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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT AND THE COUNCIL**

**A European vision for Passengers:
Communication on Passenger Rights in all transport modes**

I. INTRODUCTION

Ten years ago in the 2001 White Paper¹, the Commission set the objective to introduce passenger protection measures to all modes of transport. This has now been achieved. With the adoption of passenger rights for bus and coach transport in 2011 the EU now has a comprehensive integrated set of basic passenger rights rules in all modes: air, rail, waterborne and road² transport. The rules on EU passenger rights provide minimum protection for citizens and in doing so facilitate mobility and social integration. They help create a level playing field for transport operators within as well as across modes.

In spite of the success of the work achieved until now some fundamental questions remain open. The full set of rights is not yet completely and correctly implemented. Passengers are not yet aware of the rights that they have, or they give them up in frustration because it is costly and cumbersome to defend them. National authorities still apply the law in different ways, which confuses passengers and carriers alike and creates distortions in the market. In its 2011 White Paper on Transport³, the Commission -by maintaining users and their mobility at the heart of transport policy- has therefore insisted on the need to reinforce the implementation of current rules, improving them where necessary. This Communication is a first step towards consolidating the existing work. In parallel, the Commission is launching a public consultation on a possible revision of the air passenger rights regulation.

The White Paper advocates the promotion of a competitive and sustainable expansion of collective passenger transport based on optimised intermodality and market integration. In this dynamic context, liberalisation has to go hand in hand with quality of service. Passengers can expect a transport service that guarantees non-discrimination, assistance in case of disruption of their journey, transparency of travel conditions, dignity of treatment and full respect of the terms of their contract.

To encourage citizens to shift in significant numbers from private to collective transport and to choose a multimodal journey as an easy and reliable alternative, we need EU passenger rights legislation that ensures uniform access conditions for passengers and a basic level of

¹ COM 370 (2001)

² Relevant EU Regulations on passenger rights:

Air Transport

- 261/2004 OJ L46/1 of 17.2.2004 the "**Air Regulation**"
- 1107/2006 OJ L204/1 of 26.7.2006
- 1008/2008 OJ L293/3 of 31.10.2008
- 889/2002 OJ L140/2 of 30.5.2002

Rail Transport

- 1371/2007 OJ L315/14 of 3.12.2007 the "**Rail regulation**"

Waterborne Transport

- 1177/2010 OJ L334/1 of 17.12.2010 (applicable from 18.12.2012) the "**Waterborne Regulation**"
- 392/2009 OJ L131/24 of 28.5.2008

Road Transport (bus and coach)

- 181/2011 OJ L55/1 of 28.2.2011 (applicable from 1.3.2013) the "**Bus Regulation**"

³ COM 144 (2011)

service quality. Passengers need to feel that their trip will not be an uncertain or stressful event.

This Communication - which draws on years of experience with applying the legislation and on the interpretations of the EU Court of Justice - aims at helping:

- **carriers** towards a more coherent and effective application of EU law;
- **national authorities** towards a harmonised enforcement of passenger protection across all modes;
- **passengers** towards a better understanding of what they can legitimately expect (and what they cannot) as minimum quality service when travelling.

To do so, it summarises in a simple manner the rights and principles which apply to all modes. It also identifies some areas where further convergence of current legislation can be achieved and loopholes that can be filled, to pave the way for a consistent application of the law notwithstanding any future evaluation and interpretation of the regulations on passenger rights, notably those on waterborne and road transport, which are not yet in force.

Additional rights for passengers derive from the Charter of Fundamental Rights, the EU consumer rules, the Package Travel Directive 90/314/EEC, national contract law provisions and/or international conventions as transposed into EU law.

This Communication is part of the Commission's action to remove obstacles which prevent citizens from effectively exercising their rights under EU law, launched by the EU Citizenship Report 2010⁴. It is also one of the measures envisaged in the Communications on a Single Market Act⁵.

II. REVIEW OF EU PASSENGER RIGHTS LEGISLATION

The Air and Rail regulations are already in force. The Waterborne and Bus regulations will apply from December 2012 and March 2013, respectively, and how they work in practice will be assessed after that. In order to guarantee a fair and respectful treatment of passengers, the legislator has had two aims. First, to introduce a common set of passenger rights guaranteed by law for the four transport modes. Secondly, to allow the necessary distinctions due to the specific characteristics of each mode and their markets, related to the industries (company size, revenues or number and frequency of routes) and passengers (length, price and conditions of the trip) to ensure proportionality.

