

**POSITION (EU) No 5/2010 OF THE COUNCIL AT FIRST READING**

**with a view to the adoption of 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**

**Adopted by the Council on 11 March 2010**

(Text with EEA relevance)

(2010/C 122 E/02)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 91(1) and 100(2) thereof,

Having regard to the proposal from the European Commission,

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

After consulting the Committee of Regions,

Acting in accordance with the ordinary legislative procedure <sup>(2)</sup>,

Whereas:

- (1) Action by the Union in the field of maritime and inland waterway transport should aim, among other things, at ensuring a high level of protection for passengers that is comparable with other modes of transport. Moreover, full account should be taken of the requirements of consumer protection in general.
- (2) Since the maritime and inland waterway passenger is the weaker party to the transport contract, all passengers should be granted a minimum level of protection. Nothing should prevent carriers from offering contract conditions more favourable for the passenger than the conditions laid down in this Regulation.
- (3) The protection of passengers should cover not only passenger services between ports situated in the territory of the Member States, but also passenger services between such ports and ports situated outside the territory of the Member States, taking into account the risk of distortion of competition on the passenger transport market. Therefore the term 'Union carrier' should, for the purpose of this Regulation, be interpreted as broadly as possible, but without affecting other legislation of the Union, such as Council Regulation (EEC) No 4056/86 of 22 December 1986 laying down detailed rules for the application of Articles 85 and 86 of the

Treaty to maritime transport <sup>(3)</sup> and Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) <sup>(4)</sup>.

- (4) The single market for maritime and inland waterway passenger services should benefit citizens in general. Consequently, disabled persons and persons with reduced mobility, whether caused by disability, age or any other factor, should have opportunities for using passenger services and cruises that are comparable to those of other citizens. Disabled persons and persons with reduced mobility have the same rights as all other citizens with regard to free movement, freedom of choice and non-discrimination.
- (5) In the light of Article 9 of the United Nations Convention on the Rights of Persons with Disabilities and in order to give disabled persons and persons with reduced mobility opportunities for maritime and inland waterway travel comparable to those of other citizens, rules for non-discrimination and assistance during their journey should be established. Those persons should therefore be accepted for carriage and not refused transport on the grounds of their disability or lack of mobility, except for reasons which are justified on the grounds of health and safety and established by the competent authorities. They should enjoy the right to assistance in ports and on board passenger ships. In the interests of social inclusion, the persons concerned should receive this assistance free of charge. Carriers should establish access conditions, preferably using the European standardisation system.
- (6) In deciding on the design of new ports and terminals, and as part of major refurbishments, the bodies responsible for those facilities should, where necessary, take into account the needs of disabled persons and persons with reduced mobility. Similarly, carriers should, where necessary, take such needs into account when deciding on the design of new and newly refurbished passenger ships in accordance with Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships <sup>(5)</sup> and Directive 2006/87/EC of the European Parliament and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels <sup>(6)</sup>.

<sup>(1)</sup> Opinion of 16 of July 2009 (OJ C 317, 23.12.2009, p. 89).

<sup>(2)</sup> Position of the European Parliament of 23 April 2009 (not yet published in the Official Journal) and Council Decision ...

<sup>(3)</sup> OJ L 378, 31.12.1986, p. 4.

<sup>(4)</sup> OJ L 364, 12.12.1992, p. 7.

<sup>(5)</sup> OJ L 163, 25.6.2009, p. 1.

<sup>(6)</sup> OJ L 389, 30.12.2006, p. 1.

- (7) Assistance given at ports situated in the territory of a Member State should, among other things, enable disabled persons and persons with reduced mobility to proceed from a designated point of arrival at a port to a passenger ship and from a passenger ship to a designated point of departure at a port, including embarking and disembarking.
- (8) In organising assistance to disabled persons and persons with reduced mobility, and the training of their personnel, carriers should cooperate with organisations representative of disabled persons and persons with reduced mobility. In that work they should also take into account the relevant provisions of the International Convention and Code on Standards of Training, Certification and Watchkeeping for Seafarers as well as the Recommendation of the International Maritime Organisation on the Design and Operation of passenger ships to respond to elderly and disabled persons' needs.
- (9) Passengers should be adequately informed in the event of cancellation or delay of any passenger service or cruise. That information should help passengers to make the necessary arrangements and, if needed, to obtain information about alternative connections.
- (10) Inconvenience experienced by passengers due to the cancellation or long delay of their journey should be reduced. To this end, passengers should be adequately looked after and should be able to cancel their journey and have their tickets reimbursed or to obtain re-routing under satisfactory conditions.
- (11) Carriers should provide for the payment of compensation for passengers in the event of the cancellation or delay of a passenger service based on a percentage of the ticket price, except when the cancellation or delay occurs due to weather conditions endangering the safe operation of the ship or to extraordinary circumstances, which could not have been avoided even if all reasonable measures had been taken.
- (12) Weather conditions endangering the safe operation of the ship should include, but not be limited to, strong winds, heavy seas, strong currents, difficult ice conditions and extremely high or low water levels.
- (13) Extraordinary circumstances should include, but not be limited to, terrorist attacks, labour conflicts, landing any sick, injured or dead person, search and rescue operations at sea or on inland waterways, measures necessary to protect the environment, decisions taken by traffic management bodies or port authorities, or decisions by the competent authorities with regard to public order and safety as well as to cover urgent transport needs.
- (14) With the involvement of stakeholders, professional associations and associations of customers, passengers, disabled persons and persons with reduced mobility, carriers should cooperate in order to adopt arrangements at national or European level for improving care and assistance offered to passengers whenever their travel is interrupted, notably in the event of long delays or cancellation of travel.
- (15) This Regulation should not affect the rights of passengers established by Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours <sup>(1)</sup>. This Regulation should not apply in cases where a package tour is cancelled for reasons other than cancellation of the passenger service or the cruise.
- (16) Passengers should be fully informed of their rights under this Regulation, so that they can effectively exercise those rights. Rights of passengers should include the receipt of information regarding the passenger service or cruise before and during the journey. All essential information provided to passengers should also be provided in formats accessible to disabled persons and persons with reduced mobility.
- (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 or bodies designated to that end by the Member State. Carriers should respond to complaints by passengers within a certain period of time, bearing in mind that the non-reaction to a complaint might be held against them.
- (18) Taking into account the procedures established by a Member State for the submission of complaints, a complaint concerning assistance in a port or on board a ship should preferably be addressed to the body or bodies designated for the enforcement of this Regulation in the Member State where the port of embarkation is situated and, for passenger services from a third country, where the port of disembarkation is situated.
- (19) Member States should ensure compliance with this Regulation and designate a competent body or bodies to carry out supervision and enforcement tasks. This does not affect the rights of passengers to seek legal redress from courts under national law.
- (20) Member States should lay down penalties applicable to infringements of this Regulation and ensure that those penalties are applied. The penalties should be effective, proportionate and dissuasive.

