

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament and the Council — A European vision for passengers: communication on passenger rights in all transport modes’

COM(2011) 898 final

(2012/C 229/24)

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On 19 January 2012 the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament and the Council — A European vision for passengers: communication on passenger rights in all transport modes

COM(2011) 898 final.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 135 votes to 1, with 2 abstentions.

1. Conclusions and recommendations

1.1 The EESC broadly endorses the EU's policy guaranteeing all rail, air, sea, river, coach and bus passengers common, comparable rights and conditions on all these modes of public transport, and supports all the proposed measures to remove the obstacles preventing people from exercising their rights effectively, as part of an intermodal approach.

1.2 The Committee feels that three additional rights should be added to the ten specific rights listed in the communication: the right to safety and security, including both the technical safety of the transport equipment and the physical safety of passengers; and the right to minimum standards of service quality, comfort, environmental protection and accessibility.

1.3 On the basis of these 13 rights, the relevant legislation currently in force should be re-examined with a view to improving and strengthening it if necessary.

1.4 This re-examination should pay particular attention to improving the information provided to passengers, to the rights and conditions of disabled passengers and passengers with reduced mobility, to compensating passengers in the event of disruption to or cancellation of a journey or loss of baggage, to clarifying the elements making up the final price, to the transfer of a travel contract and the conditions for complaints and options for redress, and to defining the rights of passenger organisations, which are best placed to provide citizens with information and support in exercising their rights.

1.5 To make it easier to monitor the effectiveness and efficiency of transport services, their responsiveness to changing

needs and compliance with passenger rights, the EESC suggests establishing an independent evaluation procedure, in line with the subsidiarity principle. This would involve drawing up a harmonised evaluation methodology at EU level on the basis of common indicators, in dialogue with stakeholder representatives, in particular organisations representing passengers (including disabled passengers and passengers with reduced mobility).

1.6 With regard to complaints, the EESC suggests that all carriers should use a standard e-mail address for this purpose (complaints@...), alongside other methods of filing complaints, and that time limits should be set for responding to them.

1.7 Finally, the EESC proposes that procedures for alternative dispute resolution be expanded, without depriving passengers of their right to institute legal proceedings. It also recommends that the option of an EU collective legal redress mechanism be clearly set out in a legislative text and that the scheme be duly defined.

2. Introduction

2.1 It should first be noted that the communication in question relates to passenger rights in all modes of **collective** transport by public and private carriers, and that **individual** transport by professional carriers (taxis, minibuses for fewer than 12 passengers, etc.) is outside the scope of the provisions discussed below. This is particularly regrettable given that the action plan on urban mobility (COM(2009) 490 final), which relates to both collective and individual professional transport, states that attention should be paid to pricing, quality, accessibility for people with reduced mobility, information, and passenger rights.

2.2 The European Union's sustainable development goals entail promoting and developing public transport in order to reduce individual journeys, as far as this is possible.

2.3 Recognising and safeguarding passengers' rights, and thus rebalancing the relationship between users and carriers, is therefore a prerequisite for developing and promoting public transport.

2.4 The European Union has been working hard since 2001 to protect passengers and strengthen their rights with regard to the various modes of transport, and to this end has gradually developed legislation ensuring a high level of protection so that users of rail, air, sea, river, bus and coach transport – including disabled passengers and passengers with reduced mobility – have comparable rights and conditions throughout the EU. However, the rules on waterborne and bus/coach transport will not come into force until December 2012 and March 2013, respectively.

2.5 In 2010, the Commission launched a huge two-year campaign called *Your passenger rights at hand*, which included developing a website (<http://ec.europa.eu/passenger-rights>) summarising passengers' rights for each mode of transport, in all the EU official languages. Free brochures reminding travellers of their rights have also been distributed, and posters have been put up in all railway stations and airports in the Member States. The Commission has recently decided to extend this campaign to 2014.

2.6 However, public transport is still rife with asymmetries between passengers and carriers in terms of information, responsibilities and situation. The Committee has the impression that many travellers are still not fully aware of their rights, or do not know how to exercise or make proper use of them. The Commission's studies and surveys show that, for disputes worth less than EUR 1 000, only one in five European consumers would go to court for compensation, due to the costs involved and the length and complexity of proceedings.