Passenger rights are based on three cornerstones: non-discrimination; accurate, timely and accessible information; immediate and proportionate assistance. The following ten rights that stem from these principles form the core of EU passenger rights:

- (1) Right to non-discrimination in access to transport

⁴ COM 603 (2010)

⁵ COM 608 (2010) and COM 206 (2011)

- (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 case of disruption (rerouting and rebooking)
- (6) Right to get assistance in case of long delay 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

These rights are illustrated below and summarised in an annexed list of passenger rights, as a first step in the EU passenger transport policy moving from a purely modal approach to a more intermodal vision.

1. RIGHT TO NON-DISCRIMINATION IN ACCESS TO TRANSPORT

1.1. Based on nationality

Article 18 of the Treaty on the Functioning of the European Union (TFEU) prohibits discrimination on grounds of nationality. This applies to all means of transport, and is reflected in the Air, Bus and Waterborne Regulations which explicitly protect passengers against discrimination directly or indirectly based on nationality.

More specifically, Regulation (EC) No 1008/2008 provides that the access to fares for air services shall be granted without discrimination based on the nationality or the place of residence of the customer or the travel agent. The Bus and Waterborne Regulations grant similar protection. This puts an end to a practice where residents of one Member State are unable to book on the website of the same carrier in another country. It also means that travel agents have access to the same fares irrespective of their geographical situation.

1.2. Based on denied boarding

To avoid practical discrimination, air passengers who are denied embarkation with no reasonable grounds can always choose between reimbursement or re-routing (at the earliest opportunity or rebooking at a later moment at the passenger's convenience), to receive the appropriate care and to receive compensation or benefits agreed with the carrier. Bus passengers may have a right to compensation in case of denied boarding. In waterborne and rail transport denied boarding practices, notably because of overbooking, have until now been almost inexistent. This right is therefore not foreseen in these modes.

1.3. Based on disability and/or reduced mobility

Disabled passengers and passengers with reduced mobility cannot be discriminated against on reservation, purchase of tickets and embarkation. Exceptions may only be made for reasons of transport safety or because of the physical characteristics of the transport system that make transport physically impossible, but not for comfort or commercial issues of any sort.

In all sectors, where a derogation is used, the passenger may request a written explanation which must be provided within 5 days of the request and reasonable efforts must be made to propose an acceptable alternative to the passenger.

Rail, maritime and bus legislation stipulates that reservations and tickets shall be offered to disabled passengers and passengers with reduced mobility at no additional cost (for example, where it is not possible to reserve an accessible seat on the internet, a free telephone number should be made available). Under the Air Regulation, assistance must be provided free of charge, which means that extra reservation costs are prohibited.

The Rail regulation states that an undertaking cannot require that a disabled passenger and a passenger with reduced mobility be accompanied by another person. If bus or ship passengers are denied boarding on grounds of disability they may request to be accompanied by another person to provide them with the necessary assistance to travel and who must be carried free of charge. The possibility for carriers to impose an accompanying person in the Air Regulation needs to be applied in a restrictive way, and whenever the accompanying person must be requested, carriers should facilitate this free of charge or at reduced costs.

2. RIGHT TO MOBILITY: ACCESSIBILITY AND ASSISTANCE AT NO ADDITIONAL COST FOR DISABLED PASSENGERS AND PASSENGERS WITH REDUCED MOBILITY

The scope and the conditions under which assistance to disabled passengers and passengers with reduced mobility is provided at no extra cost differ between modes and are based on the different operational specificities of each mode. Appropriate professional training for staff dealing with these passengers is also essential.

Guidelines on the implementation of provisions related to assistance for disabled passengers and passengers with reduced mobility in air transport under Regulation (EC) No 1107/2006 will be presented by the Commission, before the Para-Olympic Games of 2012.

Possibilities for disabled passengers and passengers with reduced mobility to pre-notify that they are travelling are crucial to improve the quality of assistance while decreasing its cost. This also applies to intermodal transport (e.g. a single pre-notification for a combined ticket for high speed train and flight). However, pre-notification is not yet always easy or possible in practice -notably on the internet- and is sometimes expensive (phone calls with a toll). The Commission therefore encourages carriers to update their pre-notification tools to make them efficient and accessible, preferably by easy electronic means.

Effective accessibility to a service also presupposes that information and reservation systems are provided in accessible formats (e.g. screen readers for visually impaired people), and on the basis of technical accessibility standards for vehicles and infrastructure including kiosks

and terminals. Technical standards on accessibility exist at EU level (PRM TSI)⁶ for the conventional and high-speed railway system. Trains, stations and relevant parts of the infrastructure that comply with the PRM TSI will be interoperable and thus offer a similar level of access to disabled passengers and passengers with reduced mobility across the trans-European network.

In road transport, Directive 2001/85 on type approval for buses and coaches contains specifications for accessibility for passengers with reduced mobility and disabled persons. In maritime transport, Directive 2009/45/EC⁷ on safety rules and standards for passenger ships contains guidelines for ship construction and equipment to facilitate access of passengers with reduced mobility to the ship. However, European accessibility standards do not exist in air or for port side access to waterborne transport.

The Commission is planning to propose a directive – the European Accessibility Act – with the aim of improving access to the goods and services markets for disabled persons. This would give the Commission the opportunity to develop a general set of standards on the accessibility of transport infrastructure and services. This could include aspects such as ticketing, real-time travel information and on-line services.

3. RIGHT TO INFORMATION BEFORE PURCHASE AND AT THE VARIOUS STAGES OF TRAVEL, NOTABLY IN CASE OF DISRUPTION

Passenger rights to information cover: general information on issues like rights and obligations while travelling, on accessibility of services for disabled passengers and passengers with reduced mobility and on carrier quality standards and performance; and specific information on the journey throughout the trip (before purchase, before and during the journey, and in case of disruption).

These rights should be implemented using state of the art communication technology while meeting the needs of disabled passengers and passengers with reduced mobility. The Waterborne and Bus regulations refer to new electronic means of information, such as SMS. New technologies are encouraged for all modes, e.g. the use of Smartphone applications, websites as well as social media.

Information which is currently an obligation only for the operator is also provided by other actors through their websites, and at airports, port terminals, train and coach stations. Timely and more effective coordination among different actors in the transport chain (carrier, infrastructure manager, ticket vendor, service providers.) is needed to avoid contradictory information (e.g. airport website featuring "flight delayed", whereas the air carrier's website indicates "flight cancelled").

Appropriate information also needs to be made available to the public about passenger rights in general, such as the Commission specific information campaign in 2010.

⁶ Commission Decision 2008/164/EC OJ L64/72 of 7.3.2008

⁷ OJ L163/1 of 25.6.2009

3.1. General information on passenger rights and on quality standards and the performance of carriers

Consumer association and Commission reports have highlighted that the publication of operator performance reviews and passenger satisfaction surveys would allow users to compare and make well informed choices; encourage competition based on the quality of services; and facilitate uniform monitoring and enforcement by the National Enforcement Bodies (NEB).

The Rail Regulation includes the obligation for operators to report on how the minimum service quality standards are applied. In the US, big air carriers are subject to a uniform system of reports that are collected and publicised by the US Department of Transportation, notably through monthly "Air Travel Consumer Reports"⁸.

3.2. Transparent, accessible information on all the relevant aspects of the transport contract before the purchase of the ticket

EU legislation foresees the provision of a ticket for all modes. Details of legal provisions vary. Whatever its format (including electronic), a ticket can be considered as entitlement to transport and hence it should cover: all indispensable features of a transport service; its price and at least a summary of the terms and conditions, including the clauses that allow unilateral changes to the contract (e.g. on no show policy, rescheduling) or that limit the service (e.g. luggage allowance); and the legal conditions related to PRM access to the journey.

Transparent information on the full price of the ticket and on what is included in the service is essential for passengers to make fully informed choices before buying their tickets, while guaranteeing to carriers freedom of tariffs. While it is acceptable on open markets that some of the secondary services linked to passenger transport service (such as meals or the carriage of large luggage) are offered outside the basic fare, passengers currently lack certainty on which costs and features are included in the basic fare and whether they may legitimately expect these features to be included in the basic transport service, in spite of existing rules on price transparency provided by Regulation (EC) No 1008/2008. This lack of certainty creates confusion for passengers and mistrust towards transport providers. It generates distortions of competition where national legislators and judges may take different positions as whether such a new practice is to be considered as abusive. A harmonised, intermodal vision of the content of the passenger transport service and of the elements of the price to be included in the basic fare for all transport modes is required.

While rules for price indication may need to be fine-tuned for different modes, one option would be to define a hard core of passenger transport service to be consistently included in the basic fare regardless of the mode. This would cover for instance: all operational costs indispensable to transport passengers (including those linked to the carrier's legal obligations such as safety, security and passenger rights) and all aspects essential for travelling from the passenger perspective (such as the provision of tickets and boarding cards or carrying a minimum luggage and personal belongings).

⁸ <http://airconsumer.ost.dot.gov/reports/index.htm>

The recent Consumer Rights Directive⁹ is expected to increase transparency for passengers, especially when buying their transport tickets on-line. The Directive explicitly bans pre-ticked boxes, internet cost traps and any additional charges which passengers were not duly informed about in advance. Additionally, it prohibits traders from charging fees for the use of means of payment (e.g. credit cards) that exceed the cost borne by the trader for the use of these means.

The Commission is conducting a study on the price transparency rules for airline tickets in the EU to assess whether these fulfil their intended purpose. These rules aim to provide consumers with a more transparent price, including an easily identifiable final price and easy comparison with other offers. This study is expected to be published in 2012.

