

Thursday 23 April 2009

Rights of passengers in bus and coach transport *I**

P6_TA(2009)0281

European Parliament legislative resolution of 23 April 2009 on the proposal for a regulation of the European Parliament and of the Council on the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (COM(2008)0817 – C6-0469/2008 – 2008/0237(COD))

(2010/C 184 E/68)

(Codecision procedure: first reading)

The European Parliament,

— having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0817),

— having regard to Article 251(2) and Article 71(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0469/2008),

— having regard to Rule 51 of its Rules of Procedure,

— having regard to the report of the Committee on Transport (A6-0250/2009),

1. Approves the Commission proposal as amended;
2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
3. Instructs its President to forward its position to the Council and to the Commission.

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P6_TC1-COD(2008)0237

Position of the European Parliament adopted at first reading on 23 April 2009 with a view to the adoption of Regulation (EC) No .../2009 of the European Parliament and of the Council on the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71(1) thereof,

Having regard to the proposal from the Commission **||** ,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) Action by the Community in the field of bus and coach transport should aim, among other things, at ensuring a high level of protection for passengers that is comparable to other modes of transport and wherever they travel. Moreover, full account should be taken of *general consumer protection* requirements.
- (2) Since the bus or coach passenger is the weaker party to the transport contract, passengers' rights in this respect should be safeguarded *irrespective* of their nationality or place of residence within the Community.
- (3) *Member States should have the possibility to exempt urban and suburban transport from this Regulation if they ensure a comparable level of passenger rights through alternative regulatory measures. These measures should take into account passenger charters for multimodal public transport networks, which cover the issues set out in Article 1 of this Regulation. The Commission should examine the possibility of establishing a set of common passenger rights for urban, suburban and regional transport, which cover all modes of transport and submit a report to Parliament, accompanied, if appropriate, by a legislative proposal.*
- (4) *Member States should encourage the development of passenger charters for urban, suburban and regional bus and/or coach services which set out commitments by bus and/or coach undertakings to increase the quality of their service and better meet the needs of their passengers.*
- (5) *EU measures to improve passengers' rights in the bus and coach transport sector should take account of the specific characteristics of this sector, which consists largely of small and medium sized undertakings.*
- (6) Passengers should enjoy liability rules comparable to those applicable to other modes of transport in the event of accidents resulting in death or injury.

⁽¹⁾ OJ C ...

⁽²⁾ OJ C ...

⁽³⁾ Position of the European Parliament of 23 April 2009.

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- (7) Passengers should be entitled to advance payments to cover their immediate economic needs following an accident.
- (8) *Passengers who have suffered damage as a result of an accident covered by an insurance guarantee should, in the first instance, submit their claims for damages, as referred to in this Regulation, to the bus and/or coach undertaking and may apply to the insurance company only if that undertaking fails to take action in the matter.*
- (9) Bus and/or coach undertakings should be liable for loss or damage of passengers' luggage on terms comparable to those applicable to other modes of transport.
- (10) Bus and coach passenger services should benefit citizens in general. Consequently, disabled persons and persons with reduced mobility, whether caused by disability, age or any other factor, should have opportunities comparable to those of other citizens for using bus and coach services ¹. Disabled persons and persons with reduced mobility have the same right as all other citizens to free movement, freedom of choice and non-discrimination.
- (11) 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 bus and coach 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 grounds of safety and prescribed by law. They should enjoy the right to assistance at bus and coach terminals and on board the vehicles, including embarking and disembarking. In the interest of social inclusion, the persons concerned should receive the assistance without additional charge. Bus and/or coach undertakings should establish accessibility rules, preferably using the European Standardisation system.
- (12) *There is a need for bus and/or coach undertakings to provide specific training to their personnel enabling them to properly assist disabled persons and persons with reduced mobility. Such training should be provided within the framework of Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers ⁽¹⁾. Member States should - to the extent possible - support the bus and/or coach undertakings in the setting up and execution of appropriate training programmes.*
- (13) In deciding on the design of new terminals, and as part of major refurbishments, managing bodies should, **without exception**, take into account the needs of disabled persons and persons with reduced mobility. In any case, managing bodies of bus and coach terminals should designate points where such persons can notify their arrival and need for assistance.
- (14) *Similarly, bus and/or coach undertakings should take those needs into account when deciding on the design of new and newly refurbished vehicles.*
- (15) *Member States should improve existing infrastructure, where this is necessary to enable bus and/or coach undertakings to ensure access for disabled persons and persons with reduced mobility as well as to provide appropriate assistance.*
- (16) *EU measures to improve barrier-free mobility should promote, as a matter of priority, barrier-free access to bus and coach terminals and stops.*
- (17) *According to the conclusions of the COST 349 project on accessibility of coaches and long distance buses, the Commission should propose action for accessible infrastructure, interoperable throughout the EU, at bus and coach terminals and stops.*

