

**Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council concerning the rights of persons with reduced mobility when travelling by air'**

(COM(2005) 47 *final* — 07/2005 (COD))

(2006/C 24/03)

On 8 April 2005 the Council decided to consult the European Economic and Social Committee, under Article 71 of the Treaty establishing the European Community, on the abovementioned proposal.

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 1 September 2005. The rapporteur was Mr Cabra de Luna.

At its 420th plenary session held on 28 and 29 September 2005 (meeting of 28 September), the European Economic and Social Committee adopted the following opinion by 160 votes to 2 with 1 abstention.

## 1. Introduction

1.1 The Commission has presented a proposal for a regulation concerning the rights of persons with reduced mobility when travelling by air, with the aim of guaranteeing disabled persons and persons with reduced mobility equal opportunities in air travel compared to the rest of the population.

1.2 The Commission considers travelling by air as one of the tools for the integration and the active participation of persons with disabilities in the economic and social life.

1.3 The Commission places the initiative in the context of its non-discrimination policies, expressly confirmed as a general principle in the Article 21 of the Charter of Fundamental Rights of the European Union. Furthermore Article 13 of the EC Treaty enables the European Community to combat discrimination on the grounds of *inter alia* disability.

1.4 The regulation aims at ensuring that the opportunities opened by the creation of a single market in air transport should equally benefit to all passengers.

1.5 The proposal of the Commission constitutes the first legislation targeting specifically disabled people in the European Community law, although its effects will be positive on many elderly people, and passengers with temporary reduced mobility.

1.6 The proposal, aimed at preventing unfair treatment, is based on some fundamental principles:

- passengers with reduced mobility should not be refused carriage, except cases that requires denied boarding for safety reasons;
- adequate assistance should be provided without directly charging the passenger with reduced mobility;

- passengers with reduced mobility should be provided seamless high quality service from designated points of arrival to designated points of departure;
- a centralised system of assistance;
- effective sanctions in the case of non-compliance with the regulation.

1.7 Voluntary agreements taken by air carriers and airports in the last years have to be considered as a first positive step towards eliminating unfair treatment and ensuring quality in assistance for people with reduced mobility. Nevertheless these agreements have proven to be insufficient, and there is a need for defining clear responsibilities and rules in this key area.

## 2. General comments

2.1 The Committee welcomes the initiative of the Commission and fully supports the fundamental principles of the proposal.

2.2 The regulation contributes clearly to removing barriers to air transport for people with reduced mobility. It is also connected to the recent regulation adopted by the EU on compensation and assistance to passengers for denied boarding, cancellation, and long delay of flights<sup>(1)</sup>, which contributes to strengthening passengers' rights.

2.3 Furthermore the EESC has advocated in its recent opinions<sup>(2)</sup> for the need of legislation beyond employment, tackling barriers faced by disabled people in other areas of life. Mobility is a key area for social inclusion of people with disabilities.

<sup>(1)</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 40, 17.2.2004 p. 1) – EESC opinion OJ C 241, 7.10.2002, p. 29.

<sup>(2)</sup> See Opinion of the Economic and Social Committee on *the Integration of disabled people in society* - OJ C 241, 7.10.2002, p. 89 and Opinion of the Economic and Social Committee on *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Equal opportunities for people with disabilities: A European Action Plan* - OJ C 110, 30.4.2004 p. 26.

2.4 The EESC regrets that the legislation does not include provisions for accessibility for disabled people of airport infrastructure, vehicles used for transport of passengers, and airplanes. The EESC notes that only such measures will ensure equal opportunities in air travel. The EESC invites the European Commission to put forward further legislation in order to ensure that all new infrastructure and transport equipment is accessible, and to ensure that existing barriers are gradually dismantled.

2.5 The Committee supports the general framework of the regulation and endorses in particular the provision for one single centralised service managing body at airports, as such a system is the most reliable way to ensure accountability, high quality and consistent assistance for passengers with reduced mobility.

2.6 The Committee considers nonetheless that some provisions should be reinforced, in order to best meet the general objective.

2.7 The Committee also insists on the need for a wide consultation of representative organisations within civil society, in order to ensure that the rights of all citizens, including those with reduced mobility are guaranteed in the air transport sector. Furthermore in order to ensure the best implementation of the regulation, it is important to ensure that a dialogue — comprising safety standards — is established between airports, service providers, airlines, and representative organisations of disabled people, including people with reduced mobility within the Airport Users Committee.

The Committee welcomes the fact that assistance will not be charged to people with disabilities, but disagrees with the proposal that assistance should be financed in such a way as to spread the burden equitably over all passengers, as stated in recital 7 of the EC draft regulation. The Committee restates that the charge of assistance must be shared among the air carriers using an airport in proportion to the number of passengers that each carries to and from that airport, and that it should not in any case lead to an increase of air fares paid by passengers.

2.8 The Committee notes that the derogation from the main principle in Article 3 — the prevention of refusal of carriage — provided for in Article 4, by which denied boarding is allowed in order to meet safety requirements, should be further clarified in order to prevent arbitrary denials. A framework should be defined at EU level specifying and defining safety requirements either through an annex attached to this regulation or through an implementing regulation. Currently such rules are defined by carriers or by legislation and as a consequence are very diverse and sometimes contradictory. The proposal by the European Commission to have safety requirements defined by national legislation would not solve this problem. In addition information on safety requirements

should be made publicly available to all passengers, and not only upon request.