3.3. Information during the journey and in case of disruption

Passengers should be kept informed before and during the journey (e.g. on changes in the scheduled times, expected arriving time at connecting points). This information must be provided as soon as possible in rail, and no later than 30 minutes after the scheduled time of departure in waterborne and bus transport. No such provision exists in air transport.

Timely and accurate information gives passengers more time to adapt their trip to the new circumstances. It also decreases the costs linked to the obligation of re-routing and care by increasing the number of passengers who may instead decide to give up travelling (opting for reimbursement) or to postpone their trip (opting for re-booking). It also improves passenger trust and the image of the carrier. In addition to the information on the circumstances of the disruption and passengers' rights and transport alternatives at their disposal, carriers, themselves or via representatives, must inform passengers about how and who they should contact if they want to lodge a complaint.

In the framework of the impact assessment of the Air Regulation and the public consultation accompanying this Communication, the Commission will assess the need for measures for the provision of timely information (i.e. concerning the journey and any possible disruption).

4. RIGHT TO RENOUNCE TRAVELLING (REIMBURSEMENT) WHEN THE TRIP IS DISRUPTED

The legislator has chosen not to define the notion of 'long delay' but to fix time limits after which passengers have the right to choose between two options:

- giving up travelling (reimbursement);
- asking for a re-routing that allows them getting to their final destination as close to the scheduled time as possible.

The right to choose between reimbursement or rerouting is unconditional in all modes and it intervenes in all events, even in case of extraordinary circumstances. The time limits which trigger this set of rights vary according to the mode: 60 minutes for rail transport, 90 minutes for maritime, 120 minutes (2 hours) for road, 300 minutes (5 hours) for air. The right to

⁹ Directive 2011/83/EU, OJ L304/64 of 22.11.2011

reimbursement means the refund of the full price of the unused ticket within 7 days (air and waterborne transport) or within 1 month (rail and coach transport) and, where necessary, the return journey to the initial point of departure.

5. RIGHT TO THE FULFILMENT OF THE TRANSPORT CONTRACT (RE-ROUTING OR REBOOKING) IN CASE OF DISRUPTION

Whenever the passenger chooses not to ask for the reimbursement of the full ticket price, he has the right to ask for the fulfilment of the transport contract and to be re-routed to the final destination. The re-routing to the final destination at the earliest opportunity can be provided under comparable transport conditions by the same or a different carrier or by another mode of collective transport.

In air and rail transport the passenger has a third option: postponing the trip to a later stage (re-booking with the same carrier). This right is at the passenger's convenience and subject to the availability of seats. Although the option to choose re-routing at a later stage (re-booking) is not explicitly included in the Waterborne and Bus regulations, the legislation does not preclude this possibility, as long as this is agreed with the passenger. If the passenger chooses reimbursement or re-booking at a later stage, any further obligation for carriers to provide care ceases.

Passengers often complain that they were not offered the triple choice between re-routing, re-booking and reimbursement, but just received a reimbursement of the ticket. In any event and for all modes of transport, the passenger has the choice, which must be offered by the operating carrier as soon as there is disruption.

Both the choice offered by the carrier and the option accepted by the passenger should be clear and non-equivocal.

Given that improvising a solution on the spot is usually impossible in cases of disruption, the necessary agreements and re-routing plans to provide efficient alternatives must be made beforehand, including the use of other carriers or modes of transport. Therefore, carriers must ensure that they have the necessary and competent staff and tools at the terminal/station available to contact the passengers and to allow them to make their choice quickly and efficiently and as soon as there is a disruption. Situations where passengers are left stranded without any interlocutor still happen too often and must be severely prosecuted by NEBs.

NEBs should ensure that carriers of all modes prepare themselves adequately to face situations of disruption by setting up effective systems to comply with passengers' rights and offer them alternative travel arrangements.

6. RIGHT TO ASSISTANCE IN CASE OF LONG DELAY AT DEPARTURE OR AT CONNECTING POINTS

Legislation for all modes establishes a minimum level of care to be provided on the spot whenever a delay reaches the time limit beyond the scheduled time of departure. For all modes, care is linked to the waiting time resulting for long delay or cancellation and subsequent re-routing. It must be proportionate, reasonable and adapted to the circumstances of the disruption, to those of passengers and of the mode concerned. Minimum delays

triggering a right to assistance vary: 60 minutes for rail; 90 minutes for waterborne and coach; from 120 up to 240 minutes for air. Care must be provided both at the terminal and/or on-board (e.g. refreshments and meals can be limited but must be provided on-board in case of tarmac delays or on the ship, especially for vulnerable passengers; access to the toilets and to adequate heating/cooling air conditioning must always be provided).