2.7 Moreover, according to the Commission, national authorities still apply national legislation in different ways, which confuses passengers and carriers alike and creates distortions in the market.

2.8 The Commission therefore intends to reinforce the implementation of current rules, improving them where necessary, and to this end has just launched a public consultation on a possible revision of the air passenger rights regulation.

3. Content of the Communication

3.1 The communication summarises the rights and principles which apply to all modes of public transport; it also identifies loopholes that can be filled and aims to remove obstacles which prevent citizens from effectively exercising their rights under EU law.

3.2 The communication sets out three key principles – non-discrimination; accurate, timely and accessible information; and immediate and proportionate assistance – and derives from them ten specific rights that, with a view to a more intermodal approach, apply to all modes of transport:

- 1) right to non-discrimination in access to transport;
- 2) right to mobility: accessibility and assistance at no additional cost for disabled passengers and passengers with reduced mobility (PRM);
- 3) right to information before purchase and at the various stages of travel, notably in case of disruption;
- 4) right to renounce travelling (reimbursement of the full cost of the ticket) when the trip is not carried out as planned;
- 5) right to the fulfilment of the transport contract in the event of disruption (rerouting and rebooking);
- 6) right to get assistance in case of long delays at departure or at connecting points;
- 7) right to compensation under certain circumstances;
- 8) right to carrier liability towards passengers and their baggage;
- 9) right to a quick and accessible system of complaint handling;
- 10) right to full application and effective enforcement of EU law.

3.3 Although conditions and arrangements for application vary and evolve depending on the specific features of the various modes of transport, the main objective now is to make these rules easily understandable and to consolidate their implementation and enforcement in all modes of transport to ensure a convergent approach in this area.

3.4 To improve passenger protection beyond EU borders, passenger rights issues will be addressed in bilateral and international agreements.

4. General comments

4.1 The Commission is to be congratulated on having developed a policy guaranteeing a common or comparable set of passenger rights and conditions for all modes of public transport that meets both the objectives of the treaties with regard to consumer protection (Title XV, Article 169 of the Treaty on the Functioning of the European Union) and the guidelines in the Charter of Fundamental Rights and the case-law of the Court of Justice of the European Union.

4.2 Although the EESC welcomes the fact that the communication brings together in a single document all the rules and regulations currently in place with regard to public transport passengers' rights, it finds it regrettable that it contains no data concerning the obstacles mentioned.

4.3 The EESC supports any action to remove obstacles that prevent citizens from effectively exercising their rights, and congratulates the Commission on its proposed action to ensure that all users of rail, air, sea, river, bus and coach transport have comparable rights and conditions, irrespective of the transport mode(s) used.

4.4 One of these obstacles is often non-existent, incomplete or incomprehensible information on passengers' rights and obligations when purchasing tickets, before the journey, and during the journey in the event of disruption.

4.5 The EESC proposes that, in order to provide all passengers with clear information on their rights, passengers should be told (via a link to a relevant website, and information printed on each ticket in clear, concise, accessible language that is easy to understand, including for people with disabilities), each time they book a journey or buy a ticket, where to find the relevant information, either in brochures distributed at points of sale or on the Internet. The passenger information campaign launched by the Commission in 2010 should be continued in close cooperation with consumer organisations.

4.6 Moreover, there are substantial differences between the various modes of transport, which disadvantage users. This is particularly true of air transport, with regard to which the EESC has previously noted (in its exploratory opinion on the subject ⁽¹⁾) that certain aspects of air passengers' rights were deteriorating in relation to provisions in other modes of transport, and called for:

- the extent of the right to assistance to be determined;
- information to passengers to be improved, including during journeys;
- the right to information to be extended to boarding areas;
- the scope of the term 'extraordinary circumstance' to be clarified;

- guidelines to be drawn up, in cooperation with representatives of people with reduced mobility, to clarify the definitions in Regulation No 1107/2006 concerning the rights of disabled persons and persons with reduced mobility and to improve the implementation thereof;
- the elements forming the final price to be specified;
- an obligation to be established to compensate passengers if an airline goes bankrupt, the principle of 'joint and several liability' on the part of other companies to repatriate passengers to be implemented, and a passenger compensation fund to be established;
- the option to be provided of transferring a travel contract to a third party at no cost.