<sup>(1)</sup> OJ L 158, 23.6.1990, p. 59.

(21) Since the objectives of this Regulation, namely to ensure a high level of protection of and assistance to passengers throughout the Member States and to ensure that economic agents operate under harmonised conditions in a single market, cannot sufficiently be achieved by the Member States and can therefore, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. 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) The enforcement of this Regulation should be based on Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of the consumer protection law (the Regulation on consumer protection cooperation)<sup>(1)</sup>. That Regulation should therefore be amended accordingly.

(23) 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 respected and enforced in order to guarantee respect for the privacy of natural and legal persons, and ensure that the information and reports requested serve solely to fulfil the obligations laid down in this Regulation and are not used to the detriment of such persons.

(24) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, as referred to in Article 6 of the Treaty on European Union,

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### Article 1

#### Subject matter

This Regulation establishes rules as regards the following:

(a) non-discrimination between passengers with regard to transport conditions offered by carriers;

(b) non-discrimination and assistance for disabled persons and persons with reduced mobility;

(c) the rights of passengers in cases of cancellation or delay;

(d) minimum information to be provided to passengers;

(e) the handling of complaints;

(f) general rules on enforcement.

#### Article 2

#### Scope

1. This Regulation shall apply in respect of passengers travelling:

(a) on passenger services where the port of embarkation is situated in the territory of a Member State;

(b) on passenger services where the port of embarkation is situated outside the territory of a Member State and the port of disembarkation is situated in the territory of a Member State, provided that the service is operated by a Union carrier;

(c) on a cruise where the port of embarkation is situated in the territory of a Member State. However, Articles 16(2), 18, 19 and 20(1) and (4) shall not apply to those passengers.

2. This Regulation shall not apply in respect of passengers travelling:

(a) on ships certified to carry up to 36 passengers;

(b) on ships which have a crew responsible for the operation of the ship composed of not more than three persons or where the distance of the overall passenger service is less than 500 metres, one way; or

(c) on excursion and sightseeing tours other than cruises.

3. Member States may, for a period of two years from ... (\*), exempt from the application of this Regulation sea going ships of less than 300 gross tons operated in domestic transport, provided that the rights of passengers under this Regulation are adequately ensured under national law.

4. Member States may exempt from the application of this Regulation passenger services covered by public service obligations, public service contracts or integrated services provided that the rights of passengers under this Regulation are adequately guaranteed under national law.

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

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

(\*) Date of application of this Regulation.

5. Nothing in this Regulation shall be understood as constituting technical requirements imposing obligations on carriers, terminal operators or other entities to modify or replace ships, infrastructure, equipment in ports, and port terminals.

### Article 3

#### Definitions

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

- (a) 'disabled person' or 'person with reduced mobility' means any person whose mobility when using transport is reduced as a result of any physical disability (sensory or locomotor, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or as a result of age, and whose situation needs appropriate attention and adaptation to his particular needs of the service made available to all passengers;
- (b) 'territory of a Member State' means a territory to which the Treaty applies as referred to in Article 355 thereof, under the conditions set out therein;
- (c) 'access conditions' means relevant standards, guidelines and information on the accessibility of port terminals and ships including their facilities for disabled persons or persons with reduced mobility;
- (d) 'carrier' means a natural or legal person offering transport by passenger services or cruises to the general public;
- (e) 'Union carrier' means a carrier established within the territory of a Member State or offering transport by passenger services operated to or from the territory of a Member State;
- (f) 'passenger service' means a commercial passenger transport service by sea or inland waterways operated according to a published timetable;
- (g) 'integrated services' means interconnected transport services within a determined geographical area with a single information service, ticketing scheme and timetable;
- (h) 'performing carrier' means a person other than the carrier, who actually performs the carriage wholly or partially;
- (i) 'inland waterway' means a natural or artificial navigable inland body of water, or system of interconnected bodies of water, used for transport, such as lakes, rivers or canals or any combination of these;
- (j) 'port' means a place or a geographical area made up of such improvement works and facilities as to permit the reception of ships from which passengers regularly embark or disembark;
- (k) 'port terminal' means a terminal, staffed by a carrier or a terminal operator, in a port with facilities, such as check-in, ticket counters or lounges, and staff for the embarkation or disembarkation of passengers travelling on passenger services or on a cruise;
- (l) 'ship' means a vessel used for navigation at sea or on inland waterways;
- (m) 'transport contract' means a contract of carriage between a carrier and a passenger for the provision of one or more passenger services or cruises;
- (n) 'ticket' means a valid document or other evidence of a transport contract;
- (o) 'ticket vendor' means any retailer concluding transport contracts on behalf of a carrier;
- (p) 'travel agent' means any retailer acting on behalf of a passenger for the conclusion of transport contracts;
- (q) 'tour operator' means an organiser, other than a carrier, within the meaning of Article 2(2) and (3) of Directive 90/314/EEC;
- (r) 'reservation' means a booking of a specific departure of a passenger service or a cruise;
- (s) 'terminal operator' means a private or public body in the territory of a Member State responsible for the administration and management of a port terminal;
- (t) 'cruise' means a transport service by sea or inland waterway, operated exclusively for the purpose of pleasure or recreation, supplemented by accommodation and other facilities, exceeding two overnight stays on board.
- (u) 'shipping incident' means shipwreck, capsizing, collision or stranding of the ship, explosion or fire in the ship, or defect in the ship.