Currently, legislation for air and rail transport does not include a limitation to the right of accommodation, whereas this can be limited to €80 per night for three nights in waterborne transport and to €80 per night for two nights for coaches.

Moreover, all forms of care (including provision of accommodation) are unconditional for air and rail transport and must be provided even in case of extraordinary circumstances. As regards waterborne and Bus Regulations, adequate meals and refreshments must be provided in all events. However the provision of accommodation is excluded in some specific cases of extraordinary circumstances: for waterborne transport, where the cancellation or delay is caused by weather conditions endangering the safe operation of the ship and, for coach, in case of severe weather conditions or major natural disasters. The burden of proof always belongs to the operators.

As in the case of reimbursement or re-routing, NEBs should ensure that:

- carriers prepare themselves adequately to face situations of disruption by setting up effective systems of assistance to passengers and are always present or represented at the terminals whenever an incident occurs;
- in the context of the impact assessment for the revision of the air regulation, the opportunity of providing care to stranded air passengers within similar time-limits as in other modes will be assessed.

7. RIGHT TO COMPENSATION

Under certain conditions, the right to be compensated in an objective and standardised manner in case of long delay at arrival is part of the hard core of minimum quality standards for all modes.

This compensation aims at reducing the inconvenience suffered by all passengers by, inter alia, ensuring a minimum relief to passengers at arrival to allow them to cope with the immediate discomfort caused by the unexpectedly long delay, similar to the assistance they are entitled to while delayed at departure.

7.1. Shared responsibility

The legislator has chosen to centralise the provision of the rights to care and assistance in case of travel disruption on the operating undertaking. This does not mean, however, that it has to bear the financial burden alone, or that passengers are only entitled to these rights when the reason for the long delay can be attributed to the carrier.

Experience has shown that many other actors in the transport chain may be the cause of the long delay. The level of inconvenience suffered by passengers and thus their right to be assisted remain the same regardless of the reason at the origin of the inconvenience or of who

is responsible. The responsible party should assume the financial cost linked to the compensation due to the passenger and reimburse it to the operating carrier.

This principle of sharing responsibility has been poorly applied until now and should be better implemented. In the framework of the revision of the Air Regulation, measures to ensure that operating undertakings can fulfil their obligations while financial costs will be correctly shared among all those responsible for the delay will be assessed.

7.2. Extraordinary circumstances

Air and waterborne operators may not have to compensate when the disruption is due to extraordinary circumstances. This also applies to bus operators when they have effectively offered the choice between reimbursement or re-routing. In rail transport, this is the case when the disruption was caused by the fault of a third party, of the passenger, or by circumstances not connected to railway operation and which the carrier could not avoid and whose consequences could not be prevented. It is always the carrier who has the burden of proof.

The conditions under which compensation is due, the amount and the circumstances under which the operator can be exempted may differ, taking into account the specificities of each mode and the different needs of passengers, i.e. the inconvenience faced. This includes for example, differences in the amount of time lost as a result of the disruption (minimum one hour, in rail), the distance of the journey (air and waterborne transport), and the ticket price.

A certain degree of interpretative convergence among modes has to be envisaged for the sake of clarity and ease in the application of the rules by carriers and citizens' understanding of their rights. Two kinds of situations have arisen in practice: clear cases of extraordinary circumstances where it is necessary to introduce a degree of proportionality of the burden imposed on carriers for the provision of care (e.g. the closure of European air space during the volcano crisis in 2010); other cases where it is difficult to discern quickly and easily if extraordinary circumstances apply. However, examples have been provided by the legislator for air, waterborne and road transport in some recitals of the relevant regulations. Moreover, the fact that the EU Court of Justice has clarified that a technical problem in an aircraft in principle cannot be regarded as an extraordinary circumstance¹⁰ can help National Enforcement Bodies (NEBs) of all modes and the Commission to harmonise and speed up the application of this right.

Passengers should be confident that the right to compensation will be rapidly provided by the operating carrier, once it has been clarified that no extraordinary circumstances apply to the case. All regulations allow payment of compensation in the form of vouchers or any other form only if agreed with the passenger. This possibility provides flexibility, rapidity and ease both for carriers and passengers.

The proportionality of economic burden on the industry under extraordinary circumstances linked to the right to assistance will also be evaluated in the forthcoming impact assessment for the revision of the Air regulation. Regarding the full respect of the right to compensation,

¹⁰ Case C 549/07 Wallentin-Hermann of 22.12.2008

measures to provide a clearer and more coherent application of the rules on extraordinary circumstances across all modes need to be taken.