All these provisions should also apply to other modes of transport where they do not already exist.

4.7 The ten specific rights set out in the communication in question are a sound basis for helping passengers towards a better understanding of what they can legitimately expect in terms of minimum service quality when travelling, and for helping carriers towards more coherent and effective application of EU law.

4.8 The EESC nonetheless feels that three additional rights should be added to the ten specific rights listed in the communication:

- 1) the right to safety and security, including both the technical safety of the transport equipment and the physical safety of passengers;
- 2) the right to minimum standards of service quality, comfort and accessibility and to advance warning from the carrier in the event of overbooking. The EESC notes that, in communication COM(2009) 490 on the Action Plan on Urban Mobility, the Commission stated that it wanted to complement its regulatory approach with common quality indicators to protect the rights of travellers and of persons with reduced mobility;
- 3) the right to compliance, by the carriers, with the principles of maintaining, protecting and improving the quality of the environment, as laid down in the Treaty.

4.9 On the basis of these 13 rights, the relevant legislation currently in force should be re-examined. This should include analysing and resolving known issues such as the obstacles for disabled people and people with reduced mobility, the opacity of fare structures, inadequate or incomprehensible information, unclear and complicated options for seeking redress, inappropriate financial compensation, excessive delays in processing complaints, etc.

⁽¹⁾ OJ C 24, 28.1.2012, p. 125-130.

4.10 Given that the Commission itself recognises in its communication that the publication of operator performance reviews and passenger satisfaction surveys would facilitate uniform monitoring and enforcement by the national enforcement bodies, the EESC advocates undertaking such reviews, and considers that representatives of all stakeholders should be involved in a requirements analysis and a review of performance and respect for passenger rights.

4.11 The EESC therefore suggests that a regular evaluation system should be set up in order to improve the efficiency and effectiveness of transport services and their alignment with the changing needs of passengers, and to check that passenger rights are being respected. This would involve laying down, at Community level, the procedures for exchange, comparison and coordination, and stimulating the independent evaluation process, while respecting the subsidiarity principle, by defining harmonised evaluation methodology at European level based on common indicators, in dialogue with stakeholder representatives, in particular organisations representing passengers (including disabled passengers and passengers with reduced mobility).

4.12 The EESC endorses the Commission's intention not to restrict itself to sectoral measures, as has been the case to date, but to try to develop an intermodal approach that takes account of users' mobility and travel needs regardless of which modes of transport they are using or combining, in order to provide intermodal continuity. The only way of avoiding distortions of competition between different transport modes is to improve the harmonisation of passenger rights.

4.13 The communication refers, in response to most of the shortcomings and loopholes it raises, either to the impact assessment for the revision of the air regulation, which will suggest possible binding measures, or to voluntary agreements by carriers. The EESC would have liked to see a more decisive attitude focusing on binding measures.

4.14 The EESC regrets that the communication makes no mention of the rights and powers of organisations that represent passengers, particularly as it is such organisations – including those representing the interests of disabled people and people with reduced mobility – that are best placed to provide people with information and support in exercising their rights.

4.15 Passengers must be provided with clearly-worded information on who to contact to submit complaints and how to do so, and on the avenues for redress available to them. The EESC suggests that all carriers should use a standard email address for complaints (complaints@...), with the proviso that all alternative ways of submitting complaints (post, submission at a point of sale, etc.) must be available. Mandatory time limits for responding should also be established.

4.16 The EESC calls for further details to be added to the communication concerning passengers' options for appealing to Member-State and European-level bodies with decision-making powers and powers of constraint, should their complaints and claims be rejected. Under no circumstances must the right to redress be linked to the price paid for the journey.

4.17 The EESC points out that, particularly where there are small, scattered claims, the right to compensation is often purely theoretical because of the obstacles to exercising it in practice. It is important to ensure that procedures for redress are not so complex and expensive that they discourage complainants, and the EESC would therefore advocate expanding procedures for alternative dispute resolution (ADR), without depriving passengers of their right to institute legal proceedings.

4.18 The EESC has previously taken note (in opinion CESE 803/2012) that it is now possible for ADR procedures to cover collective disputes, as a first step towards establishing an EU collective legal redress mechanism, but recommends that this possibility be clearly stated in a legislative text and the scheme duly defined.

Brussels, 23 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON
