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**COMMISSION STAFF WORKING DOCUMENT**

*accompanying the*

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**

**Impact Assessment**

**concerning the rights of passengers travelling by sea and inland waterway**

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## COMMISSION STAFF WORKING DOCUMENT

### Impact assessment concerning the rights of passengers travelling by sea and inland waterway

**Lead DG:** TREN

**Other involved services:** DG EMPL, ENTR, MARKT, SANCO, SJ, SEC GEN.

**Agenda planning or WP reference:** 2006/TREN/017 // 2007/TREN/050

*In its White Paper “European transport policy for 2010: time to decide” the European Commission envisaged the establishment of passengers’ rights in all modes of transport. The need for action in this respect was further highlighted in the Communication of 2005 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. Passengers need a common set of principles that apply to all modes of transport, so that they can be more easily aware of their rights if something goes wrong with their trip, regardless of the mode of transport.*

*Since then, two Regulations on aviation have entered into force, a Regulation on rail transport has been adopted, and there is one draft proposal on international bus and coach transport covering all principles in passengers' rights.*

*The maritime transport sector needs to increase its competitiveness; passengers travelling by ship require less fuel and cause less damage to the environment than when travelling by road or air. The maritime sector could raise its quality standards and offer better protection of passenger rights, in line with the priority that the Amsterdam Treaty gave to the protection of consumers.*

*This impact assessment has been conducted with a view to examining the situation with regard to the protection of passenger rights in the maritime sector and the necessity for establishing a legislation that grants passengers general rights. It focuses on the main areas of concern highlighted by the Commission in its policy documents: the rights of persons with reduced mobility (hereinafter referred as to PRMs); the quality of service; the assistance to passengers when travel is interrupted in the event of delay or cancellation; the right to information; and non discrimination issues.*

*In order to tackle these issues, four options have been envisaged: in the first option, no action is undertaken at EU level, and the current situation is perpetuated. The second option relies on Community legislative intervention to establish improved rights of persons, including those with reduced mobility, when travelling by boat. The third option sets up an EU coordination and exchange of best practices to enhance national legislation under the same principles. In the fourth option, agreements would be adopted by ship operators to improve passenger rights, on a voluntary basis.*

*The conclusions of the impact assessment study are that, of the four options assessed, EU legislative action is the option that can achieve all the objectives in favour of persons travelling by ship in terms of accessibility in ports, assistance in ports and on ships of PRMs;*

*quality service; assistance when travel is interrupted; non discrimination; information obligations; and enforcement, at an affordable cost to the industry and to the Member States.*

## **1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES**

### **1.1. Organisation and timing**

The reference of this proposal in Agenda Planning is 2006/TREN/017 // 2007/TREN/050

This impact assessment examines the situation with regard to the protection of the passenger rights in the maritime sector. It focuses on:

- Rights of PRMs
- Quality of service
- Assistance to passengers when travel is interrupted by a delay or a cancellation
- Right to information and non discrimination issues

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 (conciliation procedure scheduled for December 2008).

In assessing the impacts, consideration has been given to the list of possible kinds of impact identified in the Impact Assessment Guidelines. However, as also recommended in the Guidelines, the impact assessment has taken into account the principle of proportionate analysis and has focused on the most significant forms of impact and their distributive effects. Whenever possible, quantified estimates have been provided.

For the issues concerning PRMs DG TREN officially constituted a Steering Group on 20 February 2007 by contacting the DGs that expressed interest in the “Preparatory study in view of an impact assessment study on a Commission proposal on the rights of passengers with reduced mobility when travelling by sea and inland waterway”. The DGs in question were EMPL, ENTR, MARKT, SANCO, SJ and SEC GEN.

### **1.2. Consultation and expertise**

#### *1.2.1. The general study*

In 2005-2006, DG TREN commissioned an independent study on the “*Analysis and assessment of the level of protection of passenger rights in the EU maritime transport sector*”<sup>1</sup>. This study examined the current level of protection of passengers rights confronted with disruptions. It also covered the protection of the rights of persons with reduced mobility.

The overall conclusions of the general study are that protection of passengers is not fully satisfactory due to, among others, the lack of uniformity in terms of the extent and depth of protection of the rights of passengers; absence of a framework providing for immediate and

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<sup>1</sup> TiS.pt. Analysis and assessment of the level of protection of passenger rights in the EU maritime transport sector. Lisbon, October 2006.

predefined solutions in the cases of cancellations and delays; and lack of information to passengers regarding their rights in case of a critical event.

Moreover, regarding PRMs, it was concluded that the protection of PRM rights differs significantly between Member States and that there is room for improving the situation; particular improvements can be made with regard to accessibility in ports and ships, non-discrimination and provision of assistance.

### *1.2.2. The public consultation*

A public consultation was launched in 2006 by the European Commission. The aims of this consultation were twofold: first, the protection of the rights of passengers, in particular in the event of interruption, delay or cancellation of a journey by sea; second, the protection of rights of PRMs during a journey by sea.

The results of this consultation were published on DG TREN's website on 6 December 2006, and were supplemented by the conclusions of the meeting on 18 January 2007 between stakeholders and DG TREN.

There was virtual unanimity of all respondents concerning the need for a common minimum level of protection for passengers' rights throughout the EU, irrespective of the transport mode 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.

Unlike in the air transport sector, where companies keep a record of all events encountered by passengers, very few data are available on denied boarding<sup>2</sup>, long delays, or refusal to sell tickets to PRMs in maritime transport. However, perceptions among the different contributors to the consultation as to the dimension of the problem vary significantly, and this is mainly due to the lack of agreed common definitions of the previously mentioned "critical events".

A more detailed summary can be found in Annex 1.

### *1.2.3. PricewaterhouseCooper's preparatory study*

A preparatory study prior to this impact assessment was also commissioned from PricewaterhouseCoopers Advisory s.r.l (PwC). PwC was requested to assess the economic, social and environmental impacts of four policy options determined by DG TREN: no action, EU legislative action, national legislation and sector-specific voluntary agreements. The conclusions of the preparatory study for the impact assessment have been taken into account in the following sections, which set out the key stage of the impact assessment analysis.

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<sup>2</sup> Even though the very few data available, denied boarding for overbooking does not seem to be significant in the context of passenger transport by boat; therefore it would not be considered as part of the issues analysed in this IA.

#### *1.2.4. Assessment of Contract Conditions and Preferential Tariff Schemes*

The Commission contracted the consultancy, Steer Davies Gleave, to undertake a review of preferential tariff schemes, air carrier Conditions of Carriage, and maritime operator Conditions of Carriage.

With regards to the maritime sector, this study review the Conditions of Carriage of maritime operators serving EU ports to evaluate what rights are provided to passengers in the event of delays and cancellations, what liability provisions were made, and what provisions are made for passengers with reduced mobility. It also identifies where maritime operator Conditions of Carriage contained terms which appeared likely to infringe the principles set out in the Unfair Contract Terms Directive (93/13/EEC).

#### *1.2.5. Impact Assessment Board opinion*

The draft Impact Assessment report was submitted to the Impact Assessment Board (hereinafter IAB) on 15 September 2008. The IAB held a hearing on the subject on 8 October 2008 which was followed by the submission of its detailed opinion on 13 October 2008.

In drafting this final report, the recommendations in the written opinion of the IAB were taken into account. In particular, the IAB asked for a clearer justification on: the scope of the initiative regarding the sectors covered by public service obligation; the extent to which passengers are already covered at national level by the rights which this initiative proposes to grant. The Board also recommended including a more developed analysis of alternative sub-options and providing more information on the likely overall costs of the initiative with a more accurate assessment of the impact on SMEs. The IAB also recommended including some further explanations of why Member States' action alone would be insufficient to achieve the objectives for domestic routes and cruises, and why companies do not have sufficient incentives to improve the situation of passengers.

The author DG followed these recommendations by substantially redrafting the relevant chapters on the problem definition, policy options and analysis of impacts.

Some features of the maritime market have been introduced in order to have a clear overview of the sector and to better understand its complexity. The problem of compilation and handling of the missing data has also been addressed. An overview of the routes covered by public service obligations has been introduced as well as some clarification on the baseline about the scope regarding these routes. The issue of whether or not to exclude PSOs has been analysed in a new sub-section of section 5

An analysis of different sub-option for a compensation scheme, as the Board suggested, has been included. A more detailed overview of the different existing legislation in Member States and of the situation of passenger rights in all modes of transport has been introduced.

As required by the IAB, the author DG has contacted, , DG ENTR regarding the impacts on SMEs and DG EMPL on the links with the proposed Council Directive on implementing the principle of equal treatment. Subsequently, this IA was revised to include not only the comments in the final opinion of the IA Board but also comments from the IA quality checklist.

Following the submission of a revised version on 17 October, which took the request from the IAB fully into account, the IAB issued further opinion on 24 October 2008. This opinion welcomed the improvements that had been made, but requested some further adjustments.

First, the description of the baseline still needed to be improved in order to clarify the extent to which passengers are already covered at national level by the rights which this initiative proposes to grant. Secondly, additional sub-options were requested, in particular to distinguish between different modes of transport. Thirdly, the proportionality of EU actions needed to be better described.

Subsequently, the Impact Assessment Report was again substantially revised in order to take account of the IAB's comments and suggestions.

A description of the maritime market segments has been introduced in order to present a clear picture of how the maritime sector is organised (see new Box 2). Rather than looking at a mixed classification consisting of cruise, inland waterway and cross border, the maritime sector can be better analysed from three different perspectives: **a geographical segmentation** of the maritime transport of passengers differentiates between maritime and inland waterways; a second kind of distinction based on **the characteristics of the boats** can be made between ferry (including ro-ro and high speed ships) and cruises; a third segmentation can be drawn based on **the nature of the routes**, between domestic traffic and cross border routes (including both intra community and international routes). However, it must be noted that the statistics on the sector do not necessarily reflect these three types of segmentation. Box 2 provides indicative estimates for each segment. Moreover, Table 19 in annex 2 has been amended to clarify the potential number of PRMs that will use a (cruise) ship for trips of four nights or more for tourism purposes.

As to regards accessibility, it has been made clear that the list of measures analysed has been drawn up in order to estimate potential costs. This list is illustrative in nature, since the proposed initiative will not contain any detailed measures to be implemented.

In section 2.8, which concerns the EU right to act, the reasoning behind EU actions has been described while taking into account the proportionality of those actions. It includes a sub-option assessing the advantages/disadvantages of a "cross-border only" legislative option.

Finally, some clarification of the general existing regulatory framework has been introduced and the overall costs of the measures to the passengers have been set out in detail.

Following the submission of a revised version on 4 November, fully taking into account the request of the IAB, the IAB issued yet another opinion on 10 November 2008. While welcoming the substantial improvements that had been made, some minor further adjustments were requested, such as the introduction of sub-options for the accessibility in ports, assistance provided by PRMs and for information needs and a caveat in the table presenting the scenarios on the possible range of the number of passengers benefiting from the proposal.

Therefore, the Impact Assessment Report was finally revised to take into account of the last IAB's comments and suggestions.

## 2. PROBLEM DEFINITION

### 2.1. The importance of the maritime sector for EU passengers

Twenty two of the 27 Member States of the European Union are coastal countries. Four Member States are islands (United Kingdom, Ireland, Malta and Cyprus) and eight others (Portugal, Spain, France, Italy, Greece, Denmark, Sweden and Finland) have archipelagos or large islands with big populations. The sea borders between some Member States are in close proximity to each other, making it easy to use maritime transport. In the archipelagos and the outlying and outermost regions of the European Union, where intensive maritime passenger traffic is essential for their integration in the social and economic fabric of the European Union, there is often no alternative to maritime transport, at least at a similar price, for passengers wanting to travel within the EU. For these passengers, any journey by coach or train or with their own car often means having to cross the sea first, even for journeys of less than 100 km.

Over the last thirty years, there has been a boom in mobility in Europe. For millions of citizens, travel has become a reality, indeed a right. In 1970, each EU citizen travelled 17 kilometres every day; this figure is now 34 kilometres and is still growing. This phenomenon is due to a number of factors, but above all to economic growth, the completion of the internal market, lower travel costs and progress towards a “European area without internal frontiers”<sup>3</sup>.

As a direct result of this boom and its maritime dimension, **398 million people** passed through ports of the European Union in 2006<sup>4</sup>, which means around 199 million maritime passengers a year. There are, roughly speaking, **288 operators on the European ferry and RoRo** (Roll-on, Roll off) markets<sup>5</sup>, and there are approximately **800 passenger ports** in Europe. The importance of maritime passenger transport is evenly spread throughout Europe, with a similar number of major routes<sup>6</sup> in each of the three coastal zones of the European Union (Baltic Sea, North Sea and Mediterranean Sea).

### 2.2. Some features of the maritime passenger market

#### *Preliminary remarks: the data issue*

Some remarks, valid for the entire report, have to be made on key figures and data concerning maritime sector.

The sector is not used to release any kind business-related information such as number of employees, revenue or profit. This feature was confirmed during the public consultation carried out by the Commission, and it is corroborated by private specialised publications as well<sup>7</sup>. As a matter of fact, figures are lacking concerning simple data such as the number of

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<sup>3</sup> Article 2 of the European Union Treaty.

<sup>4</sup> Source: Eurostat, Statistics in focus "Maritime transport of goods and passengers 1997-2006". This figure incorporates the traditional double counting at ports and represents a 2,8% increase compare to 2005.

<sup>5</sup> Source: DG TREN analysis of ShipPax data and data from the European Community Shipowners Association (ECSA). The exact number of ship operators working in Europe is not officially available.

<sup>6</sup> Routes with more than 1 000 000 passengers per year.

<sup>7</sup> See Shippax: "The Yearbook for passenger and ro-ro shipping: Statistics and Outlook '06 ", page 15 and the statistics. This conclusion is also illustrated for the striking lack of data regarding most of the

passengers/year (hereinafter pax/year) for many routes, or even the exact number of routes served by a company. The same lack of data also affects ports. Leaving aside the largest ports, for many ports it is not clear how many companies use them and how many pax/year transit through them. Data are either not available, or only partially available, or have not been updated since 1995. An explanation for this total lack of data on passengers could be that the maritime sector, in spite of the large number of passengers (around 400 millions of passengers) carried annually by boat in the EU, has always identified itself more closely with freight transport than with passenger transport, since the economic importance of the passenger transport for the large majority of maritime carriers is much smaller than the revenues they earn from the freight. The lack of interest shown by Member States over the years into the specific situation of maritime passengers has contributed to the current lack of data.

In this context, lists and figures in this IA have to be treated with caution, since they originate from the different statistical sources that are available. Some of them have been produced by Commission services in order to be compared and measured for the purpose of this report. Nevertheless, these figures are sound enough to provide some analysis and conclusions.

Moreover when it comes to passenger protection, there is a total lack of factual information, since neither companies nor port authorities have ever compiled statistics or figures on delays, cancellations, refusal of carriage, overbooking and number of passengers affected by those events.

## **Passengers**

Figures on the number of maritime pax/year in Europe oscillate between 364 millions (according to the Institute of Shipping Analysis, hereinafter **SAI**), 398 millions (Eurostat), and 511 millions (ShipPax information, hereinafter **ShipPax**). ShipPax and SAI figures are likely to include data from non-EU European countries and their data differ significantly. It seems therefore wiser to stick to the Eurostat figure. It must be taken into account that all these figures reflect passenger movements and therefore a double-counting is a possibility (roughly speaking, the figures have to be divided by 2 to get the actual number of passengers).

Eurostat does not break down figures by coastal zones. However, the percentages of traffic broken down by zones coming from the other two sources are very similar, and provide some useful indicative information on the distribution of passengers by zones. It can be assumed that 40% of maritime passengers travel in the Baltic Sea; 25% in the North Sea and 35% in the Mediterranean Sea<sup>8</sup>.

Data since 1997 show a global decline in the number of passengers. This drop in passengers is noticeable in almost half of the 20 biggest ports and on some of the more important routes.

## **Ports**

There are about 800 passenger ports in the European Union. Those ports and the routes which link them are usually divided in three coastal zones:

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routes included in the report of SAI "the institute of Shipping Analysis" on European Ro-ro and Ferry lines published in 2006, see for instance pages 15 to 21.

<sup>8</sup> See Table 1 Annex 2 for distribution of passengers by zones

- **Baltic Sea**, which covers nine countries, namely Estonia, Latvia, Lithuania, Poland, Sweden, Finland; and partially Germany, Denmark and Norway (east coast);
- **North Sea** which covers 11 countries, namely United Kingdom, Ireland, Netherlands, Belgium, Icelandic, partially Germany, Denmark, Norway (west coast), partially France, Spain, Portugal (north and west coast, plus Azores)<sup>9</sup>
- **Mediterranean Sea** which covers 10 countries namely Cyprus, Malta, Greece, Croatia, Slovenia, Italy, and partially France, Spain (including the Canary Islands), and the routes in the Black Sea for Bulgaria and Romania

No comprehensive list of passenger ports in Europe has ever been compiled, and no attempt has been made to compile at least partial lists of ports organised by number of pax, number of routes or number of companies. Ideally, four categories of ports could be established, taking into account the number of pax/year:

- (1) Ports with less than 100.000 pax/year
- (2) Ports with 100.000 to 500.000 pax/year
- (3) Ports with 500.000 to 1.000.000 pax/year
- (4) Ports with more than 1.000.000. pax/year

Tables 2 and 3 in annex 2, show a list of passenger ports in Europe by their major type of traffic by zones, and the EU's top 40 passenger ports, respectively.

## Routes

There are no public or private statistics or data on the number of maritime domestic routes versus intra-community or international routes or how the total number of passengers is spread between domestic/cross border passengers. It should also be noted that the routes covered by cruise ships have never been compiled by the sector or by any public source.

For the purpose of this impact assessment, DG TREN carried out an internal search of data, which shows that broadly speaking, around 60% of the routes seem to be domestic. The same internal survey shows that - broadly speaking and for the purpose of this impact assessment-, a similar percentage of the domestic routes are subject to a Public Service Contract that imposes, inter alia, social tariffs, frequencies or the number of places offered.

In spite of the completion of the internal market, one feature of maritime passenger transport is the lack of competition among maritime lines on the overwhelming majority of routes. Roughly speaking, around 182 routes can be counted in **the Baltic Sea** for all kinds of passenger traffic (domestic, intra-community and extra-community), including Norway. Competition is found on only 11 of these 182 routes (6%). As for the number of passengers, only 16 routes represent more than 1.000.000 pax/year (8.8%), if we exclude Norway domestic routes. If we include them, approximately 23 routes are transporting more than 1.000.000 pax/year (12.6%).

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<sup>9</sup> There some studies that split this area into two: 1) Nordic and 2) Atlantic. For the sake of clarity and compiling data, where mentioned "Atlantic" must be understood part of the one so called Nord Sea.

For the roughly 200 routes which sail **the North Sea**, and for all types of traffic taken together, competition is found on eight routes (4%). As for the number of passengers, approximately 19 routes count more than 1.000.000 pax/year (9.5%).

In **the Mediterranean Sea**, on a total of approximately 390 routes<sup>10</sup>, around 70 are covered by two or more companies (18%). As for the number of passengers, only 17 routes carry more than 1.000.000 pax/year (4.3%).

A break down of routes by number of passengers, including the number of routes subject to competition, is attempted in Annex 2, table 4.

Routes could be broken down into short distance crossings, which takes less than 6 hours; medium distance crossings, which takes between 6 and 12 hours; long distance crossings, which are typically more than 12 hours and frequently used for night time crossings. However, no attempt seems to have been made to classify maritime routes in terms of their duration. Since the duration of most routes is not mentioned, such a classification is not dealt with in this report.

It is also worth mentioning that, under Regulation 3577/1992<sup>11</sup>, Member States have imposed public service obligations (PSOs) on certain maritime routes. Regulation 3577/1992 sets strict limits on what Member States can impose on a PSO. Under Article 4.2 of the Regulation, "In imposing public service obligations, Member States shall be limited to requirements concerning ports to be served, regularity, continuity, frequency, capacity to provide the service, rates to be charged and manning of the vessel". In other terms, Only Public Service Contracts (PSCs), under Article 2.3 of the Regulation may impose on operators certain standards of quality, which could include, in some cases, certain obligations regarding the accessibility for PRM. At this stage, it is very difficult to quantify the number of routes subject to PSC because some of them may have expired, some others are about to expire and still others may have had extended expiry dates; but whatever the case, the maximum duration for a PSC is six years.

It is worth calling to mind that the market segment covered by PSOs and PSC is only domestic in nature. Despite the lack of data and the expiry date of the PSO, it can be estimated that in 2005 approximately 321 domestic routes<sup>12</sup> are subject to PSOs. This would amount to more or less 36% of the total market (both the maritime and inland waterway segments), out of around 60% of all domestic maritime passenger transport routes in the EU). They would include most of the smallest routes where the profit margins of the companies involved may be quite small. However, those routes do not account for 60% of overall domestic passenger movements, because usually they are minor routes with small passenger numbers. Since it is only the PSC, and not the PSO, that can set quality standards, the percentage of routes with might have some passenger rights within these quality standards is

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<sup>10</sup> Including Croatian domestic routes: 37 (Croatian international routes are all with Italy and Slovenia, so they are counted as international routes from EU members); Bulgarian international traffic: 2 routes; Rumania international traffic: 1 route.

<sup>11</sup> Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage). OJ L 364, 12.12.1992, pp. 7–10.

<sup>12</sup> See Annex 3 for a detail overview of PSO routes. Source: "Étude en vue de la réalisation du cinquième rapport de la Commission sur la mise en œuvre du règlement 3577/92 (cabotage Maritime)" TREN/CC/01-2005/S07.62844.

lower, between 26% to 30% of the total market. For the purpose of this impact assessment, we have selected an intermediate figure of 28%.

Given the lack of evidence on the implementation of PSOs in Member States, Section 5 will analyse a range of assumptions regarding PSOs routes.

#### Box 1 Services of General Interest

Services of general interest should be organised and regulated as closely as possible to the citizens and the principle of subsidiarity must be strictly respected. The Commission respects the essential role of the Members States and of regional and local authorities in the area of services of general interest. This role is reflected in the Community's policies on services of general interest, which are based on various degrees of action and the use of a range of instruments in line with the principle of subsidiarity.