2.9 The Committee also notes the lack of an explicit provision obliging the airline to reimburse or re-route and take care of a person that has been denied boarding pursuant to the regulation, in a manner similar to the one provided in the regulation on compensation and assistance to passengers for denied boarding, cancellation, and long delay of flights.

2.10 The Committee also highlights the need to reinforce provisions on the obligation to provide assistance mentioned in article 5. The responsibility of the airport managing body should be extended also to passengers transferred or in transit through an airport as long as they have given 24 hours notification. The current wording of the proposal — *make all reasonable efforts* — is not satisfactory. However, exceptional circumstances, independent of the managing body, can be taken into account.

2.11 The Committee takes the view that all European airports should set consistent, high quality standards, for passengers with reduced mobility beyond those established in annex I of the regulation. The two million passengers threshold in the current proposal would exempt a significant number of European airports from this main obligation. In addition, the Committee believes that for small airports below one million passengers per year quality standards — adapted to their size — have also to be established at local level in close cooperation with organisations of disabled people, including people with reduced mobility.

2.12 The EESC also points out that disability awareness training of adequate staff is necessary in order to ensure adequate assistance to the person's needs and quality. The application of new technologies (e.g. short message services (SMS) or pagers could also facilitate transfer of passengers with reduced mobility (such as people with hearing and visual disabilities).

2.13 Consideration should be given to the need for a simple procedure for notification of assistance which should be also free of charge. Such notification happens as a general rule when tickets are reserved, and is received by airline companies. It is therefore essential that there is a reliable information transfer from airline companies to airports, in order to ensure the best quality of services. A confirmation code should be given to the passenger when notifying the need for assistance. Moreover, in case of dispute, the burden of proof concerning non-notification should rest with air carriers and/or the tour operator responsible for the reservation.

2.14 Furthermore accessibility requirements should be taken into account in notification procedures. Alternative modes of communication: telephone and internet should be available. Internet web-sites should be WAI-compliant<sup>(3)</sup> and telephone notification should be free of charge.

<sup>(3)</sup> The Web Accessibility Initiative (WAI) are internationally accepted guidelines for accessibility of Web sites, browsers, and authoring tools, in order to make it easier for people with disabilities (e.g. physical, visual, hearing, and cognitive or neurological disabilities), to use the Web. For further information see: <http://www.w3.org/WAI> and the European Commission Communication on improving the accessibility of public web sites on 25 September 2001.

2.15 The EESC also considers that a reference should be inserted in the text of the regulation to Directive 95/46/EC on the protection of individuals with the regard to the processing of personal data and on free movement of such data, in order to ensure respect to privacy, that the information requested is limited to the purposes of carrying out the obligations of assistance set in the regulation, and that it shall not be used against the passenger requiring the service.

2.16 The Committee is concerned that the designation of different bodies at Member State level responsible for complaints may prevent effective infringement procedures and access by passengers. The EESC highlights the need for an easily accessible body for receiving complaints, monitoring implementation of the regulation and the enforcement. The EESC believes that one single body in each Member State could be responsible for these matters in order to provide for a less complex system than in the current proposal. Given the internationalisation of air travel, and the increasing number of passengers travelling between countries different than their country of residence, the EESC considers appropriate the establishment of a European-level body.

2.17 The EESC argues for the need for persons with reduced mobility being entitled to full compensation in case of damaged or lost mobility equipment. The important consequences to the mobility, autonomy, and security of the passenger must be duly taken into account. The EESC also considers that the responsibility for ground handling of mobility equipment should be attributed to the air carrier, in order to ensure consistency with the International framework for air carriers liability, as established by the Montreal Convention.

2.18 The Committee also would like to point out the need to establish firmly in the regulation clear responsibilities and liabilities in case of accident or mishandling of passengers needing assistance whether at the airport, or when boarding the aircraft in line with the Warsaw Convention as amended by the Hague and Montreal Conventions <sup>(4)</sup>.

2.19 The EESC would also like to address some issues relating to assistance on board aircrafts. The EESC proposes to delete the proposed limitation of carriage of guide dogs to five hours as this limitation does not exist in practice. The regulation should also include a requirement on carriers to inform on restrictions on carriage on board of mobility equipment. Provisions on the accessibility of information concerning flights should be extended to safety measures.

2.20 The EESC is also concerned that the regulation does not tackle all obstacles to air travel. In particular, it is crucial that all new airports are accessible for persons with reduced mobility and that existing airports gradually eliminate barriers to equal access.

2.21 Furthermore the EESC would like to recommend air carriers when buying or chartering new aircrafts to choose those that meet accessibility standards.

### 3. Conclusion

3.1 The EESC supports strongly the proposal, but recommends a number of changes detailed in Part 2 in order to ensure greater consistency and effectiveness to the need for equal opportunities for disabled passengers and passengers with reduced mobility when travelling by air.

Brussels, 28 September 2005

The President  
of the European Economic and Social Committee  
Anne Marie SIGMUND

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<sup>(4)</sup> See Article 7 that establishes responsibilities for air carriers in case of accidents, on board the aircraft or when embarking and disembarking a passenger.