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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 4.12.2008  
COM(2008) 816 final

2008/0246 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**concerning the rights of passengers when travelling by sea and inland waterway and  
amending Regulation (EC) No 2006/2004 on cooperation between national authorities  
responsible for the enforcement of consumer protection laws**

{SEC(2008) 2950}

{SEC(2008) 2951}

## EXPLANATORY MEMORANDUM

### **1. BACKGROUND TO THE PROPOSAL**

#### **1.1. Grounds and objectives**

The process of opening up the market for the carriage of passengers by sea was launched in 1986 and consolidated in 1992 when maritime transport markets were opened up between the Member States. However, the opening of a market is not complete until consumers, and not only companies, can derive the maximum benefits. Effective consumer rights are essential in order to ensure that liberalisation allows real choices and to give consumers the confidence to switch modes of transport if they wish to do so.

In the White Paper “European transport policy for 2010: time to decide”<sup>1</sup> the European Commission envisaged the establishment of passengers’ rights in all modes of transport and thus place users at the heart of the transport policy. The need for action in this regard was further highlighted in the Communication of 16 February 2005<sup>2</sup> on strengthening passenger rights within the European Union in which the Commission presented a policy approach on how to extend passenger protection measures to all modes of transport. In that Communication the Commission already identified which rights should be strengthened by Community action irrespective of the mean of transport.

Passengers need a common set of principles that apply to all modes of transport, so that they can be more readily aware of their rights if something goes wrong with their trip, by whatever form of transport.

With regard to maritime transport the European Commission identified the following rights to be strengthened: 1) specific measures in favour of persons with reduced mobility (PRMs); 2) automatic and immediate solutions when travel is interrupted (long delays, cancellations or refusal of carriage); 3) passenger information obligations, and; 4) treatment of complaints and means of redress.

There is already a Commission proposal for a Regulation on liability of carriers of passengers by sea and inland waterways in the event of accidents<sup>3</sup>.

#### **1.2. Maritime transport**

Twenty-two out of the European Union's 27 Member States are coastal countries. Four of those 22 Member States (United Kingdom, Ireland, Malta and Cyprus) are islands and eight others (Portugal, Spain, France, Italy, Greece, Denmark, Sweden and Finland) have archipelagos or large islands with big populations. In the archipelagos and the outlying and outermost regions of the European Union, where dense maritime passenger traffic is essential for their integration in the social and economic fabric of the European Union, there is often no alternative mode of transport.

Over the last thirty years, there has been a boom in mobility in Europe. For millions of citizens, travel has become a reality, mobility is a necessity. This phenomenon is due to a number of factors, but above all to economic growth, the completion of the internal market,

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<sup>1</sup> COM(2001) 370, 12.9.2001.

<sup>2</sup> COM(2005) 46.

<sup>3</sup> The Commission has already put forward a proposal for a Regulation on liability in the event of death and injury in 2005, which is currently before the Council and the European Parliament: Proposal for a Regulation of the European Parliament and of the Council on the liability of carriers of passengers by sea and inland waterways in the event of accidents - COM(2005) 592.

lower travel costs and progress towards a European “area without internal frontiers”<sup>4</sup>. As a direct result of this development, 398 million people passed through the ports of the European Union in 2006<sup>5</sup>

The importance of maritime passenger transport is also reflected in the number of operators involved. There are nearly 300 operators on the European ferry and RoRo (Roll-on, Roll off) markets, and Europe has approximately 800 passenger ports. Maritime passenger transport is evenly spread throughout Europe, with a similar number of routes carrying more than one million passengers per year in each of the three coastal zones of the European Union (Baltic Sea, North Sea, and Mediterranean Sea).

### **1.3. Issues addressed**

The purpose of this proposal is to establish the rights of domestic and international maritime passengers, including those who are disabled or persons with reduced mobility, in order to improve the attractiveness of and confidence in maritime transport, as well as to achieve a level playing field for carriers from different Member States and for other modes of transport. Essentially, the proposal lays down provisions on the following:

- Accessibility, non-discrimination and assistance to disabled persons and persons with reduced mobility;
- Obligations for carriers when travel is interrupted in the event of cancellation or delay;
- Obligation to inform passengers travelling by sea and inland waterways of their rights;
- Handling of complaints;
- General rules of enforcement.

## **2. SCOPE OF APPLICATION**

This proposal covers domestic and international commercial passenger maritime and inland waterway services. Its aim is to establish minimum rules on information for all maritime passengers before and during their journey, addressing issues of interruptions of journeys, rules to be observed in the event of delays, dealing with complaints and providing assistance for persons with reduced mobility. With regard to the settlement of disputes, this proposal for a Regulation provides for the setting-up of independent bodies.

The existing legal framework governing the maritime transport sector is divided into the following categories: international conventions; European legislation (and subsequent implementation in national law); national legislation; and voluntary agreements.

Generally speaking, the international and European legislation that is in place focuses mainly on safety issues.

The main reference to critical events is found in the package tour Directive<sup>6</sup>; although this does not reflect a fully harmonised view: situations of unequal treatment of different passengers involved in the same type of event can have different protection.

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<sup>4</sup> Article 2 of the European Union Treaty.

<sup>5</sup> Source: Eurostat. Because of double counting this represents about 199 million maritime passengers.

<sup>6</sup> Directive 90/314/EEC: Package travel, package holidays and package tours regulations (OJ L 158, 23.6.1990, p. 59).

Directive 2003/24, which amends Directive 98/18/EC on safety rules and standards for passenger ships engaged on domestic voyages,<sup>7</sup> includes specific requirements for PRMs, in particular access to the ship, signs, messages relay systems, alarms and additional requirements, designed to ensure mobility on board ship. The issue of accessibility to new ships for international services has been regulated by the International Maritime Organisation's Recommendation on the Design and Operation of Passenger Ships to Respond to Elderly and Disabled Persons' Needs<sup>8</sup>.

Regarding national legislation, in some EU Member States, there are also specific regulations concerning PRM rights in the transport sector and in particular in the maritime sector. These rules are mainly administered by a public authority and, to a certain extent, cover access by PRMs to maritime transport. It is uncertain to what degree these regulations give PRMs the right in practice to demand access to maritime transport and assistance if necessary.

However, other domestic and international maritime transport services are regulated at national level only for a number of matters such as non discrimination, assistance, information and accessibility to ports. The laws of the Member States offer differing solutions for passengers and a variable level of protection. The assistance provided to disabled persons differs markedly from one Member State to another.

This proposal enhances consumer rights by promoting price transparency and non-discrimination in the area of tariffs on grounds of nationality or residence. It also establishes the general principle of prohibiting the refusal to carry persons with reduced mobility. This category of passengers is often prevented from travelling by boat due to a lack of accessibility of these services and the failure of shipping companies to offer the necessary assistance. Any discrimination on grounds of disability or reduced mobility with regard to booking a trip or boarding a ship is forbidden.

### **3. CONSISTENCY WITH OTHER EU POLICIES AND OBJECTIVES**

The proposal for a Regulation will contribute to the achievement of the Treaty's objectives by ensuring an enhanced level of consumer protection, combating discrimination and social exclusion of persons with disabilities and allowing European citizens to take full advantage of the opportunities created by the internal market.

Establishing and further strengthening the rights of passengers reflects the high priority given by the Amsterdam Treaty to the protection of consumers. In its Communication "EU Consumer Policy Strategy 2007-2013 Empowering consumers, enhancing their welfare, effectively protecting them"<sup>9</sup>, the Commission states that one of the priorities is to put consumers at the heart of other EU policies. The Communication notes that progress has been made in the integration of consumer interests, inter alia in air transport. The aim for the future is to build on these achievements in order to make integration of consumer interests more systematic. Therefore the Commission is extending the passenger rights that have been developed in the aviation sector to other transport modes, in particular as regards passengers with reduced mobility.

The proposal regarding the rights of passengers in maritime transport services is consistent with the objectives of combating social exclusion, as it establishes the principle of non-

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<sup>7</sup> Directive 2003/24/EC of the European Parliament and of the Council of 14 April 2003 amending Council Directive 98/18/EC on safety rules and standards for passenger ships (OJ L 123, 17.5.2003, p. 18).

<sup>8</sup> IMO MSC /Circ.735.

<sup>9</sup> COM(2007) 99.

discrimination and assistance to disabled people. The proposal is also in line with Article 21 of the Charter of Fundamental Rights, which lays down a general principle of prohibition of any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic feature, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation. It also ties in with Article 13 of the EC Treaty, which enables the Community to combat discrimination in the areas of Community competence. The proposal is also in line with the United Nations Convention on Rights of Persons with Disabilities, signed by all the Member States and the European Community.

Article 12 of the EC Treaty provides that any discrimination on the grounds of nationality is prohibited. Therefore, in the maritime sector also, and without prejudice to public service obligations requiring social tariffs, contract conditions and tariffs applied by carriers or other ticket vendors shall be offered to the general public without any discrimination based on grounds of the nationality or the place of residence of the final customer or on the place of establishment of the ticket vendors within the Community.

The EU consumer policy dimension is at the heart of the next phase of the internal market, as set out in the Commission's communication to the Spring European Council on the Single Market Review<sup>10</sup>. The single market generates benefits for consumers by widening choice and lowering prices and providing adequate protection.

In this respect, the establishment of rights for passengers travelling by sea or inland waterways will complement the progress achieved in the transport sector within the framework of the European Single Market. This proposal ensures that maritime passengers can enjoy improved protection in order to fully benefit from the Single Market and have the confidence to take advantage of it.

#### **4. CONSULTATION OF INTERESTED PARTIES**

##### **4.1. The public consultation**

In 2006, the European Commission launched a public consultation on maritime passenger rights, which partly focused on the protection of the rights of persons with reduced mobility during a journey by sea and inland waterway. The results of this consultation were published on DG TREN's website on 6 December 2006, and supplemented by the conclusions of the meeting held on 18 January 2007 between stakeholders and DG TREN services.

Respondents were virtually unanimous in the view that there should be a common minimum level of protection for passengers' rights throughout the EU, irrespective of the mode of transport or whether a journey takes place wholly within a single Member state or crosses an internal or external frontier. It was emphasised that maritime passengers are often among the most vulnerable members of society, who are not accustomed or do not have the means to lodge a complaint or to stand up for their rights.

The contributions received revealed a clear division between maritime operators and their associations and federations on the one hand and consumer associations on the other, even though all of them agree that a minimum level playing field is necessary. As a general rule, operators see only a limited need for regulation at Community level, whereas consumer associations call for extensive rights for passengers and even more so where the rights of PRM passengers are concerned. Most of the replies received from Member States

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<sup>10</sup> A single market for citizens - Interim report to the 2007 Spring European Council, Brussels COM(2007) 60, 21.2.2007.

governments supported a further strengthening of protection in the sector through EU intervention.

As regards PRMs, the majority of respondents, including all Member States and local authorities who contributed to the consultation, consider that the rights of persons with reduced mobility should be governed by the same four principles (non-discrimination, access, assistance and proper information) whatever the mode of transport used, subject to the specific features of each mode of transport.

All respondents to the consultation also agree on the following point: namely, that the additional costs of measures to improve accessibility and assistance for PRMs should not be borne solely by the latter.

At the meeting between stakeholders and DG TREN services held on 18 January 2007, none of those present when explicitly asked challenged the need for legal regulation and harmonisation at EU level.

Nevertheless, the different contributors to the consultation have varying perceptions as to the scale of the problem, regarding certain issues such as information, accessibility and enforcement.

#### **4.2. Collection and use of expertise**

In October 2006 the Commission received an opinion from the European Energy and Transport Forum which encourage Community action in the field of maritime passengers' rights.

The Commission also took into consideration an independent study commissioned by DG TREN in 2005-2006 on the "Analysis and assessment of the level of protection of passenger rights in the EU maritime transport sector". This study examined the rights of passengers confronted by disruptions but also the protection of the rights of persons with reduced mobility.

The overall conclusions of the general study were that the protection of passengers was not fully satisfactory owing, among other things, to a lack of uniformity regarding the extent and depth of protection of the rights of passengers; the lack of a framework of immediate and predefined solutions in cases of cancellations and delays; and the lack of information to passengers about their rights in the case of a critical event.

Moreover, regarding PRMs, it was concluded that there are significant differences between Member States in terms of the protection of PRMs' and that there is room for improvement of their situation; particular improvements can be made as regards accessibility in ports and ships, non-discrimination and assistance.