However, the provision and organisation of these services is subject to the rules of the EC Treaty on the internal market and competition, since their activities are economic in nature. In the case of large network industries having a clear European-wide dimension, such as telecommunications, electricity, gas, transport and postal services, the services are regulated by a specific EU legislative framework.

The maritime sector is an example of how a full liberalisation process can be compatible with the maintenance of PSOs. Member States have the right to impose a PSO when they consider that a route is vital for the economic development of a region or an island. The standards imposed under the public service obligation may concern prices, the number of places offered, frequencies, etc., where a similar level of service would not be provided if maritime transport operators were solely considering their commercial interest.

In the field of maritime cabotage, PSOs may be imposed or public service contracts (PSCs) may be concluded for the services listed in Article 4 of Regulation 3577/92. For those services, PSOs and PSCs as well as their compensation must fulfil the conditions of that provision and conform to the Treaty rules and procedures governing State aid, as interpreted by the Court of Justice.

The Commission accepts that if a transport service is necessary to meet imperative public transport needs, PSOs may be imposed or PSCs may be concluded, on the condition that any compensation is subject to the above-mentioned Treaty rules and procedures. The duration of public service contracts should be limited to a reasonable and not excessively period-normally in the order of six years- since contracts for significantly longer periods could entail the danger of creating a (private) monopoly.

#### **Operators**

No source is able to determine exactly how many operators work in Europe. A general figure of 318<sup>13</sup> companies is liable to double-count operators that cover both domestic routes (94 operators) and international routes (224 operators); a comprehensive list of Community operators does not appear to have been compiled yet.

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<sup>13</sup> Source: SAI (the Institute of Shipping Analysis)

Ferry operators. Ferries are used commercially to cross waters on a regular liner service with passengers, and the feature that distinguishes them from other vessels is their ability to carry cars and commercial vehicles. If a ship is only carrying freight and no passengers or at least not more than 12 passengers, the ship is not regarded as a ferry. Taking this into account, there are about 240 ferry operators in total; most of them are international ferry operators that operate intra Community services<sup>14</sup>.

As has already been mentioned, nearly 300 operators are working on the European Ferry and RoRo-markets. They own a total of more than 1,700 ships with a total capacity of 1.2 million passengers. They carried a total of 364 million passengers in 2005.

Cruise operators. The cruise industry<sup>15</sup> is a part of the maritime sector that possesses specific features. Firstly, this sector could be considered to some extent as a luxury segment, where ships include a complete hotel infrastructure, the product is an "all-inclusive" vacation and the passengers tend to be in the middle age group (an average of 54,8 years old for UK passengers). Secondly, only three EU countries are represented among the 12 top ranking cruise shipping companies in 2008 namely Germany, Cyprus and the United Kingdom. These EU countries only own 32 of the 284 ships, and they are also the oldest ships (26 years on average) compared to the remainder of the 12 top ranking cruise shipping companies (17.8)<sup>16</sup>. In 2005 the cruise industry carried approximately 34 million passengers in intra-Community traffic.

In contrast to the steady decrease in the number of passengers for the ferry and RoRo sector, the cruise industry has been experiencing a steady increase over the last few years. The Mediterranean cruise market has forecast an increase of 11.85% in passenger numbers in 2008 compared to 2007. Dover's Cruise is expecting to increase the number of passengers by up to 10% in 2008.

#### Box 2 Overview of passenger maritime transport market segments

Given the available statistics for the sector and taking into account that this might go beyond other traditional classifications for other sectors of the economy, the maritime market, might be divided into market segments in three ways: (1) the type of traffic: sea vs inland waterways and (2) the characteristics of the vessels: ferries vs cruises; and (3) the nature of the route: domestic vs cross border (which includes intra-Community and international routes)

##### **(1) Segmentation between Sea and Inland waterway:**

**Sea Traffic:** passenger transport service by boat is mainly considered as sea traffic. Almost all of the traffic (ferries and cruises) falls into this category.

Sea traffic covers +/-99% of the total of the passenger transport market by boat.

<sup>14</sup> See Annex 2 Table 5 for maritime ferry operators by main type of activity and main area of operation.

<sup>15</sup> For the sake of clarity when referring to a cruise in this report, it stands for a ship regularly used for cruising activities exceeding one day (overnight), not in ordinary passenger transport between port A and port B, but with passengers normally returning to the port of embarkation. ShipPax Statistics and Outlook 2006, page 48

<sup>16</sup> Shipping Statistics and market review. Institute of Shipping Economics and Logistics. Volume 52, n 8, 2008, page 12.

**Inland Waterway:** Inland waterways are mainly used for cargo services. They can be considered, on very rare occasions, as passenger transport services. The passenger services included are usually either urban services (e.g. Venice, other lake services, boats linking the two shores of the Douro in Lisbon) under a public service contract; or cruise services (e.g. cruises on the Rhine and the Danube). It constitutes a minor market segment, which accounts for +/- 1% of the total passenger transport market by boat.

**(2) Segmentation between ferries (only transport, including ferry, ro-ro and high speed ships), and cruise (combined transport and tourism, on cruise ships):**

**Ferry:** covers all kind of routes. The market share of ferries is +/- 92% of total passenger transport market by boat.

**Cruise.** The cruise objective is twofold: to deliver a transport service and leisure related activities at the same time. For cruise passengers both the voyage itself and the ship's amenities are part of the package. Some ships fulfill the standards of 5-star hotels, with sun decks, dining rooms, lounges, fitness facilities, swimming pools, casinos and other entertainment facilities. Cruise ships normally operate on routes that return passengers to their originating port.

The market share of cruise is +/- 8% of total market for passenger transport by boat.

**(3) Segmentation between domestic routes and cross border routes (including intra-Community and international routes):**

**Domestic routes:** Domestic routes tend to be smaller in terms of passenger numbers than the intra-Community and the international routes. Broadly speaking and within the parameters of this exercise, the number of domestic routes amounts to around 60% of the total number of routes.

**Intra-Community routes:** these tend to be commercial routes which are ranked among the most important in terms of number of passengers, size of ports and size of operators. Intra-Community routes are thought cover around 30% of the total.

**International routes** between Member States and their international neighbours (i.e. the Maghreb countries, Russia, Turkey, Croatia, Albania, etc.). By far the majority of the cruise segment is cross border, since cruises tend to cover - in at least one segment of their trip - an intra-community or an international port. International routes make up between 5% and 10% of the market. However, their percentage of the market is likely to increase in the coming years, taking into account the boom in the cruise sector, where the growth rate, based on a conservative estimate, is likely to be around 10% per year.

**Main conclusions from the analysis of impacts**

**By far the majority of the maritime market covers transport by sea (first segment) and is served by ferries (the means of transport) and it covers a majority (60%) of domestic routes. Inland waterways account for a very minor part of the market. The cruise segment of the market overlaps with tourism. Therefore, the impact analysis will also look at the impact on the tourism sectors (see section 5.2).**

## 2.3. The specific problems for PRMs passengers

A large majority of the citizens of the European Union (79%) believe that being disabled is a disadvantage in their country. In line with such a broadly shared public perception and the support for the plight of the disabled, who often encounter discrimination, there is a clear consensus in all the Member States (91%) that more should be done, and more money should be spent, on improving accessibility<sup>17</sup>. In transport services, the rights of disabled persons and persons with reduced mobility cannot be limited to the accessibility of means of transport, as they also encompass non-discrimination, seamless assistance, and provision of information.<sup>18</sup>

The issue of discrimination against PRMs in maritime transport has been brought to the attention of the Commission by a number of persons with reduced mobility and consumer associations, who consider, along with Member States and national authorities, that the assistance given by shipping companies and ports to PRMs, including access to ports and ships, is partly or wholly insufficient.

The current level of protection for PRMs is not easy to assess due to the limited information available on the subject but the following topics are identified as key elements for improving PRMs rights protection: accessibility of ports, assistance provided, and suitability of information.

### 2.3.1. *The current level of accessibility in ports*

Port authorities and terminal operators were requested by the Commission to provide information about accessibility in their ports<sup>19</sup>. The results provide indications as to which solutions should be adopted and which areas should be improved in order to facilitate full access for PRMs in ports.

Wheelchair users can access terminals, berths and terminal buildings from the port entrance and berths from terminals at about 80% of the ports and terminals surveyed. Aids to help visually impaired people to access berths and vessels, i.e. tactile paving surfaces, are provided by 20% of the ports and terminals surveyed. Low-level counters, which help PRMs when they need information from desks, are fairly uncommon: 10 terminals out of the 49 provide these facilities. Port operators were asked to provide information on the availability of aids for hearing-impaired persons: one terminal out of the 49 offers this particular facility. Finally, only 35 of the terminals provide accessible toilets, and many terminals offer more than one toilet (see figure 2 in annex 2).

In conclusion, even if persons with reduced mobility have access to the ports surveyed, most ports do not offer the specific solutions they need.

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<sup>17</sup> Eurobarometer survey: Discrimination in the EU, January 2007, Question 6.

<sup>18</sup> COM/2005/0604 final \*/ - "Situation of disabled people in the enlarged European Union: the European Action Plan 2006-2007, p. 3.

<sup>19</sup> 49 completed questionnaires were returned by 31 ports. The sample can be considered representative, since responses were collected from ports of all sizes and from all geographical areas. The ports that submitted a response handle a total of about 39 million passengers.

### 2.3.2. *The current level and quality of assistance provided to PRMs*

Assistance to PRMs appears to be very well covered in the UK, France and Ireland, as is physical accessibility for persons with reduced mobility (see Table 11 in Annex 2). However, assistance to PRMs throughout the entire trip is provided by only a few UK-based operators.

### 2.3.3. *The current suitability of information for the needs of PRMs*

Information specifically for PRMs is uncommon in Europe (only 1 operator out of the 43 interviewed - see table 9 in Annex 2). A clear exception is the UK and possibly also Ireland, where there is extensive and systematic provision of information for PRMs. Information is provided by maritime transport operators in Braille in a few cases in Ireland, the Nordic countries and the UK (2 operators).

## 2.4. **The problems of the protection of the rights of passengers when travelling by ship**

### 2.4.1. *Quality of service and travel interruptions: delays and cancellations*

The problem of the effective protection of the rights of passengers in the event of interruption, delay or cancellation involving journeys by sea or inland waterway concerns the various types of maritime transport, namely: national traffic –including inland waterways traffic-, intra-Community traffic, international traffic and cruise ship traffic.

When a journey is suddenly interrupted for several hours or when a trip is suddenly cancelled, for whatever reasons, passengers find themselves in a stressful, unexpected and difficult situation. Often far from home, and usually confined within the limits of a port or a ship, they do not have the means, immediately and on the spot, to lessen the inconveniences caused by a situation for which they are not responsible and over which they have no influence.