### Article 4

#### Tickets and non-discriminatory contract conditions

1. Carriers shall issue a ticket to the passenger, unless under national law other documents give entitlement to transport. A ticket may be issued in an electronic format.

2. Without prejudice to social tariffs, the contract conditions and tariffs applied by carriers or ticket vendors shall be offered to the general public without any direct or indirect discrimination based on the nationality of the final customer or on the place of establishment of carriers or ticket vendors within the Union.

#### *Article 5*

##### **Other performing parties**

1. If the performance of the obligations under this Regulation has been entrusted to a performing carrier, ticket vendor or any other person, the carrier, travel agent, tour operator or terminal operator, who has entrusted such obligations, shall nevertheless be liable for the acts and omissions of that performing party, acting within that party's scope of employment.

2. In addition to paragraph 1, the party to whom the performance of an obligation has been entrusted by the carrier, travel agent, tour operator or terminal operator shall be subject to the provisions of this Regulation, including provisions on liabilities and defences, with regard to the obligation entrusted.

#### *Article 6*

##### **Exclusion of waiver**

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

### CHAPTER II

#### **RIGHTS OF DISABLED PERSONS AND PERSONS WITH REDUCED MOBILITY**

#### *Article 7*

##### **Right to transport**

1. Carriers, travel agents and tour operators shall not refuse to accept a reservation, to issue or otherwise provide a ticket or to embark persons on the grounds of disability or of reduced mobility.

2. Reservations and tickets shall be offered to disabled persons and persons with reduced mobility at no additional cost.

#### *Article 8*

##### **Exceptions and special conditions**

1. Notwithstanding Article 7(1), carriers, travel agents and tour operators may refuse to accept a reservation from, to issue or otherwise provide a ticket to or to embark a person, on the grounds of disability or of reduced mobility:

(a) in order to meet applicable health and safety requirements established by international, Union or national law or in

order to meet health and safety requirements established by the competent authorities;

(b) where the design of the passenger ship or port infrastructure and equipment, including port terminals, makes it impossible to carry out the embarkation, disembarkation or carriage of the disabled person or person with reduced mobility in a safe or operationally feasible manner.

2. In the event of a refusal to accept a reservation or to issue or otherwise provide a ticket on the grounds referred to in paragraph 1, carriers, travel agents and tour operators shall make reasonable efforts to propose to the person concerned an acceptable alternative transport on a passenger service or a cruise operated by the carrier.

3. If a disabled person or a person with reduced mobility, who holds a reservation or has a ticket and has complied with the requirements in Article 11(2), is any way denied embarkation on the grounds of his disability or reduced mobility, that person and any accompanying person pursuant to paragraph 4 of this Article shall be offered the choice between the right to reimbursement and re-routing as provided for in Annex I. The right to the option of a return journey or re-routing shall be conditional upon all health and safety requirements being met.

4. Under the same conditions set out in paragraph 1, carriers, travel agents and tour operators may require that a disabled person or person with reduced mobility be accompanied by another person who is capable of providing the assistance required by the disabled person or person with reduced mobility. As regards passenger services, such an accompanying person shall be carried free of charge.

5. When carriers, travel agents and tour operators have recourse to paragraphs 1 or 4, they shall immediately inform the disabled person or person with reduced mobility of the specific reasons therefor. Those reasons shall be notified to the disabled person or person with reduced mobility, no later than five working days after that person was informed. In case of refusal according to paragraph 1(a), reference shall be made to the applicable health and safety requirements.

#### *Article 9*

##### **Accessibility and information**

1. In cooperation with organisations representative of disabled persons or persons with reduced mobility, carriers and terminal operators shall, where appropriate through their organisations, establish, or have in place, non-discriminatory access conditions for the transport of disabled persons and persons with reduced mobility.

2. The access conditions provided for in paragraph 1 shall be made publicly available by carriers and terminal operators physically or on the Internet in the same languages as those in which information is generally made available to all passengers.



3. Tour operators shall make available the access conditions provided for in paragraph 1 which apply to journeys included in package travel, package holidays and package tours which they organise, sell or offer for sale.

4. Carriers, travel agents and tour operators shall ensure that all relevant information, including online reservation and information, concerning the conditions of carriage, journey information and access conditions is available in appropriate and accessible formats for disabled persons and persons with reduced mobility.

#### Article 10

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

Subject to the access conditions provided for in Article 9(1), carriers and terminal operators shall, within their respective areas of competence, provide assistance free of charge to disabled persons and persons with reduced mobility, as specified in Annexes II and III, in ports, including embarkation and disembarkation, and on board ships.

#### Article 11

##### **Conditions under which assistance is provided**

1. Carriers and terminal operators shall, within their respective areas of competence, provide assistance to disabled persons and persons with reduced mobility as set out in Article 10 under the following conditions:

- (a) the carrier or the terminal operator is notified of the person's need for such assistance at the latest two working days before the assistance is needed, and;
- (b) the disabled person or person with reduced mobility presents himself at the port or at the designated point as referred to in Article 12(3):

- (i) at a time stipulated in writing by the carrier which shall be not more than 60 minutes before the published embarkation time, or

- (ii) if no embarkation time is stipulated, no later than 60 minutes before the published departure time.

2. In addition to paragraph 1, disabled persons or persons with reduced mobility shall notify the carrier, at the time of reservation or advance purchase of the ticket, of their specific needs with regard to accommodation or seating or their need to bring medical equipment, provided the need is known at that time.

3. A notification made in accordance with paragraphs 1(a) and 2 may always be submitted to the travel agent or the tour operator with which the ticket was purchased. Where the ticket permits multiple journeys, one notification shall be sufficient provided that adequate information on the timing of subsequent journeys is provided.

4. If no notification is made in accordance with paragraphs 1(a) and 2, carriers and terminal operators shall make all reasonable efforts to ensure that the assistance is provided in such a way that the disabled person or person with reduced mobility is able to embark, disembark and travel on the ship.

5. Where a disabled person or person with reduced mobility is accompanied by a recognised assistance dog, that dog shall be accommodated together with that person, provided that the carrier, travel agent or tour operator is notified in accordance with applicable national rules on the carriage of recognised assistance dogs on board passenger ships, where such rules exist.

#### Article 12

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

1. Carriers, terminal operators, travel agents and tour operators shall take all measures necessary for the reception of notifications made in accordance with Article 11(1)(a) and 11(2). That obligation shall apply at all their points of sale, including sale by telephone and over the Internet.

2. If travel agents or tour operators receive the notification referred to in paragraph 1 they shall, within their normal office hours, transfer the information to the carrier or terminal operator without delay.

3. Carriers and terminal operators shall designate a point inside or outside port terminals at which disabled persons or persons with reduced mobility can announce their arrival and request assistance. That point shall be clearly signposted and shall offer basic information about the port terminal and assistance provided, in accessible formats.

#### Article 13

##### **Quality standards for assistance**

1. Terminal operators and carriers operating port terminals or passenger services with a total of more than 100 000 commercial passenger movements during the previous calendar year shall, within their respective areas of competence, set quality standards for the assistance specified in Annexes II and III and shall, where appropriate through their organisations, determine resource requirements for meeting those standards, in cooperation with organisations representative of disabled persons and persons with reduced mobility.

2. The quality standards provided for in paragraph 1 shall be made publicly available by terminal operators and carriers physically or on the Internet in accessible formats and in the same languages as those in which information is generally made available to all passengers.

*Article 14***Training and instructions**

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

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

*Article 15***Compensation in respect of mobility equipment or other specific equipment**

1. Carriers and terminal operators shall be liable for loss suffered as a result of the loss of or damage to mobility equipment or other specific equipment, used by a disabled person or person with reduced mobility, if the incident which caused the loss was due to the fault or neglect of the carrier or the terminal operator. The fault or neglect of the carrier shall be presumed for loss caused by a shipping incident.
2. The compensation referred to in paragraph 1 shall correspond to the replacement value of the equipment concerned or, where applicable, to the costs relating to repairs.
3. Paragraphs 1 and 2 shall not apply if Article 4 of Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents <sup>(1)</sup> applies.
4. Moreover, every effort shall be undertaken to rapidly provide temporary replacement equipment.

## CHAPTER III

**OBLIGATIONS OF CARRIERS AND TERMINAL OPERATORS IN THE EVENT OF INTERRUPTED TRAVEL***Article 16***Information in case of cancelled or delayed departures**

1. In the case of a cancellation or a delay in departure of a passenger service or a cruise, passengers departing from port terminals shall be informed by the carrier or, where appropriate, by the terminal operator, of the situation as soon as possible

and in any event no later than 30 minutes after the scheduled time of departure, and of the estimated departure time and estimated arrival time as soon as this information is available.

2. If passengers miss a connecting transport service due to a cancellation or delay, the carrier and, where appropriate, the terminal operator shall make reasonable efforts to inform the passengers concerned of alternative connections.

3. The carrier or, where appropriate, the terminal operator, shall ensure that disabled persons or persons with reduced mobility receive the information required under paragraphs 1 and 2 in accessible formats.

*Article 17***Assistance in case of cancelled or delayed departures**

1. Where a carrier reasonably expects the departure of a passenger service or a cruise to be cancelled or delayed for more than 120 minutes beyond its scheduled time of departure, passengers departing from port terminals shall be offered free of charge snacks, meals or refreshments in reasonable relation to the waiting time, provided they are available, or can reasonably be supplied.
2. In the case of a cancellation or a delay in departure where a stay of one or more nights or a stay additional to that intended by the passenger becomes necessary, where and when physically possible, the carrier shall offer passengers departing from port terminals adequate accommodation free of charge on board, or ashore, and transport to and from the port terminal and place of accommodation in addition to the snacks, meals or refreshments provided for in paragraph 1. For each passenger, the carrier may limit the total cost of accommodation ashore, not including transport to and from the port terminal and place of accommodation, to EUR 120.
3. In applying paragraphs 1 and 2, the carrier shall pay particular attention to the needs of disabled persons and persons with reduced mobility and any accompanying persons.

*Article 18***Re-routing and reimbursement in case of cancelled or delayed departures**

1. Where a carrier reasonably expects a passenger service to be cancelled or delayed in departure from a port terminal for more than 120 minutes, the passenger shall immediately be offered the choice between:
  - (a) re-routing to the final destination, under comparable conditions, as set out in the transport contract, at the earliest opportunity;
  - (b) reimbursement of the ticket price and, where relevant, a return service free of charge to the first point of departure, as set out in the transport contract, at the earliest opportunity.

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

2. Where a passenger service is cancelled or delayed in departure from a port for more than 120 minutes, passengers shall have the right of such re-routing or reimbursement of the ticket price from the carrier.

3. The payment of the reimbursement provided for in paragraphs 1(b) and 2 shall be made within seven days, in cash, by electronic bank transfer, bank order or bank cheque of the full cost of the ticket at the price at which it was purchased, for the part or parts of the journey not made, and for the part or parts already made if the journey no longer serves any purpose in relation to the passenger's original travel plan.

#### Article 19

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

1. Without losing the right to transport, passengers may request compensation from the carrier if they are facing a delay in arrival at the final destination as set out in the transport contract. The minimum level of compensation shall be 25 % of the ticket price for a delay of at least:

- (a) one hour in case of a scheduled journey of up to four hours;
- (b) two hours in case of a scheduled journey of more than four hours, but not exceeding eight hours;
- (c) three hours in case of a scheduled journey of more than eight hours, but not exceeding 24 hours; or
- (d) six hours in case of a scheduled journey of more than 24 hours.

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

2. Passengers who hold a travel pass or a season ticket and who encounter recurrent delays in arrival during its period of validity may request adequate compensation in accordance with the carrier's compensation arrangements. These arrangements shall state the criteria for determining delay in arrival and for calculation of compensation.

3. Compensation shall be calculated in relation to the price which the passenger actually paid for the delayed passenger service.

4. Where the transport is for a return journey, compensation for delay in arrival on either the outward or the return leg shall be calculated in relation to half of the price paid for the transport by that passenger service.

5. The compensation shall be paid within one month after the submission of the request for compensation. The compensation may be paid in vouchers and/or other services, provided

the terms are flexible, in particular as regards the period of validity and destination. The compensation shall be paid in money at the request of the passenger.

6. The compensation of the ticket price shall not be reduced by financial transaction costs such as fees, telephone costs or stamps. Carriers may introduce a minimum threshold under which payments for compensation will not be paid. This threshold shall not exceed EUR 10.

#### Article 20

##### **Exemptions**

1. Articles 17, 18 and 19 shall not apply to passengers with open tickets as long as the time of departure is not specified, except for passengers holding a travel pass or a season ticket.

2. Articles 17 and 19 shall not apply if the passenger is informed of the cancellation or delay before the purchase of the ticket or if the cancellation or delay is caused by the fault of the passenger.

3. Article 17(2) shall not apply where the cancellation or delay is caused by weather conditions endangering the safe operation of the ship.

4. Article 19 shall not apply where the cancellation or delay is caused by weather conditions endangering the safe operation of the ship or by extraordinary circumstances hindering the performance of the passenger service, which could not have been avoided even if all reasonable measures had been taken.

#### Article 21

##### **Further claims**

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

#### CHAPTER IV

##### **GENERAL RULES ON INFORMATION AND COMPLAINTS**

#### Article 22

##### **Right to travel information**

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



*Article 23***Information on passenger rights**

1. Carriers and terminal operators shall, within their respective areas of competence, ensure that information on the rights of passengers under this Regulation is publicly available on board ships and in port terminals. The information shall be provided in accessible formats and in the same languages as those in which information is generally made available to all passengers. When providing this information particular attention shall be paid to the needs of disabled persons and persons with reduced mobility.

2. In order to comply with the information requirement referred to in paragraph 1, carriers and terminal operators may use a summary of the provisions of this Regulation prepared by the Commission in all the official languages of the institutions of the European Union and made available to them.

3. Carriers and terminal operators shall inform passengers in an appropriate manner on board ships and in port terminals, of the contact details of the enforcement body designated by the Member State pursuant to Article 25(1).

*Article 24***Complaints**

1. Carriers shall set up or have in place a complaint handling mechanism for rights and obligations covered by this Regulation.

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

## CHAPTER V

**ENFORCEMENT AND NATIONAL ENFORCEMENT BODIES***Article 25***National enforcement bodies**

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

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

2. Member States shall inform the Commission of the body or bodies designated in accordance with this Article.

3. Any passenger may submit a complaint, in accordance with national law, to the competent body designated under paragraph 1, or to any other competent body designated by a Member State, about an alleged infringement of this Regulation.

A Member State may decide:

(a) that the passenger as a first step shall submit the complaint covered by this Regulation to the carrier; and/or

(b) that the national enforcement body or any other competent body designated by the Member State shall act as an appeal body for complaints not resolved under Article 24.

4. Member States that have chosen to exempt certain services pursuant to Article 2(4) shall ensure that a comparable mechanism of enforcement of passenger rights is in place.

*Article 26***Report on enforcement**

On 1 June ... (\*) and every two years thereafter, the enforcement bodies designated pursuant to Article 25 shall publish a report on their activity in the previous two calendar years, containing in particular a description of actions taken in order to implement the provisions of this Regulation, details of sanctions applied and statistics on complaints and sanctions applied.