8. CARRIER LIABILITY TOWARDS PASSENGERS AND THEIR LUGGAGE

In all modes of transport except bus, liability in the case of death and injury, and of mishandled luggage is covered by international conventions that are transposed into EU law¹¹. In spite of the specificities of each mode and the relevant international framework, there are some common features.

The international conventions include an individual right to compensation for damage. In case of disagreement between passenger and carrier the issue needs to be assessed in court in the light of the individual circumstances. By contrast, the EU passenger rights regulations do not take into account individual damage, but provide for a more direct and collective protection of passengers to alleviate trouble and inconvenience, where the standardised and immediate types of redress are defined by objective, measurable criteria, such as the duration of the delay, the ticket price or the distance of the journey.

Both legal systems are therefore separate and autonomous and deal with different kinds of damage as confirmed by the ECJ¹² for aviation: e.g. the Montreal convention governs the conditions under which, if a flight has been delayed, the passengers concerned may bring actions for damages by way of redress on an individual basis, while the Air Regulation provides for standardised and immediate compensatory measures.

The instruments of EU law fix minimum protection for financial compensation in case of death or injury based on different regimes of legal liability. This financial compensation is not automatic and must be claimed in a court procedure¹³.

In all modes, carriers are liable for the transport of baggage in the event of loss, damage or delay, except under certain conditions determined by law generally related to the circumstances of the incident and the efforts to prevent or limit the damage. The legislation in each mode of transport tends to set up specific minimum amounts of compensation in case of luggage problems.

There are specific rules to protect disabled passengers and passengers with reduced mobility in case of loss, damage or delay of mobility equipment, notably by excluding a compensation limit but by relating the compensation to the cost of repair or replacement of the actual piece

¹¹ The Montreal Convention and Regulation (EC) No 889/2002 in air transport; the Athens Convention and Regulation (EC) No 392/2009 in waterborne transport; the International Convention for the transportation of passengers (CIV), the Uniform Rules of the Convention concerning international carriage by rail (COTIF) and Regulation (EC) No 1371/2007 in rail transport.

¹² C-344/04 IATA of 10.01.2006; C-549/07 Wallentin-Hermann; Joined Cases C-402/07 Sturgeon e.a. and C-432/07 Böck and Lepuschitz of 19.11.2009.

¹³ There are also automatic advance payments determined under EU and/or international relevant Conventions, with minimum values of €21 000 for rail and waterborne transport, and 16 000 SDR for air transport (approx €17 600). For bus transport there is no advance payment but the operator must provide immediate assistance to the victims of an accident.

of mobility equipment. This does not apply to aviation, where, as the Commission signalled in 2008¹⁴, such a legal vacuum needs to be rapidly overcome.

NEB appointed under the regulations in the rail and road sectors are competent to ensure compliance with the provisions on carrier liability. This is not the case in maritime and aviation. This means that, contrary to all other complaints related to air passenger rights, the numerous complaints related to mishandled luggage are not dealt with by appointed NEB. This affects legal certainty and homogenous handling of such issues at EU level.

This legal vacuum on luggage and mobility equipment issues will be addressed in the forthcoming impact assessment for the revision of the Air regulation.

9. RIGHT TO A QUICK AND ACCESSIBLE SYSTEM OF COMPLAINT HANDLING

When passengers of all modes are dissatisfied with a carrier's application of their rights, they have the right to complain first to the carrier and, if still dissatisfied, to the competent body appointed as NEB to fulfil this task. The European Consumer Centres Network provides valuable assistance to travellers who need information and guidance in case of travel disruption.

Experience has shown the importance of fixing time limits for complaint handling both for operators and NEBs. Consumer organisations have repeatedly complained both about the carriers' and NEBs' complaint handling performance notably in air transport. Since the Air Regulation does not include legal time limits for complaint handling, the Commission encouraged voluntary agreements on such time limits which were concluded in 2007¹⁵. As experience has shown that they are not widely respected¹⁶, the EU legislators have established compulsory time limits in subsequent legislation. The Rail regulation fixes deadlines for railway operators but not for NEB; and the new Waterborne and Bus regulations set time limits for complaint handling for both operators (respectively two and three months) and NEBs ("reasonable time").

It is in the interest of all parties that the rights of a large majority of dissatisfied passengers are redressed by using the carriers' complaint procedures. The information provided by the operator to passengers must therefore be accurate and legally correct. Competent authorities have to monitor that carriers comply with this obligation. Misleading or incomplete information may discourage passengers from pursuing the fulfilment of their rights. This represents a major breach of the law that NEBs have to -if necessary- sanction, on the basis of the relevant EU and national rules. Moreover, passengers cannot understand why carriers which use state of the art information technology for publicity and ticket selling can only be reached for complaints by very traditional means of communication such as international telephone calls or fax.