#### **4.3. Impact assessment**

The impact assessment carried out in accordance with the established Guidelines essentially covered principles of compensation and assistance in the event of cancellations and delays, rules of accessibility, non-discrimination and assistance to disabled persons and persons with reduced mobility; quality standards and information obligations, rules for handling complaints and for monitoring compliance.

Four policy options were assessed:

- "Business as usual": no EU action and continuing with existing national legislations;
- Voluntary agreements (exchange of best practice ) developed and adopted by ship operators to improve the situation of persons travelling by sea and inland waterway;
- EU coordination and exchange of best practices to be developed to enhance national legislations;
- Community legislative intervention (for instance, by means of a Regulation) establishing improved rights of persons when travelling by boat.

Summary of the results of the impact assessment:

As regards the principle of non-discrimination and assistance to disabled persons and persons with reduced mobility option 4: "Community legislative action to improve the rights of persons when travelling by boat" was selected as the best one.

The "establishment of a fully fledged system" option appears to be the most effective as regards assistance and information obligations in the event of an interrupted journey. Stronger protection of passengers will result in better services being offered.

The impact assessment report together with its annexes accompanies this draft regulation.

## **5. LEGAL ASPECTS**

### **5.1. Legal basis**

The legal basis for the proposal is set out in Articles 71 and 80 of the Treaty establishing the European Community, to which the co-decision procedure applies.

### **5.2. Choice of instrument**

The main objective of the proposal is to ensure an adequate level of protection of maritime passengers in general and of passengers with reduced mobility in particular. The rules established by the present proposal should be applied in a uniform and effective manner across the European Union to ensure both an adequate level of protection for maritime passengers and a level playing field for carriers. As the European legislators have agreed, co-regulation or self-regulation "will not be applicable where fundamental rights or important political options are at stake or in situations where the rules must be applied in a uniform fashion in all Member States"<sup>11</sup>. A regulation that is directly applicable appears to be the most appropriate instrument to ensure coherent application of the rules in all Member States. The Community has already chosen a regulation as the most appropriate legal instrument to protect the rights of air and rail passengers, and so achieve enforceable and equivalent passenger rights for maritime transport.

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<sup>11</sup> European Parliament, Council and Commission Interinstitutional agreement on better law-making (2003/C 321/01), point 17.



### **5.3. Subsidiarity principle**

Passenger protection is a problem on a European scale and which requires a solution at Community level. The liberalisation of a market and taking into account consumer interests, especially disabled persons and persons with reduced mobility, are two complementary aspects of the internal market. The aim of the proposal is essentially to ensure that maritime passengers enjoy the same rights and level of protection across the European Union. Given the international dimension of this mode of transport, it is impossible for a single Member State or group of Member States to satisfactorily resolve the issues related to passenger transport services; thus Community action is called for.

### **5.4. Proportionality principle**

The Commission is conscious of the danger of over-regulation and is maintaining the emphasis placed by the Lisbon European Council on simplifying the regulatory environment.

The Commission has confined its proposal to areas where specific Community rules are necessary and avoids subjects which are better left to self-regulatory measures. The proposal is limited to areas where the need for Community action is clear and widely accepted. It is therefore proportionate to the objective sought and appropriate to the circumstances in which it is pursued. Without harmonisation, passengers would, at best, enjoy different rights and, at worst, have no legal protection at all. Moreover, they would find it difficult to know their rights wherever they travelled in Europe and thus to insist on those rights being respected.

### **5.5. Enforcement**

Maritime passengers in general and maritime passengers with disabilities or with reduced mobility are in a weak position if maritime operators fail to meet their obligations. The UN Convention of Rights of Persons with Disabilities provides for those who claim to be victims of violation by a state party of the provisions of the UN Convention, the possibility to submit a Communication. Therefore the development of further EC regulation will provide more effective uniform legal protection across the EU.

Strict enforcement of the proposed regulation will be necessary. The Commission's proposal therefore includes an article requiring Member States to impose sanctions for non-compliance and to designate bodies responsible for enforcing the regulation and for handling complaints from such passengers. These provisions follow the same approach as that taken in the following pieces of legislation: the Regulation of the European Parliament and of the Council on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights; the Regulation concerning the rights of disabled persons and persons with reduced mobility when travelling by air; and the Regulation of the European Parliament and the Council on rail passengers' rights and obligations.

### **5.6. European Economic Area and Switzerland**

The proposal for a Regulation is of relevance to the European Economic Area and should therefore be extended to it. The proposal is also of relevance for Switzerland.

## **6. PROVISIONS OF THE PROPOSAL**

### **Chapter I General Provisions**

Article 1 sets out the subject matter of the Regulation.

Article 2 sets out the scope of the Regulation

Article 3 gives the definitions which are to be applied for the purpose of this Regulation.

Article 4 concerns conclusion of a transport contract that gives rise to rights enshrined in this proposal and establishes non-discriminatory contract conditions

Article 5 concerns an exclusion of waiver with regard to rights established by this Regulation.

## Chapter II Rights of disabled persons and Persons with Reduced Mobility

Article 6 enshrines the general principle of prohibition of refusal of carriage to the benefit of the persons with reduced mobility.

Article 7 provides that such a rule is without prejudice to certain exceptions and derogations notably for justified safety reasons established by law.

Article 8 sets out general rules on accessibility for disabled persons and persons with reduced mobility.

Article 9 establishes the right to assistance at ports for disabled persons and persons with reduced mobility and designates the body which is responsible for assistance at ports, and the manner in which this body must finance such assistance. It is a fundamental principle that assistance shall be provided at no additional cost to the person with reduced mobility.

Article 10 provides for the right to assistance where no port exists, with reference to Article 9.

Article 11 also establishes the fundamental principle that assistance shall be provided free of charge to the person with reduced mobility in respect of assistance aboard ships.

Article 12 establishes the principles of assistance at ports, which includes accommodation of assistance animals and rules on transit. In order to provide quality assistance to persons with reduced mobility at all times, it also lays down timing obligations for the person with reduced mobility in the case of booking in advance.

Article 13 deals with transmission of information to a third party. In order to provide quality assistance to persons with reduced mobility at all times, operators (or port authorities if the latter decide to subcontract assistance to them) must receive early notice of their special needs prior to a trip. This article lays down rules for such transmission of information, and the deadlines to be respected in order to create obligations for operators under this Regulation.

