, during and after the journey, the passenger to whom the equipment belongs shall be compensated, ■ depending on who was responsible for the equipment at the time of loss or damage.

<sup>(1)</sup> OJ L 131, 28.5.2009, p. 24.

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Where necessary every effort shall be undertaken to rapidly provide replacement equipment, **suitable to the needs of the passenger concerned.**

2. There shall be no limit to the amount of compensation payable pursuant to this Article.

### Chapter III

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

##### Article 17

###### Provision of information

1. In the event of delay, the carrier or, where appropriate, the managing body of the port shall inform passengers **at the latest** 30 minutes after a scheduled departure or one hour before a scheduled arrival. **If this information is available, the carrier shall inform passengers of the estimated departure and arrival times.**

2. If passengers miss a connection due to a delay, the performing carrier shall make reasonable efforts to inform the passengers concerned of alternative connections.

3. **The carrier or managing body of the port shall ensure that disabled passengers or passengers with reduced mobility receive the information required under paragraphs 1 and 2 in accessible formats.**

##### Article 18

###### Right to assistance

1. Where a carrier reasonably expects a passenger maritime service to be delayed for more than 60 minutes beyond its scheduled time of departure, passengers shall be offered meals and refreshments *free of charge* in reasonable *proportion* to the waiting time, if they are available on board or at the port, or can reasonably be supplied.

2. In the case of any delay where a stay of one or more nights or a stay additional to that intended by the passenger becomes necessary, **passengers shall be offered, free of charge, hotel or other accommodation, and transport between the port and place of accommodation in addition to the meals and refreshments provided for in paragraph 1. The additional accommodation and transport costs borne by the carrier may not exceed twice the price of the ticket.**

3. If the maritime service can no longer be continued, carriers shall, where possible and as soon as possible, organise alternative transport services for passengers.

4. In applying paragraphs 1, 2, and 3, the performing 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

1. Where a carrier reasonably expects a passenger maritime service to be delayed beyond its scheduled time of departure by more than 120 minutes, the passenger shall immediately:

- (a) be offered alternative transport services under reasonable conditions or, if that is impractical, be informed of adequate alternative transport services by other transport operators;
- (b) **be offered** reimbursement of the ticket price **if he decides not to travel with the carrier.**

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The payment of the reimbursement provided for in point (b) shall be made under the same conditions as the payment of the compensation provided for in Article 20, **paragraphs 3, 4 and 5**.

2. **By way of derogation from paragraph 1**, passengers on a cruise journey **shall be re-routed or reimbursed in accordance with the provisions of** Directive 90/314/EEC.

#### Article 20

##### Compensation of the ticket price

1. Without losing the right of transport, a passenger may request compensation from the carrier if he is facing a delay in arrival. ■ The minimum levels of compensation shall be as follows:

- (a) 25 % of the ticket price for a delay of 60 to 119 minutes;
- (b) 50 % of the ticket price for a delay of 120 minutes or more;
- (c) 100 % of the ticket price if the carrier fails to provide alternative services or the information referred to in Article 19(1)(a).

2. **paragraph 1** shall not apply to passengers on a cruise journey. **Passengers on a cruise journey may claim compensation in accordance with** Directive 90/314/EEC.

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 providing 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.

4. **If the carrier has announced the cancellation or postponement of the crossing or an increase in the crossing time three or more days before the scheduled time of departure, there shall be no entitlement to compensation.**

#### Article 21

##### Force Majeure

**The obligations laid down in Articles 18, 19 and 20 shall not apply in cases of force majeure hindering the performance of the transport service.**

#### Article 22

##### Further claims

Nothing in this Regulation shall preclude passengers from seeking damages in respect of loss resulting from cancellation or delay of transport services before national courts. **Compensation awarded under this Regulation may be deducted from any additional compensation granted.**

#### Article 23

##### Additional measures in favour of passengers

Carriers shall cooperate, **under the supervision of the national enforcement bodies**, in order to adopt arrangements at national or European level with the involvement of stakeholders, professional **organisations** and associations of customers, passengers, **ports** and disabled persons. These measures *shall* be aimed at improving care for passengers, especially in the event of long delays and interruption or cancellation of travel.

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## Chapter IV

### Information for passengers and handling complaints

#### Article 24

##### Right to travel information

Managing bodies of ports and carriers shall provide passengers with adequate information throughout their travel in **accessible formats and the customary languages**. Particular attention shall be paid to the needs of disabled persons and persons with reduced mobility.

#### Article 25

##### Information on passenger rights

1. Carriers shall ensure that passengers are provided with appropriate and comprehensible information regarding their rights under this Regulation at the latest on departure. To the extent that the information has been provided by either the carrier or the performing carrier, the other shall not be obliged to provide that information. The information shall be provided in **accessible formats and in the customary languages**. When providing this information particular attention shall be paid to the needs of *disabled persons* and persons with reduced mobility.

2. Carriers and managing bodies of the ports shall ensure that information on the rights of passengers under this Regulation is publicly available both on board ships and at ports. This information shall include contact details of the enforcement body designated by the Member States pursuant to Article 27(1).

#### Article 26

##### Complaints

1. **Member States' authorities** shall set up **an independent** complaint handling mechanism, **accessible for all passengers, including disabled persons and persons with reduced mobility**, for rights and obligations covered by this Regulation.