⁽¹⁾ OJ L 226, 10.9.2003, p. 4.

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- (18) Rights of bus and coach passengers should include the receipt of information regarding the service before and during the journey. All essential information provided to bus and coach passengers should also be provided in alternative formats accessible to disabled persons and persons with reduced mobility.
- (19) This Regulation should not restrict the rights of bus and/or coach undertakings to seek compensation from any person, including third parties, in accordance with the applicable law.
- (20) Inconveniences experienced by passengers due to cancellation or long delay of their journey should be reduced. To this end, passengers should be adequately looked after and informed. Passengers should be able to cancel and have their tickets reimbursed or to obtain re-routing under satisfactory conditions or information on alternative transport services. If bus and/or coach undertakings fail to provide passengers with the necessary assistance, passengers should have a right to obtain financial compensation.
- (21) Bus and/or coach undertakings 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.
- (22) This Regulation shall 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 ⁽¹⁾. In the event that a package tour is cancelled for reasons other than the bus and coach transport service being cancelled, this Regulation should not apply.
- (23) Passengers should be fully informed of their rights provided for in this Regulation, so that they can effectively exercise those rights.
- (24) Passengers should be able to exercise their rights by means of appropriate complaint procedures implemented by bus and/or coach undertakings or, as the case may be, by submission of complaints to the body or bodies designated to that end by the relevant Member State.
- (25) Member States should ensure and supervise general compliance by bus and/or coach undertakings with this Regulation and designate an appropriate body to carry out such enforcement tasks. The supervision should not affect the rights of passengers to seek legal redress from courts according to national legal procedures.
- (26) Member States should lay down penalties applicable to infringements of this Regulation and ensure that those penalties are applied. Those penalties should be effective, proportionate and dissuasive.
- (27) Since the objectives of this Regulation, namely to ensure high and equivalent levels of protection of and assistance to passengers in bus and coach transport across all Member States, cannot sufficiently be achieved by the Member States alone and can therefore by reason of the significant international dimension be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (28) This Regulation should be without prejudice to 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 ⁽²⁾.

⁽¹⁾ OJ L 158, 23.6.1990, p. 59.

⁽²⁾ OJ L 281, 23.11.1995, p. 31.

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(29) The enforcement of this Regulation should be based on Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection law (the Regulation on consumer protection cooperation) ⁽¹⁾. That Regulation should therefore be amended accordingly.

(30) This Regulation respects the fundamental rights and *complies with* the principles recognised in particular by the Charter of Fundamental Rights of the European Union,

HAVE ADOPTED THIS REGULATION:

Chapter I

General provisions

Article 1

Subject matter

This Regulation establishes rules as regards the following:

- (1) non-discrimination between passengers with regard to transport conditions offered by bus and/or coach undertakings;
- (2) the liability of bus and/or coach undertakings in the event of accidents resulting in death or injury of passengers or loss of or damage to their luggage;
- (3) non-discrimination and mandatory assistance for disabled persons and persons with reduced mobility travelling by bus or coach;
- (4) *the* obligations of bus and/or coach undertakings towards passengers in *the event* of cancellation or delay;
- (5) the minimum information to be provided to passengers;
- (6) the handling of complaints;
- (7) the enforcement of *passengers'* rights.

Article 2

Scope

1. This Regulation shall apply to the carriage of passengers by bus and/or coach undertakings by means of regular services.
2. Member States may exempt urban **and** suburban ■ transport covered by public service contracts, if such contracts ensure a comparable level of passenger rights to that required by this Regulation.
3. With respect to occasional services, only Chapter II shall be applicable.