Article 14 deals with quality standards for assistance to be established by carriers.

Article 15 lays down requirement to ensure appropriate training for personnel with regard to disability issues.

Article 16 establishes the right to compensation for lost or damaged wheelchairs and other mobility equipment when being handled at ports or onboard ships.

## Chapter III Obligations of carriers in the event of interrupted travel

Article 17 establishes the obligation to provision of information in the event of interrupted travel.

Article 18 establishes the right to assistance to passengers in the event of delay or cancellation of service. The assistance includes meals, accommodation and transport with special attention to disabled persons and persons with reduced mobility.

Article 19 creates a right for passengers to be rerouted or reimbursed when there has been a delay beyond a certain length of time or there has been a cancellation of services.

Article 20 lays down the right to compensation in the event of travel being interrupted. This article further fixes the time limit within which the compensation is to be paid, as well as the method of payment.

Article 21 paves the way for seeking further compensation.

Article 22 encourages carriers to adopt arrangements with a view to enhancing passengers' rights and quality of service.

#### Chapter IV Information for passengers and handling of complaints

Article 23 establishes general right to travel information to all passengers.

Article 24 requires carriers, performing carriers and managing bodies of ports to provide passengers with information on their rights under this Regulation.

Article 25 establishes rules for a complaint handling procedure.

#### Chapter V Enforcement and National Enforcement Bodies

Article 26 establishes rules for the enforcement of the present Regulation, and in particular requires Member States to designate national enforcement bodies to which passengers may complain about alleged violation of their rights under this draft Regulation.

Article 27 requires enforcement bodies to publish an annual report on their activities

Article 28 establishes the principle of cooperation between national enforcement bodies

Article 29 requires that Member States should adopt dissuasive penalties in case of non-respect of passenger rights.

#### Chapter VI Final provisions

Article 30 provides that the Commission should report to the Council and the Parliament on the functioning of the Regulation three years after the entry into force of the Regulation.

Article 31 concerns the amendment to Regulation EC No 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws.

Article 32 provides that the Regulation shall enter into force 20 days after publication in the Official Journal of the EU and shall apply with effect from one year after that date.

Annex I establishes the right to reimbursement or re-routing in case of advance booking by a disabled person or a person with reduced mobility who has been denied embarkation on the grounds of his or her disability or reduced mobility.

Annex II defines the scope of assistance to be offered to disabled persons and persons with reduced mobility in ports.

Annex III defines the scope of assistance to be offered to disabled persons and persons with reduced mobility aboard ships.

Annex IV relates to the content of disability-related training.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 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 Articles 71(1) and 80(2) thereof,

Having regard to the proposal from the Commission<sup>12</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>13</sup>,

Having regard to the opinion of the Committee of the Regions<sup>14</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>15</sup>,

Whereas:

- (1) Action by the Community in the field of maritime transport should aim, among other things, at ensuring a high level of protection for passengers that is comparable with other modes of transport. Moreover, full account should be taken of the requirements of consumer protection in general.
- (2) Since the maritime passenger is the weaker party to the transport contract, passengers' rights in this respect should be safeguarded irrespectively of their nationality or place of residence within the Community
- (3) The single market for maritime and inland waterway passenger services should benefit citizens in general. Consequently, disabled persons and persons with reduced mobility, whether caused by disability, age or any other factor, should have opportunities for using commercial passenger maritime services that are comparable to those of other citizens. Disabled persons and persons with reduced mobility have the same right as all other citizens to free movement, freedom of choice and non-discrimination.
- (4) In the light of Article 9 of the United Nations Convention on the Rights of Persons with Disabilities and in order to give disabled persons and persons with reduced mobility opportunities for maritime and inland waterway travel comparable to those of other citizens, rules for non-discrimination and assistance during their journey should be established. Those persons should therefore be accepted for carriage and not refused transport on the grounds of their disability or lack of mobility, except for

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<sup>12</sup> OJ C [...], [...], p. [...].

<sup>13</sup> OJ C [...], [...], p. [...].

<sup>14</sup> OJ C [...], [...], p. [...].

<sup>15</sup> OJ C [...], [...], p. [...].

reasons which are justified on the grounds of safety and prescribed by law. They should enjoy the right to assistance at ports, and at embarkation / disembarkation points where no port exists, as well as on board passenger ships. In the interests of social inclusion, the persons concerned should receive this assistance free of charge. Carriers should establish accessibility rules, using preferably the European standardisation system.

- (5) In deciding on the design of new ports and terminals if any, and as part of major refurbishments, managing bodies of ports and carriers that will operate them should, where necessary, take into account the needs of disabled persons and persons with reduced mobility. Similarly, carriers should, where necessary, take such needs into account when deciding on the design of new and newly refurbished passenger ships in accordance with Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships<sup>16</sup>.
- (6) Assistance given at ports situated in the territory of a Member State to which the Treaty applies should, among other things, enable disabled persons and persons with reduced mobility to proceed from a designated point of arrival at a port to a passenger ship and from the passenger ship to a designated point of departure of the port, including embarking and disembarking.
- (7) Assistance should be financed in such a way as to spread the burden equitably among all passengers using a carrier and to avoid disincentives to the carriage of disabled persons and persons with reduced mobility. A charge levied on each passenger using a carrier, included in the basic ticket price, appears to be the most effective way of funding. The charges should be adopted and applied in a fully transparent manner.
- (8) In organising the provision of assistance to disabled persons and persons with reduced mobility, and the training of their personnel, carriers should have regard to the Recommendation of the International Maritime Organisation on the Design and Operation of passenger ships to respond to elderly and disabled persons' needs<sup>17</sup>.
- (9) Passengers should be adequately informed in the event of cancellation or delay of any service. This information should help passengers to make the necessary arrangements and if needed to obtain information about alternative connections.
- (10) Inconvenience experienced by passengers due to the cancellation or long delay of their journey should be reduced. To this end, passengers should be adequately looked after and should be able to cancel their journey and have their tickets reimbursed or to obtain rerouting under satisfactory conditions.
- (11) Carriers should provide for the payment of compensation for passengers in the event of delay or cancellation of a service based on a percentage of the ticket price, except when the delay or cancellation occurs in extraordinary circumstances, which could not have been avoided even if all reasonable measures had been taken.
- (12) Carriers should cooperate in order to adopt arrangements at national or European level for improving care and assistance offered to passengers whenever their travel is interrupted, notably in the event of long delays.