- The impact assessment for a revision of the Air Regulation will assess measures to ensure that carriers set up easily accessible (in terms of costs, modalities, deadlines,

¹⁴ COM 158 (2008)

¹⁵ http://ec.europa.eu/transport/passengers/air/air_en.htm

¹⁶ COM 174 (2011)

etc.) tools for passengers including passengers with reduced mobility to lodge and follow up complaints, as well as the need for carriers and NEBs to provide more statistical data (i.e. on the number of passenger complaints they have handled and settled) and to handle complaints in a set time limit.

- For the rail sector voluntary agreements on time limits for complaint handling have to be sought, since they are already applicable to the other modes.

10. RIGHT TO FULL APPLICATION AND EFFECTIVE ENFORCEMENT OF EU PASSENGER RIGHTS

Enhanced cooperation between NEBs of all modes is needed to ensure a coherent application and enforcement of passenger rights. Member States must detect and remove any national laws and procedures that hamper the correct enforcement of EU law, for instance if non national EU carriers cannot be prosecuted or if ECJ jurisprudence cannot be applied correctly. This would not only improve legal certainty for passengers but also establish a level playing field for internationally operating carriers. The previous communications on air passenger rights¹⁷ have identified areas which will deserve particular attention also in the other modes.

Efficient enforcement requires active monitoring by NEBs in addition to reactive measures based on individual passenger complaints. The Commission will analyse national penalty schemes to see whether the three applicable criteria for sanction schemes (to be effective, proportionate and dissuasive) are sufficient to avoid discrepancies in enforcement at national level or whether further harmonisation is needed to provide carriers with an economic incentive to comply with passenger rights legislation and to ensure a proper level playing field, as requested by stakeholders.

Furthermore, passengers should have access to easy and affordable means of redress when a problem occurs. Out of court settlements such as ADRs (Alternative Disputes Resolution) schemes¹⁸ but also national or European small claims procedures (such as the one set up by Regulation (EC) No 861/2007¹⁹) are generally less costly for passengers.

III. OTHER INITIATIVES FACILITATING SMOOTH TRAVEL IN THE EU AND BEYOND: INTERMODALITY, MOBILITY CONTINUITY PLANS AND INTERNATIONAL DIMENSION

Intermodality enhances the effectiveness of passenger protection by facilitating re-routing or by providing appropriate information on intermodal travel connections at the earliest possibility, notably (but not only) in case of massive transport disruptions. Intermodal re-routing also helps to reduce inconvenience for passengers and costs for industry by reducing the time during which passengers must be taken care of. The provision of 'through tickets' (i.e. a single transport contract for several legs within one mode) and integrated tickets (establishing a transport contract for an intermodal travel chain) facilitate travel and enhance passenger rights.

¹⁷ COM 166 (2011) and COM 174 (2011)

¹⁸ See Commission proposals of 29.11.2011, COM(2011) 793 and 794

¹⁹ OJ L 199/1 of 31.07.2007

As multimodal transport becomes a reality, through for example the integration of carrier contracts, the legislative framework for passenger rights will need to be adapted to tackle the issue of disruption at connecting points in an intermodal journey. The ITS Directive²⁰ includes the development of binding specifications for the provision of EU-wide multimodal travel information services. The Rail regulation obliges railway undertakings and ticket vendors to adapt their computerised travel information and reservation systems in accordance with a set of common standards adopted in 2011²¹ ("TAP TSI") in order to enable an EU wide provision of accurate travel information and ticketing services. These standards will provide for interfaces for the inclusion of other modes.

The ash cloud crisis and the weather related disruptions in 2010 that affected planes, trains and road transport, have highlighted the need for more flexibility in Europe's transport systems and for more effective, intermodal solutions to preserve the mobility of passengers and businesses, through enhanced preparedness, coordination and cooperation between all actors involved.

The authorities of the largest air transport markets [United States, Canada] are also enhancing air passenger rights. Other European and North African countries will apply EU regulations as part of their bilateral or multilateral aviation agreements with the EU. However, the EU is so far the only part of the world where there are minimum standards across all transport modes, which benefit all passengers in Europe, including third country nationals travelling on transport services covered by EU regulations.

To improve passenger protection beyond EU borders, passenger rights issues will be addressed in bilateral and international agreements for all modes of transport, as laid out in the White Paper.

IV. CONCLUSIONS

The same core principles and rights have been introduced in all transport modes to make travelling in the EU an easier and more pleasant experience, by increasing the quality of services, protection of travellers and the attractiveness of European transport industry.

These passenger rights will remain an integral part of the European vision of transport policy even if conditions and modalities of application vary and evolve.

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. The Commission will continue working on both regulatory and non-regulatory issues to enhance effective passenger protection and to ensure that EU legislation is applied in a proportionate and effective manner.