Article 3

Definitions

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

⁽¹⁾ OJ L 364, 9.12.2004, p. 1

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- (1) 'bus and/or coach undertaking' means a transport undertaking that is authorised in the State of establishment to undertake carriage by coach and bus in accordance with the market-access conditions laid down by national legislation and a transport undertaking holding a valid Community licence issued in conformity with Council Regulation (EEC) No 684/92 **of 16 March 1992 on common rules for the international carriage of passengers by coach and bus** ⁽¹⁾ for the purpose of carrying out international services of carriage of passengers;
- (2) 'occasional services' means services within the meaning of Article 2(3) of Regulation (EEC) No 684/92;
- (3) 'regular services' means services within the meaning of Article 2(1) of Regulation (EEC) No 684/92;
- (4) 'transport contract' means a contract of carriage between a bus and/or coach undertaking ■ and a passenger for the provision of one or more transport services, **irrespective of whether the ticket was purchased from a carrier, tour operator or ticket vendor**;
- (5) 'ticket' means a valid document giving entitlement to transport, or something equivalent in paperless form, including electronic form, issued or authorised by a bus and/or coach undertaking or its authorised ticket vendors;
- (6) 'ticket vendor' means any **intermediary selling bus or coach transport services, including those sold as part of a package**, on behalf of a bus and/or coach undertaking **or a tour operator**;
- (7) 'tour operator' means an organiser ■ within the meaning of Article 2(2) ■ of Directive 90/314/EEC;
- (8) '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 locomotory, 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 services made available to all passengers;
- (9) 'reservation' means an authorisation, on paper or in electronic form, giving entitlement to transportation subject to previously confirmed personalised transport arrangements;
- (10) 'terminal managing body' means an organisational entity in a Member State which has been made responsible for the management of a bus and/or coach terminal;
- (11) 'cancellation' means the non-operation of a **specific** service which was previously scheduled and for which at least one **actual** reservation was made;
- (12) 'delay' means a difference between the time the passenger was scheduled to depart or to arrive in accordance with the published timetable and the time of his actual or expected departure or arrival;
- (13) **'accessible formats' means that passengers can access the same information using, for example, text, Braille, audio, video and/or electronic formats.**

Article 4

Transport contract and non-discriminatory contract conditions

1. Bus and/or coach undertakings shall provide passengers with a proof of the conclusion of the transport contract by issuing one or more tickets. The tickets shall be considered prima facie evidence of the conclusion of the contract and thus give rights as provided for in this Regulation.

⁽¹⁾ OJ L 74, 20.3.1992, p. 1.

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2. Without prejudice to public service obligations requiring social tariffs, contract conditions and tariffs applied by bus and/or coach undertakings or ticket vendors shall be offered to the general public without any discrimination based on the nationality or the place of residence of the final customer or on the place of establishment of the bus and/or coach undertakings, or ticket vendors within the Community.

Article 5

Exclusion of waiver

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

2. Bus and/or coach undertakings may offer contract conditions that are more favourable for the passenger than the conditions laid down in this Regulation.

Chapter II

Liability of bus and/or coach undertakings with regard to passengers and their luggage

Article 6

Liability for death and injury of passengers

1. In accordance with this Chapter, bus and/or coach undertakings shall be liable for the loss or damage resulting from the death of, **or** personal injury **■** to, passengers, caused by accidents arising out of the operation of bus and coach transport services and occurring while the passenger is in, entering or leaving the vehicle.

2. The **tortious** liability of bus and/or coach undertakings for damages shall not be subject to any financial limit, be it defined by law, convention or contract.

3. For any *claim* up to the amount of EUR 220 000 **per passenger**, a bus and/or coach undertaking shall not exclude or limit its liability by proving that it has taken the care required pursuant to paragraph 4(a), **unless the total amount of the resulting claim exceeds the amount for which compulsory insurance is, in conformity with Second Council Directive 84/5/EEC of 30 December 1983 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles ⁽¹⁾, required under the national legislation of the Member state in which the bus or coach is normally based. In such a situation, liability shall be limited to that amount.**

4. A bus and/or coach undertaking shall not be liable pursuant to paragraph 1:

(a) if the accident has been caused by circumstances not connected with the operation of bus and coach transport services **or** which the **carrier** could not have avoided, in spite of having taken the care required in the particular circumstances of the case, **or** the consequences of which it was unable to prevent;

(b) to the extent that the accident is the fault of the passenger or caused by his negligence.