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<sup>16</sup> OJ L 144, 15.5.1998, p. 1.

<sup>17</sup> IMO - Maritime Safety Committee, Circ.735, 24 June 1996 at the time of the adoption of this Regulation.

- (13) This Regulation should not affect the rights of passengers established by Council Directive 90/314/EEC on package travel, package holidays and package tours<sup>18</sup>. In cases where a package tour is cancelled for reasons other than cancellation of the maritime transport service, this Regulation should not apply.
- (14) Passengers should be fully informed of their rights under this Regulation, so that they can effectively exercise those rights. Rights of maritime and inland waterway passengers should include the receipt of information regarding the service before and during the journey. All essential information provided to maritime and inland waterway passengers should also be provided in alternative formats accessible to disabled persons and persons with reduced mobility.
- (15) Passenger should be able to exercise their rights by means of appropriate complaint procedures implemented by carriers or, as the case may be, by the submission of complaints to the body or bodies designated to that end by the relevant Member State.
- (16) Complaints concerning assistance given at a port or an embarkation / disembarkation point should be addressed to the body or bodies designated for the enforcement of this Regulation by the Member State where the port is situated. Complaints concerning assistance given by a carrier at sea should be addressed to the body or bodies designated for the enforcement of this Regulation by the Member State which has issued the operating licence to the carrier. The body designated for the enforcement of this Regulation should have the power and capacity to investigate individual complaints and to facilitate out of court dispute settlements.
- (17) Member States should supervise and ensure compliance with this Regulation and designate an appropriate body to carry out enforcement tasks. This supervision does not affect the rights of passengers to seek legal redress from courts under national law.
- (18) Member States should lay down penalties applicable to infringements of this Regulation and ensure that those penalties are applied. The penalties, which could include ordering the payment of compensation to the person concerned, should be effective, proportionate and dissuasive.
- (19) Since the objectives of this Regulation, namely to ensure high and equivalent levels of protection of and assistance to passengers throughout the Member States and to ensure that economic agents operate under harmonised conditions in a single market, cannot sufficiently be achieved by the Member States and can therefore, by reason of the scale or effects of the action, be better achieved at 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.
- (20) The enforcement of this Regulation should be based on Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of the consumer protection law (the Regulation on consumer protection cooperation)<sup>19</sup>. That Regulation should therefore be amended accordingly.

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<sup>18</sup> OJ L 158, 23.6.1990, p. 59.

<sup>19</sup> OJ L 364, 9.12.2004, p. 1.

- (21) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>20</sup> should be strictly enforced in order to guarantee respect for the privacy of maritime and inland waterway passengers, and ensure that the information requested serves solely to fulfil the assistance obligations laid down in this Regulation and is not used to the detriment of passengers.
- (22) This Regulation respects the fundamental rights and observes 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 carriers;
- (2) non-discrimination and mandatory assistance for disabled persons and persons with reduced mobility;
- (3) the obligations of carriers towards passengers in cases of cancellation or delay;
- (4) minimum information to be provided to passengers;
- (5) the handling of complaints;
- (6) the enforcement of passengers' rights.

#### *Article 2*

##### *Scope*

1. This Regulation shall apply to commercial passenger maritime and inland waterway services, including cruises, between or at ports or any embarkation / disembarkation point situated in the territory of a Member State to which the Treaty applies.
2. Member States may exempt services covered by public service contracts if such contracts ensure a comparable level of passenger rights to that required by this Regulation.

#### *Article 3*

##### *Definitions*

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

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<sup>20</sup> OJ L 281, 23.11.1995, p. 31.

- (a) "disabled person" or "person with reduced mobility" means any person whose mobility when using transport is reduced as a result of any physical disability (sensory or locomotor, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or as a result of age, and whose situation needs appropriate attention and adaptation to his particular needs of the service made available to all passengers;
- (b) 'cancellation' means the non-operation of a service which was previously scheduled and for which at least one reservation was made;
- (c) '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;
- (d) "carrier" means a person by or on behalf of whom a contract of carriage has been concluded, or the performing carrier whether the carriage is actually performed by him or by a performing carrier, other than a tour operator;
- (e) "commercial passenger maritime service" means a passenger maritime transport service operated by a carrier through a scheduled or non-scheduled route offered to the general public for valuable consideration, whether on its own or as part of a package;
- (f) "performing carrier" means a person other than the carrier and the tour operator, who actually performs the whole or a part of the carriage;
- (g) "port" means an area of land and water made up of such improvement works and equipment as to permit, principally, the reception of ships, their loading and unloading, the storage of goods, the receipt and delivery of these goods by inland transport, and the embarkation and disembarkation of passenger ships;
- (h) "embarkation / disembarkation point" means an area of land and water other than a port, from and to which passengers regularly embark and disembark.
- (i) "ship" means a seagoing or rivergoing vessel, excluding an air-cushion vehicle;
- (j) 'transport contract' means a contract of carriage between a carrier or its authorised ticket vendor and a passenger for the provision of one or more transport services;
- (k) "ticket" means a valid document giving entitlement to transport, or something equivalent in paperless form, including electronic form, issued or authorised by a carrier or its authorised ticket vendor;
- (l) 'ticket vendor' means any retailer of maritime transport services concluding transport contracts and selling tickets on behalf of a carrier or for its own account;
- (m) "tour operator" means an organiser or retailer, other than a carrier, within the meaning of Article 2(2) and (3) of Directive 90/314/EEC;
- (n) "reservation" means an authorisation, on paper or in electronic form, giving entitlement to transportation subject to previously confirmed personalised transport arrangements;
- (o) "passenger ship" means a ship which carries more than 12 passengers;
- (p) "ro-ro passenger ship" means a ship carrying more than 12 passengers, having roll-on/roll-off cargo spaces or special category spaces, as defined in regulation



II-2/A/2 of the 1974 International Convention for the Safety of Life at Sea, as amended ;

- (q) "port authority" or "managing body of the port" means a body which, whether or not in conjunction with other activities, has as its objective under national law or regulation the administration and management of the port infrastructures, and the coordination and control of the activities of the different operators present in a port or port system. It may consist of several separate bodies or be responsible for more than one port.
- (r) "cruise" means a passenger shipping activity supplemented by accommodation and other facilities, exceeding one day (overnight) stay, which is not a regular or scheduled passenger service between two or more ports, but with passengers usually returning to the port of embarkation.