*Article 27***Cooperation between enforcement bodies**

National enforcement bodies referred to in Article 25(1) shall, whenever appropriate, exchange information on their work and decision-making principles and practice. The Commission shall support them in this task.

*Article 28***Penalties**

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

(\*) Two years following the date of application of this Regulation.

(\*\*) Date of application of this Regulation.

## CHAPTER VI

**FINAL PROVISIONS***Article 29***Report**

The Commission shall report to the European Parliament and to the Council by ... (\*) 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 30***Amendment to Regulation (EC) No 2006/2004**

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

‘19. Regulation (EU) No .../2009 of the European Parliament and of the Council of ... concerning the rights of passengers traveling by sea and inland waterway (\*).

(\*) OJ ...’

*Article 31***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 ... (\*\*).

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*

...

(\*) Three years after the date of application of this Regulation.

(\*\*) 36 months after the date of publication of this Regulation.

## ANNEX I

**Right to reimbursement or re-routing for disabled persons and persons with reduced mobility as referred to in Article 8**

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

**Assistance in ports, including embarkation and disembarkation, as referred to in Articles 10 and 13**

1. Assistance and arrangements necessary to enable disabled persons and persons with reduced mobility to:
    - communicate their arrival at a port terminal and their request for assistance,
    - move from an entry point to the check-in counter, if any, or to the ship,
    - check-in and register baggage, if necessary,
    - proceed from the check-in counter, if any, to the ship, through emigration and security points,
    - embark the ship, with the provision of lifts, wheelchairs or other assistance needed, as appropriate,
    - proceed from the ship door to their seats/area,
    - store and retrieve baggage on the ship,
    - proceed from their seats to the ship door,
    - disembark from the ship, with the provision of lifts, wheelchairs or other assistance needed, as appropriate,
    - retrieve baggage, if necessary, and proceed through immigration and customs points,
    - proceed from the baggage hall or the disembarkation point to a designated point of exit,
    - if required, make their way to the toilet facilities (if any).
  2. 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.
  3. Handling of all necessary mobility equipment, including equipment such as electric wheelchairs.
  4. Temporary replacement of damaged or lost mobility equipment, albeit not necessarily on a like for like basis.
  5. Ground handling of recognised assistance dogs, when relevant.
  6. Communication in accessible formats of information needed to embark and disembark.
-

*ANNEX III***Assistance on board ships as referred to in Articles 10 and 13**

1. Carriage of recognised assistance dogs on board the ship, subject to national regulations.
  2. Carriage of medical equipment and of the mobility equipment necessary for the disabled person or person with reduced mobility, including electric wheelchairs.
  3. Communication of essential information concerning a route in accessible formats.
  4. Making all reasonable efforts to arrange seating to meet the needs of disabled persons or persons with reduced mobility on request and subject to safety requirements and availability.
  5. If required, assistance in moving to toilet facilities (if any).
  6. Where a disabled person or person with reduced mobility is assisted by an accompanying person, the carrier shall make all reasonable efforts to give such person a seat or a cabin next to the disabled person or person with reduced mobility.
-



## ANNEX IV

**Disability-related training, including instructions, as referred to in Article 14****A. Disability-awareness training, including instructions**

Disability-awareness training, including instructions, includes:

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

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

Disability-assistance training, including instructions, includes:

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

## STATEMENT OF THE COUNCIL'S REASONS

### I. INTRODUCTION

On 4 December 2008, the Commission presented the proposal for a Regulation of the European Parliament and 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 <sup>(1)</sup>.

On 23 April 2009, the European Parliament voted its opinion at first reading <sup>(2)</sup>.

On 9 October 2009, the Council reached a political agreement on the draft Regulation. Following legal/linguistic revision, the Council adopted its position at first reading on 11 March 2010, in accordance with the ordinary legislative procedure laid down in Article 294 of the Treaty on the Functioning of the European Union.

In carrying out its work, the Council took account of the opinion of the European Economic and Social Committee. The Committee of Regions declined to give an opinion.

### II. ANALYSIS OF THE POSITION AT FIRST READING

#### 1. General

The proposal for a Regulation of the European Parliament and the Council concerning the rights of passengers when travelling by sea and inland waterway forms part of the general objective of the EU to strengthen passenger rights, in particular the rights of disabled persons and persons with reduced mobility. Legislation of similar nature has already been adopted for passengers travelling by air <sup>(3)</sup> or by rail <sup>(4)</sup>. The proposal contains, on the one hand, provisions on non-discriminatory access and assistance for disabled persons and persons with reduced mobility and, on the other hand, provisions on right to assistance, information and possibly compensation in the case of delays or cancellation for all categories of passengers.

Although the Council agrees with the Commission as regards the objective of the proposal, the Council's approach involved major adaptations of the original proposal. A number of the proposed provisions were not acceptable because they imposed too heavy administrative burdens and ensuing costs on carriers and national administrations, without bringing an added value for passengers that would outweigh these inconveniences. Others were redrafted with a view to simplifying and clarifying the Regulation.

Resulting from this approach, the Council's first-reading position modifies, to a large extent, the original Commission proposal by redrafting it and deleting several provisions of the text. This implies that all amendments introduced in the European Parliament's first-reading opinion related to these deleted provisions were not accepted by the Council.

#### 2. Key policy issues

##### (i) *Scope of application*

##### *Geographical scope*

The Commission proposed that the Regulation should apply to passenger services and cruises between ports in the Member States or at ports in Member States.