5. Nothing in this Regulation shall:

(a) imply that a bus and/or coach undertaking is the sole party liable to pay damages; or

(b) restrict any rights of a bus and/or coach undertaking to seek redress from any other party in accordance with *the* applicable law of a Member State.

⁽¹⁾ **OJ L 8, 11.1.1984, p. 17.**

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Article 7

Damages

1. In the event of the death of a passenger, the damages in respect of the liability provided for in Article 6 shall comprise:

(a) any necessary costs following the *passenger's* death, in particular the cost of transporting the body and the funeral expenses;

(b) if the death does not occur at once, the damages provided for in paragraph 2 ¶.

2. In the event of personal injury or any other physical or mental harm to a passenger, the damages shall comprise:

(a) any necessary costs, in particular those *for* treatment and *for* transport;

(b) compensation for financial loss, due to total or partial incapacity to work, or to increased needs.

3. If, through the death of the passenger, a person whom the passenger had, or would have had, a legal duty to maintain is deprived of support, such persons shall also be compensated for that loss.

Article 8

Advance payments

1. In the event of the death of, **or any** personal injury ¶ to, passengers, caused by an accident arising out of the operation of bus and coach transport services, **and where the passenger is not covered by any other travel insurance policy**, the bus and/or coach undertaking shall without delay, and in any event **within** fifteen days **of the** establishment of the identity of the natural person entitled to compensation, make such advance payments as may be required to meet immediate economic needs on a basis proportional to the damage suffered, **provided that there is prima facie evidence of causality attributable to the transport undertaking**.

2. Without prejudice to paragraph 1, the advance payment shall not be less than EUR 21 000 per passenger in the event of death.

3. An advance payment shall not constitute recognition of liability and may be offset against any subsequent sums paid on the basis of this Regulation but it shall not be returnable, except in cases where the damage was caused by the negligence or fault of the passenger, where the person who received the advance payment was not the person entitled to compensation, **or where the actual damage incurred was below the amount of the advance payment**.

Article 9

Liability for lost and damaged luggage

1. Bus and/or coach undertakings shall be liable for the loss of or damage to luggage placed under their responsibility. The maximum compensation shall amount to EUR 1 800 per passenger.

2. In the event of accidents arising out of the operation of bus and coach transport services, bus and/or coach undertakings shall be liable for loss of or damage to the personal effects which passengers had on them or with them as hand luggage. The maximum compensation shall amount to EUR 1 300 *per passenger*.

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3. **■** A bus and/or coach undertaking **shall not be held liable for loss or damage pursuant to paragraphs 1 and 2:**

(a) if the loss or damage has been caused by circumstances not connected with the operation of bus and coach transport services and which the bus and/or coach undertaking could not have avoided, in spite of having taken the care required in the particular circumstances of the case, and the consequences of which it was unable to prevent;

(b) to the extent that the loss or damage is the fault of the passenger or caused by his negligence.

Chapter III

Rights of disabled persons and persons with reduced mobility

Article 10

Prevention of refusal of carriage

1. Bus and/or coach undertakings, their ticket vendors and tour operators shall not refuse, on the grounds of disability or of reduced mobility:

(a) to accept a reservation for a transport service or to issue a ticket for a journey to which this Regulation applies;

(b) to embark a disabled person or a person with reduced mobility, provided that the person concerned has a valid ticket or reservation.

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

Article 11

Derogations and special conditions

1. Notwithstanding the provisions of Article 10, bus and/or coach undertakings or their ticket vendors or tour operators may refuse, on the grounds of disability or reduced mobility, to accept a reservation from, to issue a ticket to or to embark a disabled person or a person with reduced mobility:

■

(a) where the **design** of the vehicle makes the embarkation or carriage of the disabled person or person with reduced mobility physically **or actually** impossible;

(b) if the vehicle or the infrastructure at the place of departure or arrival or en route is not fitted out in such a way as to guarantee the safe transport of disabled persons and persons with reduced mobility.