#### *Article 4*

##### *Transport contract and non-discriminatory contract conditions*

1. Carriers 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.
2. Without prejudice to public service obligations requiring social tariffs, contract conditions and tariffs applied by carriers 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 carriers 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 contract of carriage.
2. Carriers may offer contract conditions that are more favourable for the passenger than the conditions laid down in this Regulation.

## **Chapter II**

### **Rights of disabled persons and persons with reduced mobility**

#### *Article 6*

##### *Prevention of refusal of carriage*

1. Carriers, ticket vendors and tour operators shall not refuse, on the grounds of disability or of reduced mobility:
  - (a) to accept a reservation, 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 at a port or embarkation / disembarkation point, 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 7*

### *Derogations and special conditions*

1. Notwithstanding the provisions of Article 6, carriers, ticket vendors or tour operators may refuse, on the grounds of disability or of reduced mobility, to accept a reservation from or to issue a ticket to or to embark a disabled person or a person with reduced mobility:
- (a) in order to meet applicable safety requirements established by international, Community or national law or in order to meet safety requirements established by the authority that issued the operator's certificate to the carrier concerned;
  - (b) where the structure of the passenger ship makes the embarkation or carriage of the disabled person or person with reduced mobility physically impossible.

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.

In case of advanced booking, a disabled person or a person with reduced mobility who has been denied embarkation on the grounds of his disability or reduced mobility and any person accompanying that person pursuant to paragraph 2 shall be offered the right to reimbursement or re-routing as provided for in Annex I. The right to the option of a return journey or re-routing shall be conditional upon all safety requirements being met.

2. Under the same conditions as referred to in paragraph 1(a), a carrier or a ticket vendor or a tour operator may require that a disabled person or person with reduced mobility be accompanied by another person who is capable of providing the assistance required by that person if this is strictly necessary.
3. When a carrier or a ticket vendor or a tour operator exercises a derogation provided for in paragraphs 1 or 2, it shall immediately inform the disabled person or person with reduced mobility of the reasons therefore. On request, the carrier, the ticket vendor or the tour operators shall communicate these reasons in writing to the disabled person or person with reduced mobility, within five working days of the request.

## *Article 8*

### *Accessibility and information*

1. Carriers shall establish, with the active involvement of representatives of organisations of disabled persons and persons with reduced mobility and enforcement bodies referred to in Article 26, non-discriminatory access rules that

apply to the carriage of disabled persons and persons with reduced mobility, as well as any restrictions on their carriage or on that of mobility equipment due to the structure of passenger ships, in order to meet applicable safety requirements. These rules shall contain all access conditions of the maritime service in question, including accessibility of the ships operated and their facilities on board.

2. The rules provided for in paragraph 1 shall be made publicly available by carriers or ticket vendors at least at the time a reservation is made, in appropriate ways, 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 people with disabilities and persons with reduced mobility.
3. Upon request carriers shall make available the international, Community or national law establishing the safety requirements, on which non-discriminatory access rules are based.
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. Carriers, 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 is available in appropriate and accessible formats for disabled persons and persons with reduced mobility including online booking and information.

## *Article 9*

### *Right to assistance at ports*

1. On departure from, transit through or arrival at a port, the Carrier shall be responsible for ensuring the provision of the assistance specified in Annex II to disabled persons and persons with reduced mobility free of charge in such a way that person is able to board the departing service, or to disembark from the arriving service for which he purchased a ticket, without prejudice to the access rules referred to in Article 8(1).
2. A carrier may provide assistance itself or may contract with one or more other parties for the supply of the assistance. The carrier may enter into such a contract or contracts on its own initiative or on request, including from a port authority, and taking into account the existing services at the port concerned.

Where a carrier contracts with one or more other parties for the supply of the assistances, the carrier shall remain responsible for provision of the assistance and for ensuring compliance with the quality standards referred to in Article 14(1).

3. Carriers may, on a non-discriminatory basis, levy a specific charge on all passengers for the purpose of funding assistance at ports. The specific charge shall be reasonable, cost-related, and transparent.
4. Carriers shall separate the accounts of their activities relating to the assistance provided to disabled persons and persons with reduced mobility from the accounts of their other activities, in accordance with current commercial practice.
5. Carriers shall make available to the enforcement body or bodies designated pursuant to Article 26(1), an audited annual overview of charges received and expenses made

in respect of the assistance provided to disabled persons and persons with reduced mobility.

#### *Article 10*

##### *Right to assistance at embarkation / disembarkation points*

Where no port exists for a particular destination or leg, the assistance shall be organised by the carrier at the embarkation / disembarkation point in accordance with Article 9.

#### *Article 11*

##### *Right to assistance aboard ships*

Carriers shall at least provide the assistance specified in Annex III free of charge to disabled persons or persons with reduced mobility departing from, arriving at or transiting through a port to which this Regulation applies.

#### *Article 12*

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

Carriers, managing bodies of ports, ticket vendors and tour operators shall cooperate in order to provide assistance to disabled persons and persons with reduced mobility in line with Articles 9, 10 and 11 in accordance with the following points:

- (a) Assistance shall be provided on condition that the carrier, the ticket vendor or the tour operator with which the ticket was purchased is notified of the person's need for such assistance at least 48 hours before the assistance is needed. Where the ticket permits multiple journeys, one notification shall be sufficient provided that adequate information on the timing of subsequent journeys is provided;
- (b) carriers, ticket vendors and tour operators shall take all measures necessary for the reception of notifications of the need for assistance made by disabled persons or persons with reduced mobility. This obligation shall apply at all their points of sale, including sale by telephone and via the Internet;
- (c) if no notification is made in accordance with point (a), carriers, ticket vendors and tour operators shall make all reasonable efforts to ensure that the assistance is provided in such a way that the disabled person or person with reduced mobility is able to board the departing service, to change to the corresponding service or to disembark from the arriving service for which he has purchased a ticket;
- (d) without prejudice to the powers of other entities regarding areas located outside the port premises, the managing body of a port or any other authorised person shall designate points of arrival and departure within the port boundary, both inside and/or outside terminal buildings as the case may be, at which disabled persons or persons with reduced mobility can announce their arrival and request assistance; these points shall be clearly signed and shall offer basic information about the port, and assistance provided in accessible formats.