<sup>(1)</sup> Doc. 11990/08.

<sup>(2)</sup> A6-0209/2009.

<sup>(3)</sup> 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 flights, and repealing Regulation (EEC) No 295/91, OJ L 46, 17.2.2004, p. 1, and Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air, OJ L 204, 26.7.2006, p. 1.

<sup>(4)</sup> Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations, OJ L 315, 3.12.2007, p. 14.

The Council considers that the Commission proposal needs to be clarified in this respect, in order to avoid distortion of competition between intra-EU and extra-EU passenger services. The Council's first-reading position therefore fine-tunes the above provisions. It distinguishes between passenger services where the port of embarkation is situated in the territory of a Member State, on the one hand, and passenger services where the port of embarkation is situated outside the territory of a Member State, but the port of disembarkation is situated in the territory of a Member State, on the other. In the latter case, the Regulation will apply only if the service is operated by a Union carrier. However, the definition of Union carrier should be interpreted as broadly as possible in order to cover most passenger services between EU and non-EU ports. As for cruises, the Regulation will apply only to cruises where the port of embarkation is situated in the territory of a Member State.

Furthermore, the Council introduces a definition of 'territory of a Member State'.

#### Exemptions from the scope

The Commission original proposal covered in principle all passenger services, regardless of the number of passengers carried, the distance of the service, the purpose of the voyage, etc. The Commission had only foreseen a possibility for Member States to exempt services covered by public service contracts.

The Council considers it important to adapt these provisions to what is practically possible and necessary. It therefore introduces a certain number of exemptions where the provisions of the Regulation will not apply. The Council agrees to exclude from the scope passengers travelling with ships certified to carry up to 36 passengers, with ships with a crew of not more than three persons or with an overall passenger service of less than 500 meters one way. Furthermore, excursion and sightseeing trips (other than cruises) are also excluded.

In addition to this, the Member States may exempt, for a period of two years from the date of application of the Regulation, seagoing ships of less than 300 gross tons operated in domestic transport. If a Member State chooses to do so, it must however adequately ensure the rights of passengers under national law. Member States may also exempt passenger services covered by public service obligations, public service contracts or integrated services, provided that the rights of passengers are adequately guaranteed under national law.

The European Parliament followed in principle the Commission approach, but added a possibility for Member States to exempt urban and suburban services (amendment 10). The Council does not take this amendment into account, but the exemptions from the scope proposed by the Council will in practice mean that many services of that kind will be excluded.

#### (ii) *Rights of disabled persons and persons with reduced mobility*

The Council wholeheartedly supports the Commission's objective to ensure that disabled persons and persons with reduced mobility have non-discriminatory access to maritime and inland waterway transport. The Council therefore follows the Commission proposal closely, except for certain simplifications and clarifications.

Concerning the exceptions to the right of transport, the Commission had proposed that a disabled person could be denied transport with reference to safety requirements or the structure of the passenger ship. To this, the Council has added health requirements, in order to take into account cases where the medical state of the passenger is such, that his or her safe transport cannot be guaranteed.

In this respect, the European Parliament had proposed a deletion of any references to safety requirements (amendments 1, 26 and 29) and the addition of a reference to transportation in a safe, dignified and operationally feasible manner (amendment 27). As for this latter amendment, the Council integrated it into its first-reading position, except for the word 'dignified'. The Council considers that nobody, except the disabled person or person with reduced mobility, can decide what a dignified manner of transportation is and that such a decision should not be taken by the carrier.

According to the initial proposal, the carrier could require a disabled person or person with reduced mobility to be accompanied by another person who is capable of providing assistance. According to the Council's first-reading position, if the carrier makes such a request with respect to a passenger service, the accompanying person shall be carried free of charge.

As for the assistance to disabled persons and persons with reduced mobility, such assistance will be provided on the condition that the person concerned notifies the carrier or the terminal operator at the latest two working days in advance (the Commission had proposed 48 hours) and is present in the port or at a designated point at least 60 minutes before the embarkation or departure time. Furthermore, if the person has specific needs of accommodation or seating or for bringing medical equipment, the passenger should notify the carrier of such needs at the time of reservation, if the need is known at that time. This additional requirement, introduced by the Council, will allow for the carrier to cater for those specific needs and to give the best possible service to the person concerned.

Several of the European Parliament's amendments concerned information in formats accessible to disabled persons and persons with reduced mobility. These were taken on board by the Council. The same applies to the Parliament's amendments concerning changing from 'assistance animal' to 'assistance dog'.

(iii) *Obligations of carriers and terminal operators in the event of interrupted travel*

The Commission proposal provided for the right to information, assistance (including meals, refreshment and possibly hotel accommodation), re-routing and reimbursement as well as compensation of the ticket price for all passengers in case of delay and, in certain cases, cancellation of a passenger service or a cruise. However, compensation of the ticket price would not be paid when the delay or cancellation was caused by exceptional circumstances hindering the performance of the transport service.

The Council agrees with the principle that carriers and terminal operators should take care of their passengers, and it has extended this principle to include all cases of cancellations. Nevertheless, in certain cases it is not possible or reasonable to provide, for example, information on delays in an unmanned port. The Council's first-reading position therefore introduces the concept of port terminals, i.e. manned terminals in a port with certain facilities and staff (such as check in, ticket counters or lounges). Certain obligations of carriers and terminal operators only apply to passengers departing from such port terminals. This is the case of information and assistance and, to a certain extent, of re-routing and reimbursement.