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

2. A disabled person or a person with reduced mobility who has been denied embarkation on the grounds of his disability or reduced mobility shall be offered **the choice between** the right to reimbursement and reasonable alternative transport services to the place of destination in a comparable time frame.

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3. **■** A bus and/or coach undertaking, a ticket vendor or a tour operator may require that disabled persons or persons with reduced mobility be accompanied by another person who is capable of providing the assistance required by that person, if this is strictly necessary, **if**

(a) the conditions referred to in paragraph 1(a) or (b) apply, or

(b) the crew of the vehicle concerned consists only of one person who drives the vehicle and who is not in a position to provide the disabled person or the person with reduced mobility with the assistance as specified in Annex I.

4. When a bus and/or coach undertaking or a ticket vendor or a tour operator exercise the derogation provided for in paragraph 1, it shall immediately inform the disabled person or person with reduced mobility of the reasons, or upon request inform them in writing within five working days of the **request**.

Article 12

Accessibility and information

1. Bus and/or coach undertakings shall establish, **in co-operation with** organisations **representing** disabled persons and persons with reduced mobility and enforcement bodies referred to in Article 27, non-discriminatory access rules that apply to the transport of disabled persons and persons with reduced mobility **and accompanying persons**, in order to meet applicable safety requirements. These rules shall **set out all the access conditions** of the bus and coach service in question, including accessibility of the vehicles operated and their facilities on board, **and of the fitted assistive equipment**.

2. The rules provided for in paragraph 1 shall be made publicly available by bus and/or coach undertakings or ticket vendors at least at the time a reservation is made, 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.

3. Upon request bus and/or coach undertakings shall **immediately** make available the international, Community or national law establishing the safety requirements, on which non-discriminatory access rules are based. **These must be provided in accessible formats.**

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

5. Bus and/or coach undertakings, their ticket vendors or tour operators shall ensure that all relevant information concerning the conditions of carriage, journey information and information on accessibility of services, **including online booking and information**, is available in **■ accessible formats** for disabled persons and persons with reduced mobility **extending to persons incapable of travelling without assistance because of their elderly or young age and accompanying persons**.

Article 13

Right to assistance

1. Terminal managing bodies and bus and/or coach undertakings shall ensure appropriate assistance to a disabled person or a person with reduced mobility as specified in Annex I free of charge before, **after and where possible during** the journey. **The assistance shall be adapted to the individual needs of the disabled person or person with reduced mobility.**

2. Terminal managing bodies and bus and/or coach undertakings may provide assistance themselves or may contract with one or more other parties for the supply of the assistance. They may enter into such a contract or contracts on their own initiative or on request.

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Where terminal managing bodies and bus and/or coach undertakings contract with one or more other parties for the supply of the assistances, they shall remain responsible for provision of assistance.

3. The provisions of this Chapter do not prevent terminal managing bodies or bus and/or coach undertakings from providing assistance of a higher standard than the standards referred to in Annex I or providing services additional to those specified therein.

Article 14

Right to assistance at terminals

1. No later than six months after the entry into force of this Regulation, Member States shall designate bus and coach terminals where assistance for disabled persons and persons with reduced mobility should be provided, taking into consideration a need to ensure the accessibility of services in most geographical locations. Member States shall inform the Commission thereof. ***The Commission shall make available a list of the designated bus and coach terminals on the Internet.***

2. The terminal managing body of a terminal designated by a Member State in accordance with paragraph 1 shall be responsible for ensuring the provision of the assistance specified in part (a) of Annex I without additional charge to disabled persons and persons with reduced mobility, provided that the person concerned fulfils the conditions set out in Article 16.

3. Where use of a recognised assistance dog is required, this shall be granted provided that the bus and/or coach undertaking, ticket vendor or tour operator were notified in accordance with applicable national rules covering the carriage of assistance dogs.

Article 15

Right to assistance on board

Bus and/or coach undertakings shall provide at least the assistance specified in part (b) of Annex I free of charge to disabled persons and persons with reduced mobility ■ during boarding and disembarking from the coach or bus provided that the person concerned fulfils the conditions set out in Article 16.