- (e) assistance shall be provided on condition that the disabled person or person with reduced mobility present him at the designated point:
  - at a time stipulated by the carrier which shall be not more than 60 minutes before the published departure time, or
  - if no time is stipulated, no later than 30 minutes before the published departure time.
- (f) Where a disabled person or person with reduced mobility requires the use of an assistance animal , that animal shall be accommodated provided that the carrier or the ticket vendor or the tour operator are notified in accordance with applicable national rules covering the carriage of recognised assistance animals on board passenger ships, where such rules exist.

### *Article 13*

#### *Transmission of information to a third party*

1. Where provision of the assistance has been subcontracted, and the carrier, the ticket vendor or the tour operator receives a notification of the need for assistance at least 48 hours before the published departure time for the journey, it shall transmit the relevant information so that the sub-contractor receives it at least 36 hours before the published departure time for the journey.
2. Where provision of the assistance has been subcontracted, and the carrier or a the ticket vendor or the tour operator does not receive a notification of the need for assistance at least 48 hours before the published departure time for the journey, the carrier or ticket vendor or tour operator shall transmit the information to the sub-contractor as soon as possible.

### *Article 14*

#### *Quality standards for assistance*

1. Carriers shall set quality standards for the assistance specified in Annex II and III and shall determine resource requirements for meeting those standards, in cooperation with organisations representing disabled passengers and passengers with reduced mobility.
2. In the setting of quality standards, full account shall be taken of internationally recognised policies and codes of conduct concerning facilitation of the transport of disabled persons or persons with reduced mobility, notably the International Maritime Organisation's Recommendation of the Design and Operation of passenger ships to respond to elderly and disabled persons' needs.
3. Carriers shall publish their quality standards.

### *Article 15*

#### *Training*

Carriers 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 IV to all their personnel working at the port 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 16*

##### *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 port or transported on board ship, before, during and after the journey, the passenger to whom the equipment belongs shall be compensated, by the carrier or the managing body of the port, depending on who was responsible the equipment was placed at the time of loss or damage.  
Where necessary every effort shall be undertaken to rapidly provide replacement equipment.
2. There shall be no limit to the amount of compensation payable pursuant to this Article.

### **Chapter III**

## **Obligations of carriers in the event of interrupted travel**

#### *Article 17*

##### *Provision of information*

1. In the event of delay , the carrier or, where appropriate, the managing body of the port 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 .
2. If passengers miss a connection due to a delay, the performing carrier shall make reasonable efforts to inform the passengers concerned of alternative connections.

#### *Article 18*

##### *Right to assistance*

1. Where a carrier reasonably expects a passenger maritime service to be delayed for more than 60 minutes beyond its scheduled time of departure, passengers shall be offered free of charge meals and refreshments in reasonable relation to the waiting time, if they are available on board or at the port, or can reasonably be supplied.
2. In the case of any delay where a stay of one or more nights or a stay additional to that intended by the passenger becomes necessary, where and when physically possible,

passengers shall be offered free of charge hotel or other accommodation, and transport between the port and place of accommodation in addition to the meals and refreshments provided for in paragraph 1.

3. If the maritime service can no longer be continued, carriers shall, where possible and as soon as possible, organise alternative transport services for passengers.
4. In applying paragraphs 1, 2, and 3, the performing carrier shall pay particular attention to the needs of disabled persons and persons with reduced mobility and any accompanying persons.

## *Article 19*

### *Re-routing and reimbursement*

1. Where a carrier reasonably expects a passenger maritime service to be delayed beyond its scheduled time of departure by more than 120 minutes, the passenger shall immediately:
  - (a) be offered alternative transport services 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 he accepts alternative transport services referred to in (a).

The payment of the reimbursement provided for in point (b) shall be made under the same conditions as the payment of the compensation provided for in Article 20.

2. The right to reimbursement under this Article shall not apply to passengers on a cruise journey unless such rights arise under Directive 90/314/EEC.

## *Article 20*

### *Compensation of the ticket price*

1. Without losing the right of transport, a passenger may request compensation from the carrier if he is facing a delay in arrival due to a cancellation or a delay departure. The minimum levels of compensation shall be as follows:
  - (a) 25 % of the ticket price for a delay of 60 to 119 minutes;
  - (b) 50 % of the ticket price for a delay of 120 minutes or more;
  - (c) 100% of the ticket price if the carrier fails to provide alternative services or the information referred to in Article 19(a).
2. The right to compensation under this Article shall not apply to passengers on a cruise journey unless such rights arise under Directive 90/314/EEC
3. The compensation shall be paid within one month after the submission of the request for compensation. The compensation may be paid in vouchers and/or other services providing the terms are flexible, in particular as regards the period of validity and destination. The compensation shall be paid in money at the request of the passenger.

4. This Article shall not apply where the delay or cancellation is caused by exceptional circumstances hindering the performance of the transport service, which could not have been avoided even if all reasonable measures had been taken.

#### *Article 21*

##### *Further claims*

Nothing in this Regulation shall preclude passengers from seeking damages in respect of loss resulting from cancellation or delay of transport services before national courts.

#### *Article 22*

##### *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.

## **Chapter IV**

### **Information for passengers and handling complaints**

#### *Article 23*

##### *Right to travel information*

Managing bodies of ports and carriers shall provide passengers with adequate information throughout their travel in the most appropriate format. Particular attention shall be paid to the needs of people with disabilities and persons with reduced mobility.

#### *Article 24*

##### *Information on passenger rights*

1. Carriers shall ensure that passengers are provided with appropriate and comprehensible information regarding their rights under this Regulation at the latest on departure. To the extent that the information has been provided by either the carrier or the performing carrier, the other shall not be obliged to provide that information. The information shall be provided in the most appropriate format. When providing this information particular attention shall be paid to the needs of people with disabilities and persons with reduced mobility.
2. Carriers and managing bodies of the ports shall ensure that information on the rights of passengers under this Regulation is publicly available both on board ships and at ports. This information shall include contact details of the enforcement body designated by the Member State pursuant to Article 26(1).