Maritime passengers are often captive passengers, who depend on their trip by ship to access other means of transport. This is clearly the case for, among others, populations living in small and medium-sized islands all around Europe, with no airports and no fixed links with the continent. Maritime transport, as with bus and coach transport, tends to be a mode of transport chosen by those in society with lower incomes, for instance, persons or families who cannot afford travelling by plane and renting a car at their arrival point. They are then bound to take a ship, whatever the conditions the carrier may impose on them. Those citizens on lower incomes are usually not accustomed or do not have the means to lodge a complaint or to stand up for their rights<sup>20</sup>.

It must be noted that, despite the opening up of the internal market, European maritime passenger transport sector is currently not a sector where there is strong internal competition. Even when inaccuracies and gaps in the available data are taken into account, no competition is found in around 80% of the routes in the Baltic Sea and North Sea/Channel/Atlantic Ocean, and competition is present in no more than a quarter of the routes in the Mediterranean Sea<sup>21</sup>. Experience shows that simply relying on the market to produce solutions may not work in all circumstances, and this appears evident in this field, where there is little incentive for companies to improve their standards, at least on those many routes with no competition and

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<sup>20</sup> See Figure 1 in Annex 2 for percentage of complaints registered.

<sup>21</sup> Analysis of data from different databases as ShipPax statistics and outlook (2006) and Eurostat.

where the majority of their passengers do not have the physical or the economical means to travel by any other mode of transport.

Unlike the case of air transport, denied boarding does not appear to be a problem for passengers in maritime transport. In air transport, "denied boarding" is defined as a refusal to carry passengers on a flight, although they have presented themselves for boarding, except where there are reasonable grounds to deny them boarding, such as reasons of health, safety or security, or inadequate travel documentation<sup>22</sup>. Denied boarding in air transport occurs frequently because tickets are systematically booked in advance. The marginal cost of one empty seat on a particular flight is high, and airlines therefore have an interest in practising overbooking – which in a number of cases leads to denied boarding.

In maritime transport, transport of passengers is often combined with cars, buses or freight (ro-ro ferries), which limits the cost of a lost passenger, and cancels out the incentive to overbook and therefore denied boarding. For smaller passenger boats, tickets are purchased just before boarding, on a "first come first serve" basis, which makes denied boarding impossible.

#### 2.4.2. *Information to passengers*

Companies have chosen the contents of the information they provide, just as they have chosen the solutions offered to their passengers when their travel is suddenly interrupted, based on their goodwill and their customer policy<sup>23</sup>. In most cases where information is provided, it is on an ad hoc basis, at the individual request of passengers, and on the spot. As a result, when a critical event occurs, passengers feel confused in the absence of standardised information, they do not know what they can expect from the company, and they may even be unaware that the company has offered alternative solutions<sup>24</sup> to other passengers in the same circumstances<sup>24</sup>.

#### 2.4.3. *Enforcement and Redress*

On the large majority of maritime routes where no competition at all has been developed, it is clear that the opening up of the market has not raised quality standards and services as had been expected, including better enforcement of passenger rights and user-friendly means of settling disputes and means of redress to be used by all companies. The lack of common procedures isolates the passenger, who has to cope with different procedures and deadlines, depending on the company, when he needs to express his dissatisfaction.

### 2.5. **The underlying drivers of the problem**

Lack of uniformity regarding the extent and depth of passenger rights protection. Every country has some regulations regarding passenger rights, and some countries even have special provisions for PRMs passengers. But there are important differences between them,

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<sup>22</sup> Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights – article 2.

<sup>23</sup> See Table 8 in Annex 2, on Information provided to passengers in general; and Table 9 on information provided to PRMs in particular.

<sup>24</sup> See Table 6 in Annex 2, on Information provided to passengers in case of critical events.

not only concerning the level of detail and issues covered, but also the kind of law applicable and the authorities in charge of producing, enforcing, monitoring and revising regulations.

Lack of a common framework regarding immediate and predefined solutions in cases of cancellation and delays. For passengers in general, there is currently no international or Community legislation that determines automatic and immediate solutions when a travel by ship is interrupted by a critical event. At national level, in the absence of specific regulation, these issues are dealt with by the general legislation on consumer protection. Apart from the Athens Convention of 1974 relating to the Carriage of Passengers and their Luggage by Sea and the Protocol of 2002 to the Convention, and the Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours<sup>25</sup>, little has been done in the past to protect the rights of passengers travelling by ship. Ship passenger carriers have never tackled the issue of standardising passenger rights or quality standards among themselves through their European and international organisations.

As a result, there are currently no common rules or common practices on how to inform, assist, re-route or, in certain specific cases, possibly compensate ship passengers when they find themselves stranded due to a critical event. Some companies have decided to develop a policy on these issues to offer their passengers some rights when a critical event occurs, but the companies that have developed a policy on those issues have done so in very different ways and manners.

In addition, there is a *de facto* problem: namely, a lack data; it is difficult to retrieve data on aspects such as the number of critical events registered<sup>26</sup>. There may be two main reasons for this: a lack of harmonised concepts and terminologies (e.g. companies have different ways of defining delays); and no requirement to control and monitor. Despite this incompleteness of the data, a methodology has been devised to produce sound and accurate estimates of the parameters of interest, Annex 3 explains in detail how this missing data have been handled.

Lack of information to passengers in general and to PRM passengers in particular, regarding their rights in case of a critical event. Diversity amongst countries is even greater when it comes to the amount and quality of information provided to passengers about their rights in such cases. The situations with regard to availability of information differ widely, ranging from none at all to detailed information in Braille. Even ports and operators in the same country seem to act independently and to be guided by motives other than legislation.

Potential discrimination against PRMs. this phenomenon arises from the fact that, in maritime transport, market forces alone do not enable their actual needs of PRMs to be met. From the shipping companies' point of view, such a market failure is part of a vicious circle in which, the actual demand for travel from PRMs is not considered large enough to drive the necessary adaptations in ports or aboard ships. The resulting lack of dedicated facilities in maritime transport discourages persons with reduced mobility from making reservations on boats and thus confirms the argument of the shipping companies — and also the vicious circle of exclusion of PRMs from maritime transport.

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<sup>25</sup> JO L 158 of 23 June 1990

<sup>26</sup> See footnote 23

In this context, partial regulatory action has been taken at EU level: Directive 2003/24<sup>27</sup>, Article 6b, concerning safety requirements on passenger ships, is of great importance in terms of securing access to maritime transport for PRMs, and follows the rules defined by the International Maritime Organisation (IMO, 1996). However, it only deals with accessibility aboard new ships performing domestic trips, and does not cover accessibility in ports, assistance, information and non-discrimination.

Meanwhile, a number of Member States have demonstrated a real commitment on this matter and have adopted legislation to develop sets of rights for PRMs when travelling by sea<sup>28</sup>. These rules are mainly administered by a public authority and, to a certain extent, cover access by PRMs to maritime transport. It is unclear, however, whether and to what degree these regulations in practice give persons with reduced mobility the right to demand access to maritime transport and assistance where necessary. In any event, such regulations vary in scope and content, resulting in widely disparate rules applying to international routes, which is particularly problematic for PRMs when travelling cross-border by sea. Such a disparity in the rules also represents a potential difficulty for maritime carriers operating cross-border.

To sum up, the current lack of a common set of principles on the protection of the rights of passengers travelling by ship in the European Union confuses and isolates passengers, who are never sure - from one company to another; from one country to another; and even from the departure port to the arrival port if they connect two different countries - of their rights in each situation, or to whom they can refer in the event of problems. Market opening should go hand in hand with increased well-being for consumers. It is in the interest of both companies and citizens that this situation is redressed.

## **2.6. Who is affected and how?**

The number of passengers using maritime transport is increasing (up 2.5% from 2005 to 2006), due to the opening up of maritime transport markets which has led to a wider range of tourist destinations on offer, at ever lower prices. The annual total number of maritime passengers for the countries considered was estimated in 2006 at 199 million, of which close to 60% in national traffic and 35% in intra-Community traffic. The remaining traffic is split between international and cruise travels.

The total number of PRMs was around 136.2 million persons in the EU-27 in 2005<sup>29</sup>. Of these 136.2 million, it has been estimated that 70% have the actual economic and physical ability to travel (95.3 million). Around 200 million passengers out of the total EU population (500

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<sup>27</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, pp. 18–21.

<sup>28</sup> I.e. Greece; Ireland; the UK; Malta; The Netherlands. There are anti-discrimination laws in some countries such as Sweden, the UK, Ireland and the Netherlands.

<sup>29</sup> Eurostat provides an estimation of disabled people. People affected by some form of disability are estimated at around 10% of total population (49 million people in 2007). However, this notion is restricted as PRM may concern other types of disabilities. For this reason, PwC has analysed data from Eurostat and One-Stop-Shop for Accessible Tourism in Europe (OSSATE): “Accessibility Market and Stakeholder Analysis” (20 October 2005). According to the OSSATE report, the PRM population in the EU-25 in 2003 was 27.7% of the total population. This includes the total disabled population and the elderly population. Temporarily impaired people who require higher levels of accessibility for a short period of time (such as people with a broken leg) are not included in this statistical account. Therefore, the actual demand for accessibility in Europe is probably higher.

million) use transport by boat, which amounts to about 40% of the total EU population. For the purpose of this impact assessment, it has been assumed that the same percentage would allow us to calculate roughly the number of PRMs passengers in the EU. It means that at this stage, in a conservative scenario, 38.1 millions of PRMs passengers are affected by the lack of passenger rights. It is important to notice that in the transport sector all the statistics and data available are measured in terms of passengers, not persons. Therefore, 38.1 million of passengers does not mean 38.1 millions of the PRM population, since the same person may make several trips a year. The same principle applies, logically, to the figures relating to non-PRM passengers. Effective access to transport is often necessary for active participation in economic and social life and its absence may seriously compromise the integration of many citizens with reduced mobility (see COM/2005/0604 final).

## **2.7. How will the problem evolve?**

As far as minimum protection of rights of passenger travelling by ship is concerned, inaction on the part of the Commission and those involved, i.e. simply maintaining the current "status quo", is likely to make the present situation worse. Maritime passenger companies now face competition not only from new market entrants, but also from low-cost airlines, and high-speed railways (such as the Eurostar, which links Paris and Brussels with London), as well as from infrastructure such as the Øresund bridge between Denmark and Sweden, which provides a fixed motorway link between the coasts of these two Member States. Those competitors in most cases also have an influence on many maritime routes, (e.g. Channel Tunnel and several maritime routes through the Channel). Competition between maritime and other modes of transport has been very successful wherever it has been made possible, and has led to a decrease in the number of maritime passengers to the benefit of other modes of transport on all routes concerned. The only exception to this rule is the cruise sector, where the number of passengers seems to have increased lasting recent years.

As more and more routes are subject to competition with other modes of transport for which a minimum set of rights is already established and as the European population ages and the number of passengers with reduced mobility increases, more and more potential passengers may decide to forego trips by ship, reducing the number of actual passengers and making the sector more and more fragile. To highlight just some examples, between 1997 and 2004 Dover and Calais lost around 30% of their passenger (due to competition with the Channel Tunnel and low cost airline companies), and passenger volumes for France and the United Kingdom fell by 18% and 10% respectively between 1997 and 2004. Helsingborg in Sweden and Helsingor in Denmark have lost around 11% of their passengers (following the opening of the Oresund fixed link). Belgium's passenger volume fell by 60% between 1997 and 2004<sup>30</sup>; passenger traffic has dropped 18% on all the routes between Greece and Italy since 2001<sup>31</sup>. Passengers' confidence in other modes of transport, based on rights already approved at Community level, is likely to lead to mistrust of maritime transport if it refuses to give passengers this minimum of uniformity, clarity and effectiveness concerning their rights. Wherever passengers are faced with a choice between modes of transport covering a similar route, they will continue to "vote with their feet" by opting for the mode of transport which gives them better protection.