First, in coordination with the ongoing revision of the Package Travel Directive (90/314/EEC), the Commission will analyse in 2012 whether to propose to modernise the first regulation in passenger rights: Regulation (EC) No 261/2004 on aviation. Together with this

²⁰ Directive 2010/40/EU OJ L207/1 of 6.8.2010

²¹ Regulation (EU) No 454/2011, OJ L123/11 of 12.5.2011

Communication, the Commission launches a public consultation on a set of questions relevant for this revision.

Second, the Commission will work with NEBs to agree on guidance for applying EU law, notwithstanding any future interpretation of the EU Court of Justice: first for the smooth application of the Regulation for Air disabled passengers and passengers with reduced mobility, notably in view of the Olympic and Paralympics Games in 2012; then for passengers in rail (2013), waterborne (2014) and road transport (2015).

At the same time, the Commission will enhance enforcement action through reinforced cooperation with NEBs and more systematic exchange of good practices, information and statistics with NEBs and stakeholders. The Commission will also examine together with third countries how to extend the application of EU principles of passenger protection to journeys outside the EU.

In the shorter term, passengers need to know and understand their rights. They need to be confident that they will be applied and that authorities will effectively protect them if necessary. The attached list summarises and presents a clear and concise overview of the main EU Passenger Rights.

ANNEX

MAIN EU PASSENGER RIGHTS²²

1. RIGHT TO NON-DISCRIMINATION IN ACCESS TO TRANSPORT

All passengers have equal access to transport and are in particular protected against discrimination based on nationality, residence or disability.

2. RIGHT TO MOBILITY ACCESSIBILITY AND ASSISTANCE AT NO ADDITIONAL COST FOR DISABLED PASSENGERS AND PASSENGERS WITH REDUCED MOBILITY (PRM)

PRM have the right to be assisted at no additional cost when travelling by all modes of transport in order to allow them to enjoy the same possibilities to travel as other citizens.

3. RIGHT TO INFORMATION BEFORE PURCHASE AND AT THE VARIOUS STAGES OF TRAVEL, NOTABLY IN CASE OF DISRUPTION

Passengers have the right to be correctly informed of the ticket price, their rights and the circumstances of their journey in a timely and relevant manner before the journey as well as during and after the travel in case of disruption.

4. RIGHT TO RENOUNCE TRAVELLING (REIMBURSEMENT) WHEN THE TRIP IS DISRUPTED

In the event of long delayed, cancelled travel or denied boarding, passengers have the right to the reimbursement of the full ticket price.

5. RIGHT TO THE FULFILMENT OF THE TRANSPORT CONTRACT (REROUTING OR REBOOKING) IN CASE OF DISRUPTION

In the event of long delayed, cancelled travel or denied boarding, passengers have the right to receive an alternative service of transport, as soon as possible, or to rebook at their best convenience. The choice must be offered by the carrier as soon as the disruption takes place, in a clear and uncontroversial way.

6. RIGHT TO GET ASSISTANCE IN CASE OF LONG DELAY AT DEPARTURE OR AT CONNECTING POINTS

Stranded passengers have the right to be provided a minimum level of care immediately, on the spot at terminals/stations and/or on board while waiting for the beginning or the continuation of the delayed journey or for their rerouting.

²² The present document has only an illustrative purpose. It is not legally binding.

7. RIGHT TO COMPENSATION

Under certain conditions in case of long delayed or cancelled travel and always in case of denied boarding in air, passengers are entitled to a standardised financial compensation for the trouble suffered. Such compensation varies for each mode according to the time lost due to the disruption, the distance of the journey and/or the ticket price.

8. RIGHT TO CARRIER LIABILITY TOWARDS PASSENGERS AND THEIR LUGGAGE

Under International conventions and EU Law, carriers are liable for passengers and their luggage. In case of death, injury and baggage problems and in some cases of delay, passengers may be entitled to compensation to be determined according to the damage they suffered. Such compensation can be limited depending on the applicable law.

9. RIGHT TO A QUICK AND ACCESSIBLE SYSTEM OF COMPLAINT HANDLING

Passengers have the right to lodge a complaint with the carrier if dissatisfied. In case of lack of answer after a certain time-limit, or dissatisfaction with the carriers' answer, they have the right to lodge a complaint within the competent National Enforcement Body, which should treat it within a reasonable timeframe. Out of Court and Court procedures are also available under EU and national law (e.g. Alternative Dispute Resolution systems, national or European Small Claim Procedure at Court).

10. RIGHT TO FULL APPLICATION AND EFFECTIVE ENFORCEMENT OF EU PASSENGER RIGHTS

Passengers have the right to count on a proper application by carriers and on an effective enforcement of EU rules from National Enforcement Bodies.