Another consideration underlying the Council's first-reading position is that of maritime safety. In order to avoid that carriers, for economic reasons, set to sea or speed in weather conditions endangering the safe operation of the ship, an exemption has been introduced to the obligation of providing accommodation or compensation of the ticket price in such cases. Furthermore, the concepts of bad weather conditions and extraordinary circumstances are explained in a non-exhaustive manner in two recitals. Further exemptions to the right to assistance and compensation have been introduced when the passenger is informed of the cancellation or delay before buying the ticket or when the passenger causes the cancellation or delay. Finally, the carrier has been given the possibility to limit the cost for accommodation to 120 euro and to introduce a minimum threshold under which payments for compensation will not be paid (tickets costing 10 euro or less).

The European Parliament had suggested exemptions in case of force majeure (amendments 23 and 60) or if cancellation or delay is announced beforehand (amendment 59). The spirit of these amendments has been taken on board by the Council. Furthermore, the Parliament had proposed a limit for the cost of accommodation to twice the ticket price (amendment 53). The Council considers this to be too unfavourable for passengers and carriers in certain cases and finds the limitation to 120 euro more reasonable both for passengers and carriers.

(iv) *Complaint handling and national enforcement bodies*

The Commission proposal contained detailed rules on how carriers should handle complaints, in particular far-reaching legal consequences of not replying to complaints, and on the designation and responsibilities of national enforcement bodies.

The Council, though agreeing in principle with the proposal, in particular that carriers should reply to complaints from their customers, introduces more flexibility into the system in order to avoid any unforeseen consequences for the Member States' legal systems or administrative structures.

The European Parliament suggested that each Member State should designate only one national enforcement body (amendments 5, 6, 66, 67 and 68) and that the Member States, not the carriers, should set up an independent complaint handling mechanism (amendment 65). However, for the reasons of flexibility explained above, the Council does not consider it appropriate to limit the Member States' margin of manoeuvre in such a way. In addition, the Parliament proposed that the national enforcement bodies should be independent of all commercial interests (amendment 66). The Council's first-reading position specifies that these bodies should be independent of carriers, tour operators and terminal operators.

(v) *Date of application of the Regulation*

The Commission had proposed that the Regulation as a whole should apply from two years after publication, whereas certain provisions should apply already from one year after its publication.

The Council's first-reading position provides that the whole of the Regulation will apply from three years after its publication.

### 3. Other policy issues

The Council decides to simplify the title of the Regulation.

The Council decides to clarify the provisions on sub-contracting of certain obligations stemming from the Regulation by adding a general article on other performing parties.

The Council decides to delete the requirement for carriers to keep separate accounts for the cost of providing assistance to disabled persons and persons with reduced mobility in order to avoid unnecessary administrative burdens for, in particular, smaller carriers. In the same spirit, the Council decides to limit the obligation to set quality standard for such assistance to larger terminal operators and carriers, and to restrict the requirements of disability-related training and instructions to those categories of staff who actually need it.

### 4. Other amendments adopted by the European Parliament

Further amendments not included in the Council's first-reading position concern:

- taking into account the needs of disabled persons and persons with reduced mobility in all cases when ports, terminals and passenger ships are designed or refurbished, without the qualification 'when necessary' (amendment 2);
- the provisions governing the embarkation of disabled persons and persons with reduced mobility without prejudice to the general provisions applicable to embarkation of passengers (amendment 3);
- the invitation to the Commission to propose clear rules for passengers' rights at points of transfer between land and sea or inland waterway transport (amendment 7);
- a horizontal legislative approach covering all means of transportation in the event of a future legislative initiative relating to passenger rights (amendment 8);



- the inclusion of psychosocial disability in the definition of a disabled person or person with reduced mobility (amendment 11);
- changes to the definition of ‘transport contract’ (amendment 14) and ‘ticket vendor’ (amendment 15);
- the proposed definitions of ‘accessible formats’ (amendment 18), ‘passenger’ (amendment 19), ‘arrival’ (amendment 20), ‘departure’ (amendment 21), ‘ticket price’ (amendment 22) and ‘force majeure’ (amendment 23);
- the access rules for carriage of disabled persons and persons with reduced mobility, which should be established under the supervision of the national enforcement bodies and that these rules should include accompanying persons and the accessibility of fitted assistive equipment (amendment 31);
- the written confirmation to be given for the provision of assistance to disabled persons and persons with reduced mobility (amendment 34);
- assistance adapted to the individual needs of disabled persons or persons with reduced mobility (amendment 35);
- the responsibility of the managing body of a port to ensure that the port is accessible to disabled persons or persons with reduced mobility (amendment 37);
- the possibility of agreeing on a shorter notification period for assistance between the assistance provider and the passenger (amendment 38);
- the need to ensure that the passenger receives a confirmation of the notification of his or her assistance needs (amendment 39);
- the obligation of the carrier to provide replacement equipment suitable to the needs of the passenger concerned when mobility equipment is damaged during the journey (amendment 50);
- in case of delay, a passenger should only be offered reimbursement of the ticket price if he or she decides not to travel with the carrier (amendment 54);
- any compensation awarded under the Regulation, which may be deducted from any additional compensation granted (amendment 61);
- the penalties applicable to infringements of the Regulation, which could include ordering the payment of compensation (amendment 70);
- amendments 71, 72 and 75 concerning the Annexes to the Regulation.

### III. CONCLUSION

In establishing its position at first reading, the Council has taken full account of the proposal of the Commission and the European Parliament’s opinion at first reading. With respect to the amendments proposed by the European Parliament, the Council observes that a considerable number of amendments have – in spirit, partially or fully – already been included in its first-reading position.

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