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<sup>30</sup> See footnote 4.

<sup>31</sup> Source: ShipPax Statistics and Outlook 2006, p.28.

Ferry companies cannot compete on speed with low-cost airlines, high-speed train services or new road transport opportunities provided by bridges and fixed links. Maritime lines need to raise their quality standards if they are to remain competitive. Better protection of passenger rights when their trip is interrupted, better provision of information and a clearer, quicker and more efficient system of handling complaints will certainly help companies to boost their quality standards and to remain competitive.

Regarding PRMs, it should be noted that there is a strong correlation between disability and increasing age. In 2002, nearly 30% of people in the 55-64 age groups reported a long-standing health problem or disability (see COM/2005/0604 final). The ageing of the population, a process that has been well documented<sup>32</sup>, will inevitably mean that the number of such persons will increase and their needs will become ever greater.

The ageing of the European population has a direct influence on the number of disabled persons and people with reduced mobility. As a result of this process, accessibility issues will gradually assume greater importance in passengers' decision to choose a particular mode of transport. If nothing is done, those groups of the population (i.e. potential passengers) will stop travelling by sea because of uncertainty about the companies' attitudes regarding their rights or the kind of assistance and information they may receive.

Consequently, there would be a worsening of the negative effects linked to the loss of competitiveness of maritime passenger transport, such as adverse environmental effects; negative social consequences (translated into job losses on board and ashore, and a lack of integration of the elderly and the disabled), not to mention unhealthy economic consequences for already sensitive coastal areas (the decline of certain ports and certain companies).

## 2.8. Does the EU have the right to act?

EU consumer policy 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>33</sup>. The liberalisation of a market is complete only when consumers, and not just companies, can enjoy the maximum benefits. As the common market in maritime transport has been achieved, the protection of maritime passengers' rights within this European common market must be put in place accordingly. This European dimension has already been acknowledged and acted upon at Community level by the European legislator in both the air and rail modes of transport<sup>34</sup>. Moreover, a proposal for a Regulation on the rights of passengers travelling by bus and coach is currently in Inter-service Consultation.

### Box 3 Passenger rights in different modes of transport

**Air Passenger Rights.** Air transport is the mode of transport that has the most developed protection of passenger rights at EU level. This was the first sector in which the European Commission's passenger rights protection policy, envisaged since its White Paper of 2001, was implemented. Air passenger rights legislation has also, paved the way for a single and coherent EU policy for the other modes of transport. From the first Regulation on air carrier

<sup>32</sup> See EUR 25 OECD extrapolations in Figure 3 in Annex 2.

<sup>33</sup> European Commission, A Single Market for Citizens — interim report to the 2007 Spring European Council, Brussels. COM (2007) 60, 21.2.2007.

<sup>34</sup> Regulations (EC) No 261/2004, OJ L46, and (EC) No 1107/2006, OJ L204, regarding air transport; regarding rail transport, see Regulation 1371/2007.

liability in the event of accidents in 1997<sup>35</sup> until the most recent one, which covers PRMs rights when travelling by air in 2006 (in force since July 2008)<sup>36</sup>, all the issues identified by the Commission in its policy documents have been covered. Regulation 261/2004<sup>37</sup> on rules on compensation and assistance to passengers in the event of denied boarding and of cancellation covers: quality of service, right to passengers' information, automatic and immediate solutions when travel is interrupted and introduction of complaint procedures and enforcement bodies as mechanisms to settle disputes out of court.

**Rail Passenger Rights.** Regulation 1371/2007<sup>38</sup> (due to enter into force on December 2009) provides a set of rights for all railway users throughout the European Union. These rights consist of rules on liability in case of accidents; basic information and quality standards; the principles of non-discrimination and conditions for assistance to disabled persons or persons with reduced mobility; measures in the event of delay (ad hoc assistance, re-routing or full reimbursement, compensation of a part the ticket price paid) and effective enforcement. In addition to the exemptions that Member States may apply to their regional and urban services, this Regulation will eventually apply to all rail services throughout the EU. Railway undertakings will be obliged to participate in the creation of a computer information and reservation system in order to allow better information and sales facilities throughout the EU railway network. The European Railways Agency has started work on this project, in order to have the system available in time for the entry into force of the Rail Passenger Rights Regulation. The Regulation's rules on assistance for persons with reduced mobility are being supplemented by conditions for the accessibility of stations and trains. A *Technical Specification for Interoperability (TSI) relating to persons with reduced mobility*, recently adopted by the Commission (Commission Decision 2008/164/EC of 21 December 2007), sets out harmonised minimum levels of accessibility for rolling stock and infrastructure to be achieved during coming years.

**Bus and coach passenger rights.** In accordance with the principles established by the Commission and following the example of legislation for the air and rail sector, the proposal for a Regulation on bus and coach passengers provides a set of passenger rights for all users throughout the European Union. The aim of the proposal is to establish the rights of coach and bus passengers in order to improve the attractiveness of and confidence in coach and bus transport as well as to achieve a level playing field between carriers from different Member States and between other modes of transport. The proposal lays down provisions on: liability in the event of death or injury of passengers and loss of or damage to their luggage; non-discrimination on grounds of nationality or place of residence with regard to transport conditions offered to passengers by bus or coach undertakings; assistance for disabled persons and persons with reduced mobility; obligations of bus and coach undertakings in the event of

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<sup>35</sup> Regulation(EC) No2027/97 of 9 October 1997 on air carrier liability in the event of accidents OJ L 285, 17.10.1997, p.1; as amended by Regulation (EC) No 889/2002 of 13 May 2002, OJ L 140, 30.5.2002, p. 2.

<sup>36</sup> Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air, Text with EEA relevance. (OJ L 204, 26.7.2006 p.1)

<sup>37</sup> Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (Text with EEA relevance) – (OJ L 46, 17.2.2004, p. 1–8)

<sup>38</sup> Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations (OJ L 315, 3.12.2007, p. 14–41)

cancellation or delay of a journey; information obligations; handling of complaints and; general rules on enforcement. Even though this proposal deals with bus and coach services, the domestic urban, suburban and short distance regional bus services are normally covered by public service contracts which take into account to a large extent the rights of passengers and quality of service. Thus, national legislation defines the obligations of bus operators and the corresponding rights of passengers. Member States may exclude these services from the scope of the Regulation provided that the level of passenger rights enshrined in such contracts is comparable to that laid down in the present Regulation. Nevertheless, where bus and coach services are concerned, the national laws of Member States offer a range of different solutions for passengers and a variable level of protection in terms of liability of operators and assistance provided to disabled persons.

For a full and detailed overview of EU legislation and of the level of protection for passenger rights in the different modes of transport, refer to the correlation table of existing and proposed EU legislation on passengers' rights in the different modes of transport in **Annex 4**.

Discrepancies between Member States in the protection of maritime passengers' rights were highlighted in the contributions received in the public consultation conducted by DG TREN in 2006. These contributions clearly show that the protection varies from country to country depending on the level of rights established by national legislation, best practices and voluntary commitments by operators. Although the Commission did not receive contributions depicting the situation in every Member State, it was assumed that differing levels of protection of passengers' rights were the general rule.

Maritime passengers are in a weak negotiating position compared to carriers. They are subject to conditions of carriage and to business practices determined by ship carriers, but have little alternative other than to accept them, even if they are dissatisfied. Passengers depend heavily on the efficiency and goodwill of carriers when things go wrong, due to the difficulty of finding alternative carriers or the sheer impracticality in most cases of reaching their destination using other forms of transport as well as the greater economic interest of the carriers by ferry in the freight they transport. They do not know what they can expect from the company, and they may even be unaware that the company has offered some solutions to other passengers in the same circumstances.

In addition passengers need a common set of principles that is applicable to all modes of transport, so that they can be aware of what to expect as a minimum, regardless of the mode of transport they are using, or whether a journey takes place wholly within a single Member State or whether it crosses an intra-EU or external frontier. It would be unacceptable for EU citizens to "fall through the gaps" between the different national legislations, with their rights depending on the countries of origin and destination, just because they have chosen a travel by sea instead of by air or rail .

There is surely no justifiable reason why a passenger embarking in a ship in Rome and disembarking in Corsica enjoys (or does not enjoy) different (or no) rights as opposed to a passenger who is travelling from Rome to Sardinia even if these journeys cover almost the same distance. Similarly, an Irish company which operates the Cork-Dublin-Liverpool route would have to apply Irish rules on the Cork-Dublin route and UK rules on the Dublin-Liverpool route, which is -at best- costly and possibly not feasible when it comes to different accessibility and assistance rules for PRMs.

It could be presumed that due to the specific features of the cruise sector, passengers would be less affected by a disruption in terms of delays that might arise before, during and after their travel. However, a cruise package includes all scheduled ports of scale. Cruise passengers are interested in experiencing the destination to the fullest and want to actively explore the places at which they reasonably expect to stop. Critical events, especially cancellations may occur when the organiser, for instance, fails to cover one of the legs of a scheduled route and do not stop at one or more of the scheduled ports of scale, or when a long delay is made up by an intolerable reduction of the amount of time on land during scales. Even if the general quality standards of service could be higher, the rights of cruise passengers when subject to this specific kind of critical events are not currently included in the quality standards of cruise operators. Passengers might find themselves confronted with different situations and legislations depending on the country in which the port of disembarkation is situated.

Secondly, regarding the non-discriminatory contract conditions, Community action aims to prevent discriminatory practices, including on the basis of nationality or residence. There is nothing in the specific features of the cruise segment that can justify an exclusion from the scope of the Regulation.

In the specific case of PRM, it the cruise line may possible decides during the trip to change one of the legs of the trip and replace it by a stop in another port that is not accessible to PRM. Besides, the aim of Community action is to prevent refusal of carriage on the grounds of reduced mobility. The Commission is aware that cruises currently tend to justify refusal of carriage to PRM for unspecified safety reasons. The aim of the Community Regulation is to ensure that PRM are accepted onboard on a non-discriminatory basis. There is nothing in the specific features of the cruise segment to justify an exclusion from the scope of the Regulation.

The ferries and ports on the Dover-Calais route are well equipped with respect to accessibility for PRMs; this is historically driven by UK law which is also applied 'de facto' in the port of Calais. The situation would become really difficult for these companies involved if France adopted different standards with which they would have to comply.

Passenger carriers and port managers have never developed any harmonised best practices concerning the rights of passengers travelling by ship. The Commission announced its intention as long ago as 2001 to improve maritime passengers' rights in the European Union, and it reiterated this intention in 2005. However, none of those announcements have encouraged either national governments or the industry to try to improve their standards of protection by themselves.

Nevertheless, while the protection of passengers' rights should be harmonised as far as possible across all modes of public transport, the obligations on carriers should not be disproportionate to the nature and features of the journey, whatever the mode or modes transport.