Article 16

Conditions under which assistance is provided

1. Bus and/or coach undertakings, terminal managing bodies, ticket vendors and tour operators shall cooperate in order to provide assistance to disabled persons and persons with reduced mobility on condition that the person's need for such assistance is notified to the bus and/or coach undertaking, terminal managing body, ticket vendor or tour operator at least **24** hours before the assistance is needed, ***unless a shorter notification period is proposed by the assistance provider, or agreed between the assistance provider and the passenger.***

2. Bus and/or coach undertakings, ticket vendors and tour operators shall take all measures necessary to facilitate the receipt of notifications of the need for assistance made by disabled persons or persons with reduced mobility. ***The passenger shall receive a confirmation, stating that the assistance needs have been notified. These obligations*** shall apply at all their points of sale including sale by telephone and via the Internet.

3. If no notification is made in accordance with paragraph 1, bus and/or coach undertakings, terminal managing bodies, ticket vendors and tour operators shall make every reasonable effort to ensure that the assistance is provided in such a way that the disabled person or person with reduced mobility is able to board the departing service, to change to the corresponding service or to disembark from the arriving service for which he has purchased a ticket.

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4. Assistance shall be provided on condition that the person concerned presents himself at the designated point:

- at a time stipulated in advance by the bus and/or coach undertaking, which shall be no more than 60 minutes before the *scheduled time of departure*, or
- if no time is stipulated, not later than 30 minutes before the *scheduled time of departure*, **unless otherwise proposed by the assistance provider or otherwise agreed between the passenger and the assistance provider**.

5. The terminal managing body of a terminal designated by a Member State in accordance with Article 14(1) shall, taking account of local conditions and without prejudice to the powers of other entities regarding areas located outside the terminal premises, designate points of arrival and departure within the terminal or at points under the direct control of the terminal managing body, both inside and outside the terminal building, at which disabled persons or persons with reduced mobility can announce their arrival and request assistance.

6. The **designated** points referred to in paragraph 5 shall be clearly **signposted, accessible and recognisable to disabled persons and persons with reduced mobility** and shall offer **the necessary** information about the terminal and assistance provided, in accessible formats.

Article 17

Transmission of information to a third party

1. Where provision of the assistance has been subcontracted, and a bus and/or coach undertaking or the ticket vendor or the tour operator receives a notification of the need for assistance at least 48 hours before the *scheduled time of departure* for the journey, it shall transmit the relevant information **so that** the subcontractor **receives the notification** at least 36 hours before the *scheduled time of departure* for the journey.

2. Where provision of the assistance has been subcontracted, and a bus and/or coach undertaking or a ticket vendor or a tour operator does not receive a notification of the need for assistance at least 48 hours before the *scheduled time of departure* for the journey, the carrier or ticket vendor or tour operator shall transmit the information **so that** the subcontractor **receives the notification** as soon as possible.

Article 18

Training

Bus and/or coach undertakings **and terminal managing bodies** shall:

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

Article 19

Compensation in respect of wheelchairs and mobility equipment

1. Where wheelchairs or other mobility equipment, or parts thereof, are lost or damaged whilst being handled at the terminal or transported on board *a bus or coach*, the passenger to whom the equipment belongs shall be compensated by the bus and/or coach undertaking or the terminal managing body depending on who was responsible for the equipment at the time of loss or damage.

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Where necessary every effort shall be undertaken to rapidly provide replacement equipment **with similar technical and functional features to that lost or damaged**.

2. A bus and/or coach undertaking shall not be liable pursuant to paragraph 1:

(a) *if the loss or damage has been caused by circumstances not connected with the operation of bus and coach transport services and which the bus and/or coach undertaking could not have avoided, in spite of having taken the care required in the particular circumstances of the case, and the consequences of which it was unable to prevent;*

(b) *to the extent that the loss or damage is the fault of the passenger or was caused by the passenger's negligence.*

3. **■** The amount of compensation payable pursuant to this Article **shall be equivalent to the actual loss suffered**.