## Article 25

### *Complaints*

1. Carriers shall set up a complaint handling mechanism for rights and obligations covered by this Regulation.
2. Passengers may submit a complaint to a carrier 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.

## **Chapter V**

### **Enforcement and national enforcement bodies**

## Article 26

### *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 8. Each body shall, in its organisation, funding decisions, legal structure and decision-making, be independent of carriers.
2. Member States shall inform the Commission of the body or bodies designated in accordance with this Article and of their respective responsibilities.
3. Any passenger may complain to the appropriate body designated under paragraph 1, or to any other appropriate body designated by a Member State, about an alleged infringement of this Regulation.
4. 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 27

### *Report on enforcement*

1. On 1 June each year the enforcement bodies designated pursuant to Article 26 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;

- (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 28*

##### *Cooperation between enforcement bodies*

National enforcement bodies designated pursuant to Article 26(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.

#### *Article 29*

##### *Penalties*

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

## **Chapter VI Final Provisions**

#### *Article 30*

##### *Report*

The Commission shall report to the European Parliament and to the Council at the latest three years after the entry into force of this Regulation, on the operation and the effects of this Regulation. The report shall be accompanied where necessary by legislative proposals implementing in further detail the provisions of this Regulation, or amending it.

#### *Article 31*

##### *Amendment to Regulation (EC) No 2006/2004*

In the Annex to Regulation (EC) No 2006/2004 the following point [19] is added:

"19. Regulation of the European Parliament and of the Council of [...] concerning the rights of passengers traveling by sea and inland waterway and amending Regulation EC No

2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws<sup>21</sup>"

*Article 32*

*Entry into force*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from [two years] after publication. Articles 6, 7, 25, 26, and 29, shall apply from [one year] after publication.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [...]

*For the European Parliament*  
*The President*  
[...]

*For the Council*  
*The President*  
[...]

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<sup>21</sup> OJ C [...], [...], p. [...].

## ANNEX I

### Right to reimbursement or re-routing in case of advanced booking for disabled persons and persons with reduced mobility

1. Where reference is made to this Annex, disabled persons and persons with reduced mobility shall be offered the choice between:

(a) - reimbursement within seven days, paid in cash, by electronic bank transfer, bank orders or bank cheques or, with the signed agreement of the passenger, of the full cost of the ticket at the price at which it was purchased, for the part or parts of the journey not made, and for the part or parts already made if the journey no longer serves any purpose in relation to the passenger's original travel plan, plus, where relevant,

- a return journey to the first point of departure, at the earliest opportunity; or

(b) re-routing, under comparable transport conditions, to their final destination at the earliest opportunity; or

(c) re-routing, under comparable transport conditions, to their final destination at a later date at the passenger's convenience, subject to availability of tickets.

2. Paragraph 1(a) shall also apply to passengers whose journeys form part of a package, except for the right to reimbursement where such a right arises under Directive 90/314/EEC<sup>22</sup>.

3. When, in the case where a town, city or region is served by several ports, an operating carrier offers a passenger a journey to an alternative port to that for which the booking was made, the operating carrier shall bear the cost of transferring the passenger from that alternative port either to that for which the booking was made, or to another nearby destination agreed with the passenger.

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<sup>22</sup> OJ L 158, 23.6.1999, p. 55.

## ANNEX II

### Assistance in ports

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

- communicate their arrival at a port and their request for assistance,
- move from a entry point to the check-in counter, if any, or to the ship,
- check-in and register baggage, if necessary,
- proceed from the check-in counter (if any) to the ship, with completion of emigration, customs and security procedures,
- board the ship, with the provision of lifts, wheelchairs or other assistance needed, as appropriate,
- proceed from the ship door to their seats/area,
- store and retrieve baggage on the ship,
- proceed from their seats to the ship door,
- disembark from the ship, with the provision of lifts, wheelchairs or other assistance needed, as appropriate,
- retrieve baggage (if necessary), with completion of immigration and customs procedures,
- proceed from the baggage hall or the disembarkation point to a designated point of exit
- make their way to the toilet facilities if required.

Where a disabled person or person with reduced mobility is assisted by an accompanying person, this person must, if requested, be allowed to provide the necessary assistance in the port and with embarking and disembarking.

Handling of all necessary mobility equipment, including equipment such as electric wheelchairs.

Temporary replacement of damaged or lost mobility equipment, albeit not necessarily on a like for like basis.

Ground handling of recognised assistance animals, when relevant.

Communication in accessible formats of information needed to embark and disembark.

## **ANNEX III**

### **Assistance aboard ships**

Carriage of recognised assistance animals in the ship, subject to national regulations.

In addition to medical equipment, transport of up to two pieces of mobility equipment per disabled person or person with reduced mobility, including electric wheelchairs.

Communication of essential information concerning a route in accessible formats.

Making of all reasonable efforts to arrange seating to meet the needs of individuals with disability or reduced mobility on request and subject to safety requirements and availability.

Assistance in moving to toilet facilities, if required.

Where a disabled person or person with reduced mobility is assisted by an accompanying person, the shipping company will make all reasonable efforts to give such person a seat next to the disabled person or person with reduced mobility.

## ANNEX IV

### **Disability-related training**

#### **Disability-awareness training**

Training of staff who 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 persons with reduced mobility, including attitudinal, environmental/physical and organisational barriers;
- recognised assistance animals, including the role and the needs of an assistance animal;
- dealing with unexpected occurrences;
- interpersonal skills and methods of communication with deaf and hearing impaired people, visually impaired people, speech impaired people and people with a learning disability;
- general awareness of IMO guidelines relating to the Recommendation of the Design and Operation of passenger ships to respond to elderly and disabled persons' needs;
- how to handle wheelchairs and other mobility aids carefully so as to avoid damage (to all staff who are responsible for baggage handling if any).

#### **Disability-assistance training**

Training of staff directly assisting persons with reduced mobility includes:

- how to help wheelchair users make transfers into and out of a wheelchair;
- skills for providing assistance to persons with reduced mobility travelling with a recognised assistance animal, including the role and the needs of those animals;
- techniques for escorting blind and partially-sighted passengers and for the handling and carriage of recognised assistance animals;
- an understanding of the types of equipment which can assist 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 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