Taking the above into account, Articles 71(1) and 80(2) of the EC Treaty give the European Community the legal basis to act on this matter.

### **3. OBJECTIVES**

#### **3.1. General objective**

The general objectives of establishing the rights of passengers are underpinned by the general objectives of the EU in terms of ensuring the movement of persons within the European Union, a high level of customer protection, better social and economic cohesion, and social inclusion of different social groups.

##### *3.1.1. Single market*

In the context of the Lisbon Strategy, it is desirable to boost the competitiveness of passenger transport by ship, which requires less fuel and causes less damage to the environment than travel by road or air. Encouraging the relevant sectors to raise their quality standards and to offer better protection of passengers' rights will increase the competitiveness of companies involved in passenger transport by ship and of the sector as a whole.

The proposal would allow passengers to enjoy improved protection so as to benefit fully from the Single Market. Within the Internal Market, passengers should not only benefit from the wide range of services, but also enjoy adequate protection of their economic interests as users. This proposal ensures that citizens, including those with reduced mobility, can make full use of the benefits of the single market and have the confidence to use them. In this respect, the establishment of maritime passengers' rights will complement the progress achieved in the transport sector within the framework of the European Single Market.

##### *3.1.2. Common Transport Policy*

Article 3(1) (f) of the EC Treaty stipulates that the Community should strive to achieve its objectives by means of a common policy in the sphere of transport. The rights of passengers in other modes of transport, including air and rail, have become an integral part of this policy.

##### *3.1.3. Cohesion*

Under the terms of Article 3 (1) (k), of the Treaty, the Community has a duty to strengthen economic and social cohesion within the EU. Ship transport, like bus and coach transport, tends to be a mode of transport chosen by those in society on lower incomes, persons or families who cannot afford, for instance, travelling by plane and renting a car at their point of arrival. Maritime passengers in general belong to social groups that are vulnerable in terms of income and age, but also because of disability or reduced mobility. Reinforced protection may therefore help to improve social cohesion.

##### *3.1.4. Consumer protection*

Effective consumer rights are essential to ensuring that the liberalisation of the market successfully delivers real choices, confidence and maximum benefits to the consumers. The EC Treaty provides in Article 3(1) (t) that the Community should contribute to the strengthening of consumer protection. In this respect, the establishment of passenger rights in maritime transport meets this objective. Establishment and further strengthening of the rights of passengers is in line with 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 their identified objectives and priorities"<sup>39</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 developed in the air sector to other modes of transport, in particular in relation to passengers with reduced mobility.

### 3.1.5. *Social inclusion*

With regard to combating social exclusion, the Lisbon European Council agreed on the need to define policies for combating social exclusion based on an open method of coordination (OMC), combining common objectives, national action plans and a programme presented by the Commission to encourage co-operation in this field. In March 2006, the European Council adopted a new framework for the social protection and social inclusion process. The proposal regarding the rights of passengers in maritime services is consistent with the objectives of the OMC, as it establishes the principle of non-discrimination and assistance in respect of disabled persons.

The inclusion of people with disabilities builds on the citizen's concept of disability as reflected in the EU Charter of Fundamental Rights<sup>40</sup> and on the values inherent in the UN Convention on the protection and promotion of the rights and dignity of persons with disabilities.

Furthermore, it remains in conformity with Article 13 of the EC Treaty which enables the Community to combat discrimination in areas of Community competence.

#### Box 4 PRMs and their conformity with Art 13 EC Treaty

This proposal, which aims to improve the rights of persons with reduced mobility and persons with disabilities in the maritime sector, and their inclusion in society, builds on the concept of disability as reflected in the EU Charter of Fundamental Rights and on the values inherent in the UN Convention on the Rights of Persons with Disabilities.

Furthermore, the proposal is in conformity with Article 13 of the EC Treaty which enables the Community to combat discrimination in areas of Community competence, and with a recent proposal for a Directive under Art 13 TEC (COM (2008) 426 final) whose objective is to implement the principle of equal treatment between persons irrespective of religion, belief, disability, age or sexual orientation. This conformity can be assessed on the basis of the legality and the content of the measures.

From a legal point of view, Article 4 §3 of the draft directive provides that it shall be without prejudice to the provisions of Community law or national rules covering the accessibility of particular goods or services, which means that other Community texts on the same subject take precedence. This applies in particular to Regulation 1107/2006 for accessibility in air

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<sup>39</sup> COM(2007)99 final

<sup>40</sup> Article 26: "The Union recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community".

transport, to the provisions of Regulation 1371/2007 related to accessibility in railways, and to the provisions of a possible Community text related to accessibility in maritime transport.

Regarding the content of the measures at stake, Article 4(1) and (2) of the draft directive establishes the principle that in order to comply with the principle of equal treatment in relation to persons with disabilities, effective and non-discriminatory access must be provided, as long as such measures do not impose a disproportionate burden, nor require fundamental alteration of the social protection, social advantages, health care, education, or goods and services in question or require the provision of alternatives thereto. In addition, in particular cases, reasonable accommodation should be provided unless this would impose a disproportionate burden. The obligation to provide effective non-discriminatory access and reasonable accommodation applies to the entire material scope of the proposed Directive, including access to goods and services, which includes transport. In assessing disproportionate burden, account shall be taken, in particular, of the size and resources of the organisation, its nature, the estimated cost, the life cycle of the goods and services, and the possible benefits of increased access for persons with disabilities. These issues are addressed in this impact assessment, which in its methodology fully complies with the proportionality test of Article 4.

Concerning the proportionality of the burden to be imposed, not all carriers have the same capacity, and the measures proposed for accessibility should contain a set of principles without entering into the specific and detailed technicalities of their provision. The latter may vary depending on the capacity of the carrier, the related infrastructure and the manner in which these general obligations are to be provided in practice.

The measures considered take into account the issue of fundamental alteration, as they consider that the nature of the transport service provided should not be changed to accommodate person with disabilities. To give a practical extreme example: if a carrier operates only small sailing boats, it would fundamentally alter the nature of the boat to transform it into a motor boat. Similarly, if physically there is no space available onboard to place a person in an electrical wheelchair, there is no need for the carrier to change this boat for a bigger one. This latter example would relate to the issue of "alternatives thereto".

Therefore, binding obligations on carriers and the rights of persons with reduced mobility would have to be drafted in the proposed legislative measure in terms of principles but leaving enough flexibility in their implementation to respect the proportionality principle.

Moreover, the proposal for a directive to protect persons with disabilities (inter alia) in access to goods and services includes equal and effective access to transport for persons with disabilities but does not spell out how this could be achieved, as that would be going beyond the possibilities offered by that legal basis. The maritime proposal is therefore fully in line with the objectives and goals of draft directive as its aim is likewise to eliminate discrimination in accessing this type of transport, but it will also provide legal certainty as to how this can be achieved by establishing a set of uniform requirements across Member States.

The concepts of reasonable accessibility and reasonable accommodation are developed in Annex 5

### 3.2. Specific objectives

In order to address the problems faced by passengers, the Commission has already taken a number of policy initiatives. In the White Paper "European transport policy for 2010: time to decide" the European Commission envisaged the extension of the Community's passenger protection measures to other modes of transport, including rail and maritime navigation.

In the Commission's Communication "Strengthening passenger rights within the European Union"<sup>41</sup>, the Commission presented a policy approach on how to extend passenger protection measures to modes of transport other than air transport. The Commission identified the rights that needed to be strengthened by the Community action regardless of the means of transport used: a) rights of persons with reduced mobility, b) automatic and immediate solutions when travel is interrupted, c) liability in the event of death or injury of passengers, d) treatment of complaints and means of redress, and e) passenger information.

Taking into account what has just been mentioned above and with regard to maritime transport, the specific objectives include in particular:

- Asserting the principle of non-discrimination and assistance to disabled persons and persons with reduced mobility.
- Asserting the principle of assistance in the event of travel cancellations and delays
- Ensuring a level of quality standards of services and defining information obligations
- Setting up a procedure for handling complaints and ensuring appropriate enforcement of applicable legislation.

It has to be noted that asserting the principle of liability of operators in the event of death or injury of passengers is not to be dealt with in the context of this IA. This point is not included in the proposal, since it is linked with the Protocol to the Athens Convention<sup>42</sup> and has been included in the Commission proposal for a Regulation on the liability of carriers of passengers by sea and inland waterways in the event of accidents (COM (2005) 592 final).

These specific objectives must aim for full equality of opportunity as the overall objective of the European Union's long-term strategy. The achievement of all these specific objectives will ensure better social inclusion and will encourage more passengers to use maritime transport.

The experience of air transport shows that in allowing PRMs to travel, a number of criteria must be fulfilled by operators in charge of ensuring accessibility, assistance, non-discriminatory treatment and information. In particular, in order to guarantee the comfort and dignity of PRM's, assistance must be seamless and therefore composed of a number of elements, from the beginning of the trip to the end. It is not possible to consider them otherwise than as a "package" of operational objectives if the specific objective (seamless assistance in ports and aboard ships) is to be achieved.

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<sup>41</sup> COM (2005) 46 final

<sup>42</sup> Athens Convention relation to the Carriage of Passengers and their Luggage by Sea, 1974, and its Protocol of 2002.

Specific objectives for PRMs	Operational Objectives for PRMs
Full accessibility in ports and ships	(1) To allow full access to existing ports.
Seamless assistance in ports	<p>(1) To put in place arrangements at ports to enable PRMs to perform all necessary actions at each step of the journey, namely:</p> <ul style="list-style-type: none"> <li>a) communicate their arrival at a port and their request for assistance,</li> <li>b) move from a entry point to the check-in counter, if any,</li> <li>c) check in and register baggage, if needed,</li> <li>d) proceed from the check-in counter (if any) to the ship, with completion of emigration, customs and security procedures,</li> <li>e) board the ship, with the provision of lifts, wheelchairs or other assistance, as appropriate,</li> <li>f) proceed from the ship door to their seats/area,</li> <li>g) store and retrieve baggage on the ship,</li> <li>h) proceed from their seats to the ship door,</li> <li>i) disembark from the ship, with the provision of lifts, wheelchairs or other assistance, as appropriate,</li> <li>j) retrieve baggage (if needed), with completion of immigration and customs procedures,</li> <li>k) proceed from the baggage hall to a designated point of exit,</li> <li>l) go to the toilet facilities if necessary.</li> </ul> <p>(2) To ensure that, where a disabled person or person with reduced mobility is assisted by an accompanying person, this person is, on request, allowed to provide the necessary assistance at the port and with embarking and disembarking.</p> <p>(3) To ensure handling of all necessary mobility equipment, including equipment such as electric wheelchairs.</p> <p>(4) To ensure temporary replacement of damaged or lost mobility equipment, albeit not necessarily on a like-for-like basis.</p> <p>(5) To ensure ground handling of recognised assistance dogs, where relevant.</p>
Seamless assistance in ships	<p>(1) To ensure carriage of recognised assistance dogs in the ship, subject to national regulations.</p> <p>(2) In addition to medical equipment, to ensure transport of up to two pieces of mobility equipment per disabled person or person with reduced mobility, including electric wheelchairs.</p> <p>(3) To ensure that all reasonable efforts are made to arrange seating to meet the needs of individuals with disability or reduced mobility on request and subject to safety requirements and availability.</p> <p>(4) To ensure assistance in getting to toilet facilities, if relevant.</p> <p>(5) To ensure that, where a disabled person or person with reduced mobility is assisted by an accompanying person, the shipping company makes all reasonable efforts to give this person a seat next to the disabled person or person with reduced mobility.</p>
Non-discriminatory treatment	<p>(1) Disabled persons and PRMs should be accepted for carriage and not refused transport on the grounds of their disability or lack of mobility, except for reasons that are justified on the grounds of safety and are prescribed by law.</p> <p>(2) In the interests of social inclusion, disabled persons and PRMs should receive the assistance mentioned above without additional charge.</p> <p>(3) Assistance should be financed in such a way as to spread the burden equitably among all passengers using a port and to avoid disincentives to the carriage of disabled persons and persons with reduced mobility.</p>
<b>Objectives for all passengers</b>	<b>Operational objectives for all passengers</b>
Cancellation and delays	<p>(1) Assistance: meals, refreshments, accommodation</p> <p>(2) Return service to the first point of departure at the earliest opportunity</p> <p>(3) Continuation or re-routing to the final destination (under comparable transport conditions)</p> <p>(4) The obligation of maritime operators to provide assistance</p>