Chapter IV

Obligations of bus and/or coach undertakings in the event of interrupted travel

Article 20

Responsibility in the event of cancellations and long delays

1. Bus and/or coach undertakings shall be liable for cancellations, **overbookings** and **■** for delays at departure of more than two hours. **Bus and/or coach undertakings shall be liable only for cancellations and delays resulting from circumstances within their control. That liability shall not cover delays as a result of traffic congestion and border and/or vehicle checks.** In all cases where undertakings are liable the passengers concerned shall at least:

(a) be offered alternative transport services **at no extra cost and** under reasonable conditions or, if that is impractical, be informed of adequate alternative transport services of other transport operators;

(b) receive reimbursement of the ticket price unless they accept alternative transport services referred to in point (a);

(c) **in addition to the reimbursement referred to in point (b),** have the right to compensation amounting to **50 %** of the ticket price if the bus and/or coach undertaking fails to provide alternative services or information as referred to in point (a). The compensation shall be paid within one month after the submission of the request for compensation;

(d) **where they choose to accept the alternative transport services offered, have the right to compensation amounting to 50 % of the ticket price without losing their right to transport. The ticket price shall be the full cost paid by the passenger for the delayed part of the journey. The compensation shall be paid within one month after the submission of the request for compensation;**

(e) **be offered meals and refreshments in line with the waiting time if they can be reasonably provided;**

(f) **be offered hotel or other accommodation and transport between the terminal and the place of accommodation in case an overnight stay becomes necessary before the trip can be continued;**

(g) **where the bus and/or coach becomes inoperable, be offered transport from the location of the inoperational vehicle to a suitable waiting point and/or terminal from where continuation of the journey becomes possible.**

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2. *In cases other than those covered by paragraph 1, bus and/or coach undertakings shall be liable for delays at arrival of more than two hours, where the delay is due to:*

- the driver's negligence and fault, or*
- a technical failure of the vehicle.*

In such events the passengers concerned shall at least:

(a) have the right to compensation amounting to 50 % of the ticket price; the ticket price shall be the full cost paid by the passenger for the delayed part of the journey. The compensation shall be paid within one month after the submission of the request for compensation;

(b) be offered assistance as referred to in points (e), (f) and (g) of paragraph 1 of this Article.

3. *A bus and/or coach undertaking shall be exonerated from this liability if the cancellation or delay can be attributed to one of the following causes:*

(a) circumstances not connected with the operation of bus and coach transport services and which the bus and/or coach undertaking could not have avoided, in spite of having taken the care required in the particular circumstances of the case, and the consequences of which it was unable to prevent;

(b) passenger negligence, or

(c) the actions of a third party which the bus and/or coach undertaking could not have avoided, in spite of having taken the care required in the particular circumstances of the case, and the consequences of which it was unable to prevent.

Article 21

Provision of information

1. *In the event of delay, bus and/or coach undertakings or, where appropriate, terminal managing bodies shall inform passengers of estimated departure and arrival times as soon as this information is available, but not later than 30 minutes after a scheduled departure or one hour before a scheduled arrival respectively. This information shall also be provided in accessible formats for persons with disabilities and persons with reduced mobility.*

2. *If passengers miss a connection due to a delay, bus and/or coach undertakings shall make reasonable efforts to inform the passengers concerned of alternative connections.*

Article 22

Further claims

This Regulation shall apply without prejudice to a passenger's rights to further compensation. The compensation granted under this Regulation may be deducted from such compensation.

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Article 23

Additional measures in favour of passengers

Carriers shall cooperate in order to adopt arrangements at national or European level with the involvement of stakeholders, professional associations and associations of customers, passengers and disabled persons. These measures should be aimed at improving care for passengers, especially in the event of long delays and interruption or cancellation of travel **prioritising care for those passengers with special needs owing to disability, reduced mobility, illness, elderly age, pregnancy and extending to young children, and accompanying passengers.**

In the event of long delays and interruption or cancellation of travel, care shall focus on providing passengers with medical assistance and food and drink as necessary, regular information updates, and, where appropriate, alternative travel arrangements and accommodation.

Chapter V

Information for passengers and handling of complaints

Article 24

Right to travel information

Terminal managing bodies and bus and/or coach undertakings shall provide passengers with adequate information throughout their travel in **accessible formats.**

Article 25

Information on passenger rights

|| Bus and/or coach undertakings and terminal managing bodies shall ensure that passengers are provided with appropriate and comprehensible information regarding their rights under this Regulation at the latest on departure and during their journey. The information shall be provided in **accessible formats.** This information shall include contact details of the enforcement body designated by the Member State pursuant to Article 27(1).