2. Passengers may submit a complaint to a carrier within one month from the day when a service was performed or when a service should have been performed. Within 20 working days, the addressee of a complaint shall either give a reasoned opinion or, in justified cases, inform the passenger by what date a reply is to be expected. The time taken to reply shall not be longer than two months from the receipt of the complaint.

3. If no reply is received within the time limits set out in paragraph 2, the complaint shall be deemed to have been accepted.

## Chapter V

### Enforcement and national enforcement bodies

#### Article 27

##### National enforcement bodies

1. Each Member State shall designate a body responsible for the enforcement of this Regulation. Each body shall take the measures necessary to ensure that **the accessibility rules referred to in Article 8 are drawn up, compliance with those rules is ensured and that** the rights of passengers are respected. Each body shall, in its organisation, funding decisions, legal structure and decision-making, be independent of **commercial interests**.

2. Member States shall inform the Commission of the body ■ designated in accordance with this Article and of its responsibilities.

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3. Any passenger may complain to the appropriate body designated under paragraph 1 by a Member State about an alleged infringement of this Regulation.
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 28

##### Report on enforcement

1. On 1 June each year the enforcement bodies designated pursuant to Article 27 shall publish a report on their activity in the previous year, containing inter alia:
  - (a) a description of actions taken in order to implement the provisions of this Regulation,
  - (b) a reference to the procedure applicable to the settlement of individual complaints,
  - (c) a summary of rules on accessibility for disabled persons and persons with reduced mobility applicable in that Member State;
  - (d) aggregated data on complaints, **including on their outcome and resolution timescales;**
  - (e) details of sanctions applied;
  - (f) other issues of importance for the better enforcement of this Regulation.
2. In order to be able to draft such a report enforcement bodies shall keep statistics on individual complaints, according to the subject and the companies concerned. Such data shall be made available on request to the Commission or to the national investigative authorities up to three years after the date of the incident.

#### Article 29

##### Cooperation between enforcement bodies

National enforcement bodies designated pursuant to Article 27(1) shall exchange information on their work and decision-making principles and practices for the purpose of consistent protection of passengers across the Community. The Commission shall support them in this task.

#### Article 30

##### Penalties

The Member States shall lay down rules on penalties applicable to infringements of this Regulation and shall take all the measures necessary to ensure that those rules are implemented. The penalties provided for, **which could include ordering the payment of compensation to the passenger concerned**, must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission and shall notify it without delay of any subsequent amendment affecting them.

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Chapter VI

Final Provisions

Article 31

Report

The Commission shall report to the European Parliament and to the Council *by not later than...* (\*), 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 32

Amendment to Regulation (EC) No 2006/2004

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

- '19. Regulation (EC) No.../2009 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 on cooperation between national authorities responsible for the enforcement of consumer protection laws] <sup>(1)</sup>

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Article 33

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 ... (\*\*). Articles 6, 7, 26, 27, and 30, shall apply from ... (\*\*\*)  
This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ||,

For the European Parliament  
The President

For the Council  
The President

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(\*) Three years after entry into force of this Regulation.

(\*\*) Two years after publication of this Regulation.

(\*\*\*) One year after publication of this Regulation.

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## ANNEX I

Right to reimbursement or re-routing in case of advanced booking for disabled persons and persons with reduced mobility

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 or, with the signed agreement of the passenger, 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 journey to the first point of departure, at the earliest opportunity; or
  - (b) re-routing, under comparable transport conditions, to their final destination at the earliest opportunity; or
  - (c) re-routing, under comparable transport conditions, to their final destination 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 ¶.
3. When, in the case where a town, city or region is served by several ports, an performing carrier offers a passenger a journey to an alternative port to that for which the booking was made, the performing 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.

## ANNEX II

## Assistance in ports

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

- communicate their arrival at a port 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, with completion of emigration, customs and security procedures;
- board the ship, with the provision of *the necessary means*;
- 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), with completion of immigration and customs procedures;
- proceed from the baggage hall or the disembarkation point to a designated point of exit;
- make their way to the toilet facilities if required.

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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, **not necessarily on a like for like basis but with similar technical and functional characteristics.**

Ground handling of recognised assistance **dogs**, when relevant.

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

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**ANNEX III****Assistance aboard ships**

Carriage of recognised assistance *dogs* in the ship, subject to national regulations.

In addition to medical equipment, transport of up to two pieces of mobility equipment per 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 *persons* with disability or reduced mobility on request and subject to safety requirements and availability.

Assistance in moving to toilet facilities, if required.

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

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## ANNEX IV

## Disability-related training

## Disability-awareness training

Training of staff who deal directly with the travelling public 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 individuals whose mobility, orientation, or communication may be reduced;
- barriers faced by 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 deaf people, people with hearing impairments, visual impairments and speech impairments 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;
- how to handle wheelchairs and other mobility aids carefully so as to avoid damage (to all staff who are responsible for baggage handling if *relevant*).

## Disability-assistance training

Training of staff directly assisting persons with reduced mobility includes:

- how to help wheelchair users make transfers into and out of a wheelchair;
  - skills for providing assistance to persons with reduced mobility travelling with **an** assistance **dog**, including the role and the needs of those **dogs**;
  - techniques for escorting blind and partially-sighted passengers; █
  - an understanding of the types of equipment which can assist persons with reduced mobility and a knowledge of how to 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 persons with reduced mobility;
  - sufficient understanding of the need for reliable and professional assistance. Also awareness of the potential of certain disabled passengers to experience feelings of vulnerability during travel because of their dependence on the assistance provided;
  - a knowledge of first aid.
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