	(5) possibility of establishing a compensation scheme
Establishment of basic quality standards, monitoring and information	(1) Establishment of quality standards at the EU level (2) Monitoring of compliance with quality standards (3) Defining the set of information that should be available to passengers before and during the trip. (4) Improvement of access to information on conditions of carriage and fares
Effective enforcement, monitoring, and complaint management with out-of-court procedures	(1) Compliance with the above rights should be supervised and enforced, and an appropriate body — or bodies — should be designated to carry out enforcement tasks. This supervision should not affect the rights of passengers to seek legal redress from courts under national law. (2) Passengers who consider that their rights have been infringed should be able to bring the matter to the operator concerned. If they cannot obtain satisfaction in this way, they should be free to make a complaint to the above-mentioned body or bodies. (3) Penalties applicable to infringements of these rights should be laid down and applied. The penalties, which could include ordering the payment of compensation to the person concerned, should be effective, proportionate and dissuasive. (4) Such enforcement should be undertaken at the most efficient and appropriate level, in line with the principle of subsidiarity.

#### 4. POLICY OPTIONS

*Preliminary remark: the existing regulatory framework*

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<sup>43</sup>.

##### a) International Conventions and EU legislation

In general terms, both the International and European legislation in place is mainly focused on safety issues.

At international level, the Athens Convention relating to the Carriage of Passengers and their luggage by sea, establishes a regime of liability for damage suffered by passengers and their luggage carried on a seagoing vessel. The 2002 Protocol to the Athens Convention introduces compulsory insurance to cover passengers on ships, and raises the limits of liability.

At European level<sup>44</sup>, Directive 2003/25 lays down uniform stability requirements for Ro-Ro passenger ships. Directive 2003/24 includes specific requirements for PRMs, in particular concerning access to the ship, signs, means to communicate messages, alarms and additional requirements, designed to ensure mobility on board ship.

The main reference to critical events appears in the package tour Directive<sup>45</sup>; however this does not allow a fully harmonised situation to be achieved at EU level: transposition by the Member States has led to different solutions and, in practice, unequal treatment of passengers involved in the same type of event depending on the applicable national law. It also has to be

<sup>43</sup> For a detailed description of the legal framework governing the rights of passengers in maritime transport, see Annex II of TiS.pt, 2006.

<sup>44</sup> See Annex 2, Table 7

<sup>45</sup> Directive 90/314/EEC: Package travel, package holidays and package tours regulations.

noted that the above mentioned Directive provides for specific measures in the tourist sector and in the area of consumer protection. It does not aim, *stricto sensu*, to protect passenger rights in the case of travel disruption as EU legislation already does for the air or rail sector.

## b) National Legislation

In relation to national law, in the overwhelming majority of Member States the only law that could be applied to the transport sector is general law or consumer law establishing minimum rights; whereas in some countries, there are some regulations specifying the rights of maritime passenger users only in cases of critical events. Between these two types, there are the countries with a moderate level of protection: although there is no specific regulation regarding passenger rights in the case of critical events, there are rules concerning maritime passenger transport which include the carrier's liability in the event of passenger death or injury.

In some countries, there are also specific regulations concerning PRMs' rights in the transport sector and the maritime sector in particular<sup>46</sup>. 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 the PRMs the right in practice to demand access to maritime transport and assistance if necessary.

**Annex 6** provides a detailed overview of the different legislations in Member States and a framework to categorise the existing legal regimes. The conclusion from this overview shows clearly that none of the 27 Member States offers the passengers of any of the segments of the market (see box 2) the kind of automatic immediate rights on the spot that are sought by the Community action addressed.

As to critical events (delays and cancellations), the provisions of the national laws listed in Annex 6 fall outside the scope of the Commission's proposal (which deals with assistance, rerouting, and fixed-amount compensation due without any fault, but exonerated in the case of extraordinary circumstances) and refer to civil law:

- in the event of delay and cancellation the passenger has the right to demand termination of the contract, and the only compensation to be given is the return of any fare the passenger has paid, this being the only right provided for the national law of most countries (e.g. Spain, UK, Poland and Greece). Alternatively, in other countries (e.g. Spain and Poland), in the event of interruption, passengers are entitled to terminate the contract and to be reimbursed for that part of the ticket price corresponding to the part of journey the carrier did not accomplish. In some countries the carrier is obliged to finish the journey and passengers are only entitled to terminate the contract if he has not fulfilled his obligation within reasonable time (e.g. Nordic countries). These three types of remedies are classic civil law solutions under contractual liability and they are outside the scope of the Community action being evaluated here.

- Even when passengers are entitled to some other form of compensation, the amount will equal the economic loss (if any) caused by the critical event. Generally, in this case the passenger's right to compensation depends on the carrier's or master's fault or neglect (e.g. Spain and Nordic countries). In cases of refused carriage or denied boarding without

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<sup>46</sup> See footnote 27

reasonable ground to do so, the carrier is liable for the economic loss suffered by passengers who are entitled to compensation if the carrier has acted negligently (Nordic countries). Again, these solutions have nothing to do with assistance, rerouting, and fixed-amount compensation (the latter being due even if without fault, but exonerated in the case of extraordinary circumstances) but rather with damages, which involve civil law (tort or contract law).

#### c) Voluntary agreements

Almost all countries refer to voluntary agreements as a common practice: however, there are very few voluntary agreements in the maritime sector. Out of a survey of operators, only three quality charters and five service guarantees have been identified (See Section 5.4 for more details)

The existence of dedicated national legislation concerning the rights of passengers in the maritime sector does not actually guarantee that specific rights are actually in place. This results from two main factors: on the one hand, such pieces of legislation do not always provide detailed and precise guidance. On the other hand operators could take advantage of unclear definitions. For instance in the Nordic countries, Portugal, Greece and Spain, national law provides that a passenger is entitled to financial compensation under certain conditions and has the right to cancel the contract in the case of a delay, but the delay is either not quantified or has to be one or more days. In Greece and in Nordic countries, too, the passenger is entitled to cancel the contract in the event of a “prolonged” or “considerable” delay, but no definition is given as to what might be considered as a prolonged or considerable delay.

#### **4.1. “Business as usual” (Option 1)**

No action whatsoever is taken at EU level and the current situation described above continues under the existing national and international legislations, with the detrimental effects that can be seen on operators providing cross-border services or services in several Member States.

The level of passenger rights in the maritime sector across Europe is mixed (see Annex 6) notably because of the discrepancies between national legislations when they exist and the use of PSO contracts for most of the regional ferry services. It is therefore difficult to assess the extent to which these rights are actually being implemented and enforced (See Section 2.2). Any attempt to reflect these factors of uncertainty in the baseline would have been speculative and would have seriously threatened the quality of the results. For the same reason the baseline scenario has also assumed that PSOs are part of the market (this assumption will be discussed further in Section 5.7)

#### **4.2. Community legislative action to improve the rights for persons when travelling by boat (Option 2)**

Regulatory action at EU level, that is directly binding and immediately applicable, is envisaged. Such a Regulation would apply not only to international routes involving at least one EU port, but also to any domestic service within an individual Member State. This type of EU act would:

- Establish rights regarding PRMs: accessibility in ports, assistance in ports and in ships and information requirements.

- Establish rights for passengers when travel is interrupted in the event of cancellation or delays (assistance and compensation)
- Establish the standards for provision of information about maritime passenger rights to the general public and especially to travellers, including PRMs.
- Provide for complaint handling and the monitoring and enforcement of the rights of passengers.

#### 4.2.1. *Rights of persons with reduced mobility*

##### 4.2.1.1. *Accessibility requirement in ports*

Such a regulatory act would have to impose a general accessibility principle for PRMs. However, it would not necessarily have to establish an exhaustive list of obligations in terms of the installations and equipment that ports should provide in order to ensure accessibility<sup>47</sup>. Member States must ensure that appropriate measures are taken where practicable and reasonable in economic terms. A non-exhaustive list of such measures can be found in Annex 8. In this context, it should be mentioned that the measures listed in Annex 8 are illustrative, since the scenario contemplating Community legislation does not explicitly include any obligation for Member states to adapt their infrastructure (either public or private) to become accessible for PRMs. The aim of the proposal is to allow PRMs to use transport by boat just like any other passengers. Even if in theory, Member States could ensure this obligation of non-discrimination simply by means of more detailed assistance for PRMs, in practice Member states will prefer to adapt their infrastructure so as to allow PRM to embark and disembark with the assistance tailored to their needs.

A sub-option could have been that of including accessibility obligatory measures in the Community option that is, to separately analyse all or some of the measures of Annex 8 in the Community proposal in terms of costs. As it is not feasible to decide which of those measures are already in place in EU ports and for the sake of simplicity, this sub-option has not been further analysed.

Therefore, only a general accessibility obligation imposed upon ports would still have an impact in terms of cost, which will be assessed in this report.

In order to ensure that such measures are actually put into effect, the regulatory act could require the Member States to report to the Commission on all the investment needed in infrastructures and facilities to guarantee adequate accessibility in each national port.

##### 4.2.1.2. *Assistance requirements in ports*

The regulatory act would impose an obligation to provide assistance in ports without additional charge, in order to allow PRMs to use the transport service for which they have a reservation, provided that they notify their need for such assistance to the entity concerned some time (e.g. at least 48 hours) before the time of departure of the service. If such a notification is not made in time, it is reasonable for the obligation to be limited to making all reasonable efforts to provide the assistance needed.

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<sup>47</sup> Basic rules for accessibility requirements in maritime transport can be taken over and adapted by the sector from DPTAC and IMO Guidelines.

The ship operator concerned will be responsible for making sure that the assistance is provided free of additional charge. The operator may provide such assistance itself or by contracting one or more other parties<sup>48</sup> to provide the assistance.

Moreover, the staff of all parties that may render services to passengers should receive specific disability awareness training in order to be able to assist PRMs if needed.