Article 26

Complaints

1. Bus and/or coach undertakings shall, **where one does not already exist, establish** a complaint handling mechanism, **accessible for all passengers, including passengers with disabilities and passengers with reduced mobility,** for rights and obligations covered by this Regulation.

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

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

4. **Bus and/or coach undertakings shall issue annually a report containing the number and subject matter of complaints received, the average number of days required to answer them and corrective actions taken.**

Thursday 23 April 2009

Chapter VI

Enforcement and national enforcement bodies

Article 27

National enforcement bodies

1. Each Member State shall designate a body or bodies responsible for the enforcement of this Regulation. Each body shall take the measures necessary to ensure that the rights of passengers are respected including compliance with the accessibility rules referred to in Article 12. Each body shall, in its organisation, funding decisions, legal structure and decision-making, be independent. ■
2. Member States shall inform the Commission of the body or bodies designated in accordance with this Article and of their respective responsibilities.
3. ***These bodies shall cooperate with organisations representing bus and/or coach undertakings and consumers, including organisations representing disabled persons and persons with reduced mobility.***
4. Any passenger may complain to the appropriate body designated under paragraph 1, about an alleged infringement of this Regulation.
5. Member States that have chosen to exempt certain services pursuant to Article 2(2) shall ensure a comparable mechanism of enforcement of passenger rights.

Article 28

Report on enforcement

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

Article 29

Cooperation between enforcement bodies

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

Thursday 23 April 2009

Article 30

Penalties

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

Chapter VII

Final provisions

Article 31

Report

The Commission shall report to the European Parliament and the Council *no later than ... (*)* on the operation and effects of this Regulation. The report shall be accompanied, where necessary by legislative proposals implementing in further detail the provisions of this Regulation, or amending it.

Article 32

Amendment to Regulation (EC) No 2006/2004

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

- '18. Regulation (EC) No ... of the European Parliament and of the Council of ... on the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 *on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation)* (OJ L ...)'

Article 33

Entry into force

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. It shall apply with effect 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

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

(**) OJ: Two years after entry into force of this Regulation.

Thursday 23 April 2009

ANNEX I

Assistance provided to disabled persons and persons with reduced mobility

a) Assistance at terminals

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

- communicate their arrival at the terminal and their request for assistance at designated points;
- move from designated point to ticket counter, waiting room and embarkation area.

b) Assistance on board

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

- board the vehicle, with the provision of lifts, wheelchairs or other appropriate equipment;
 - load their luggage;
 - retrieve their luggage;
 - disembark from the vehicle;
 - move to toilet facilities, if **possible**;
 - carry, **to the extent possible**, a recognised assistance dog on board a bus or coach;
 - proceed to the seats;
 - be provided with essential information on a journey in accessible formats;
 - embark/disembark during pauses in a journey, if feasible.
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Thursday 23 April 2009

ANNEX II

Disability-related training

a) Disability-awareness training

Training of staff that deal directly with the travelling public includes:

- awareness of and appropriate responses to passengers with physical, sensory (hearing and visual), hidden or learning disabilities, including how to distinguish between the different abilities of individuals whose mobility, orientation, or communication may be reduced;
- barriers faced by 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 deaf *people* and *people with hearing impairments*, *people with visual impairments*, *people with speech impairments* and people with a learning disability;
- how to handle wheelchairs and other mobility aids carefully so as to avoid damage (to all staff who are responsible for baggage handling if *relevant*).

b) Disability-assistance training

Training of staff directly assisting disabled persons and persons with reduced mobility 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 blind and partially-sighted passengers and for the handling and carriage of recognised assistance ***dogs, bearing in mind that assistance dogs are trained to obey exclusively the commands of the owner and should not be handled by the staff while on duty***;
 - an understanding of the types of equipment which can assist disabled persons and persons with reduced mobility and a knowledge of how to handle such an equipment;
 - the use of boarding and deboarding assistance equipment used and knowledge of the appropriate boarding and deboarding assistance procedures that safeguard the safety and dignity of disabled persons and persons with reduced mobility;
 - sufficient understanding of the need for reliable and professional assistance. Also awareness of the potential of certain disabled passengers to experience feelings of vulnerability during travel because of their dependence on the assistance provided;
 - a knowledge of first aid.
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