#### *4.2.1.3. Assistance requirements in ships*

The regulatory act would require ship operators to provide assistance to PRMs without additional charge on condition that these persons notify their special needs in advance. The assistance would cover both boarding and disembarking.

Ship operators would also be responsible for providing specific disability awareness training to their staff so that they are able to assist PRMs.

For the cruise sector, the cost of assistance would be nil; cruises already have hotel facilities the cost of which is included in the price of the ticket

#### *4.2.2. Assistance, re-routing and compensation, in case of cancellation and delays*

##### *4.2.2.1. Assistance and re-routing*

On this matter, the objective of the regulatory act is to lay down minimum rules on the following points if any event interrupts a journey: assistance and return service to the first point of departure at the earliest opportunity.

Although certain carriers are already considering offering such solutions on a voluntary basis, the regulatory act would make these solutions available under the same conditions throughout the Community. A competent authority would be required to monitor and enforce those rights and obligations.

As with air transport, maritime passengers should be guaranteed an adequate level of protection. Depending on the circumstances, assistance will be required for any inconvenience caused to passengers due to the interruption, cancellation or delay of their journey.

It is also envisaged to provide for return services and re-routing so that the companies concerned have an actual obligation to put an end to the predicament in which the passengers finds themselves, as a result of their own action, inaction or unforeseen external circumstances.

##### *4.2.2.2. Compensation scheme*

Taking into account the measures envisaged for other modes of transport, the compensation scheme in the maritime sector would be based on three alternative scenarios arising from existing legislation: (1) the compensation scheme under the air transport sector, (2) the scheme under the rail transport sector; and (3) the scheme of the bus and coach sector.

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<sup>48</sup> Other parties could for instance include: the port authority, other ship operators, the passenger terminal operator, the tour operator or specialised providers.

(1) Regulation 261/2004<sup>49</sup> establishes common rules on the award of compensation to passengers in the event of denied boarding and cancellation of flights. This Regulation, in force since February 2005, establishes a compensation scheme in two cases: Firstly in the cases of denied boarding; and, secondly where flights are cancelled. The amount of compensation is based on two principles: the distance in kilometres between the departure and arrival points; and secondly, whether the flight is within the Community or not<sup>50</sup>.

The Air Regulation does not provide for any compensation in event of delay in such cases, but only assistance.

(2) Regulation 1371/2007<sup>51</sup> on rail passengers' rights and obligations provides for a delay compensation scheme from the railway undertaking if the passenger is facing a delay between the places of departure and destination stated on the ticket for which the ticket has not been reimbursed. The minimum amount of compensation envisaged for delays is based on the length of the delay and is a percentage of the ticket price<sup>52</sup>.

(3) As regards the coach and bus sector, a proposal for legislation on passengers' rights has been already submitted. It includes a compensation scheme based on the duration of the trip and the length of the delay. The approach is less complex than the sectors where Community action has previously been taken. The amount of the compensation is based on a percentage of the ticket price<sup>53</sup>.

For the maritime sector, and taking into account what has been described above, the proposal will envisage a more realistic and less complex approach than the one established for air passengers. The experience of the air sector has shown that passengers are more interested in receiving assistance on the spot (meals, refreshments, accommodation, etc.) and information (cause of the interruption, expected waiting time, alternative routes, etc.) than in receiving financial compensation. Immediate and automatic financial compensation is not a priority, given that, in the case of a specific prejudice, an air transport passenger will in any case have to initiate a procedure before the national civil courts in order to obtain damages under the Montreal Convention. The existing legal framework in maritime transport is very similar to that of the air transport prior to the adoption of Regulation 261/2004, and in any event the same approach will have to be taken under the Athens Convention in the case of a specific prejudice.

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<sup>49</sup> Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights. OJ L 46, 17.2.2004, p. 1-7

<sup>50</sup> The different amounts of cancellation as stated in the Regulation are as follows: a) EUR 250 for all flights of 1500 kilometres or less; (b) EUR 400 for all intra-Community flights of more than 1500 kilometres, and for all other flights between 1500 and 3500 kilometres; (c) EUR 600 for all flights not falling under (a) or (b).

<sup>51</sup> Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations OJ L 315, 3.12.2007, p. 14-41

<sup>52</sup> The compensation amounts to a 25 % of the ticket price for a delay of 60 to 119 minutes; or to a 50 % of the ticket price for a delay of 120 minutes or more.

<sup>53</sup> Concerning compensation, Bus and coach proposal for a Regulation establishes that where the scheduled duration of a trip exceeds three hours, for delays at departure of more than two hours, the passengers concerned shall at least have the right *"to compensation amounting to 50 % of the ticket price if a bus and/or coach undertaking fails to provide alternative services or information referred above"*

When defining a compensation scheme, the maritime proposal envisaged will also have to take into account, the nature of the rail and bus and coach sector. The same principles used in these sectors will be used as a basis for the compensation scheme in the maritime sector.

Compensation under the maritime proposal would be granted in the case of a delay or cancellation between the places of departure and destination of the trip. The amount of the compensation would be related to the duration of the delay and based on a percentage of the ticket price.

Denied boarding will not be subject to this compensation scheme, because, as it has already been mentioned elsewhere in this Impact Assessment, it is not a practice in maritime passenger transport.

Finally, measures guaranteeing SMEs competitiveness and mitigating economic impacts on SMEs will be taken into account.

#### *4.2.3. Information obligations for ports, shipping companies and travel agencies*

It is important that more extensive information is provided to the passengers; information provision should not be limited to passenger rights in the case of a critical event but might include general information about the trip and the provider.

The objective should be to establish minimum rules on information for passengers before, during and after the journey. In addition when a critical event occurs, the operator should notify the passengers -voluntarily and as soon as possible -of the situation and the alternatives available to them. That information should be provided in a clear and understandable manner to all passengers concerned.

Special provisions are required for PRMs passengers; general information about the assistance available to PRMs on a particular route should be made known to the general public and to potential passengers, and should be made available in accessible formats.

Accessible information is crucial for passengers who are blind, partially sighted, deaf, deaf-blind or hard of hearing, or who have an intellectual or psychosocial disability. Where information is provided on tickets, it should be available, upon request, in alternative accessible formats.

All parties rendering passenger services should provide the required information in a suitable format. Depending on the situation, this obligation could therefore apply to the port authority, the shipping company or the passenger terminal operator or the tour operator.

Annex 9 outlines the minimum information requirements that may be used as a basis for information obligations.

#### *4.2.4. Enforcement, monitoring, and complaint management*

The regulatory act would oblige each Member State to designate a body responsible for the enforcement and application of the new rules to ensure that the rights of passengers are respected. Member States should also set up a monitoring system to report on complaint management, detect bottlenecks, and indicate corrective actions and they should establish penalties that are effective, proportionate and dissuasive in the event of infringements of the new rules, to ensure that they are implemented.

Furthermore, the designated body should also investigate complaints from passengers and ensure that their rights are fully respected when infringements are found. Passengers should be granted the right to complain about possible infringements, wherever they occur, to the body in the Member State where they reside, with the possibility of forwarding the complaint to the competent national body, if necessary.<sup>54</sup>

#### **4.3. EU coordination and exchange of best practices to be developed to enhance national legislation (Option 3)**

In this scenario, the EU regulator might confine itself to promoting a common "soft-law" framework among the Member States. This soft-law framework would be based upon best practices and would constitute a benchmark for the development of national legislation to enforce the rights of passengers when travelling by sea and inland waterway.

The EU's objectives may be achieved by ensuring that Member States, consumers and ship operators are better informed. This type of policy instrument would include information and publicity campaigns, training, guidelines and disclosure requirements. This instrument has some important advantages. Not only it is cost-effective in many cases; it is also easily adaptable to changing situations in the different Member States.

#### **4.4. Voluntary agreements (Option 4)**

Such voluntary agreements would be developed and adopted by ship operators to improve the situation of persons when travelling by sea and inland waterway, in line with the principle of the exchange of best practice.

Under this option, it is considered that voluntary agreements could be sufficient to achieve the objectives. This type of agreement would be concluded by the parties concerned through an EU recommendation, while leaving to the EU institutions the possibility of intervening if the agreement should prove to be insufficient or inefficient.

Self-regulation can cover a large number of practices, common rules, codes of conduct and voluntary agreements by which economic actors, social players, NGOs and organised groups undertake to voluntarily regulate and organise their activities. The ability to use self-regulation depends to a large extent on the existence of relevant bodies and processes to support self-regulation, including the building of consensus among market players on the contents of such rules and the monitoring of their enforcement. Self-regulation may deliver greater speed, responsiveness and flexibility, as it can be drawn up and amended more quickly than legislation. This may therefore be preferable in markets that are changing rapidly. Self-regulation needs to be an open and transparent process, as it may provide an opportunity for collusion between competitors.

In this scenario, the operators involved in the transport service -following consultation with representatives of stakeholders and the authorities concerned- should develop a code of conduct ("Passenger Service Commitment"). This code of conduct should contain non-legally binding commitments to deliver specific services to passengers. Signatory operators would develop their own code of conduct, incorporating the agreed rules, defining care and assistance procedures, establishing staff-training programmes and introducing charges to

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<sup>54</sup> See Regulation (EC) No 2006/2004 of 27.10.2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws — OJ L 364, 9.12.2004, pp. 1–11.

implement the commitments. In this context, consumers may expect to be adequately informed by signatory operators on all these issues when planning their travel arrangements.

## **5. ANALYSIS OF IMPACTS**

### *Preliminary remark*

The analysis of the main impacts for the measures envisaged has been conducted using a quantitative approach where data were available and a qualitative approach for measures whose impacts were small or where no data were available. As has been highlighted in the Impact Assessment EC guidelines, even when it is not possible to make a well-founded estimation of costs, the process of identifying impacts should help in understanding and explaining the consequences of the various proposals.

The costs envisaged for PRMs should be the most relevant costs in economic terms for the parties involved; these have been exhaustively measured in the PwC study.

### **5.1. Option 1: Business as usual**

#### *5.1.1. Economic impact*

The first economic impact of *Option 1* "business as usual" on operators, ports, administrations, and local authorities inside and outside the EU, is that they bear no additional cost. This is not likely to change over time.

The second impact on operators, ports, administrations, and local authorities is an opportunity cost: because there will be no additional traffic. Without measures in favour of passengers travelling by boat, their number is not likely to increase. On the contrary, the overall number of maritime passengers is actually likely to decrease.

The third impact is the cost incurred due to the discrepancies between Member State legislations. The magnitude of such a cost is difficult to assess.

#### *5.1.2. Social impact*

Passengers' confidence in other modes of transport, based on rights already approved at Community level, would turn into mistrust of maritime transport if it refuses to give passengers this minimum of uniformity, clarity and effectiveness concerning their rights. PRMs will carry on not using this mode of transport, and the market failure to integrate disabled and elderly people will increase as the European population gets older. Negative consequences could end up in job losses on board and ashore, and in a lack of integration of the elderly and the disabled.

#### *5.1.3. Environmental impact*

This dissatisfaction of passengers with this mode of transport could also have an environmental impact, since maritime transport is generally less polluting than other modes of transport in the EU. In international maritime transport, the increase in the emission of toxic products over the past decade has been significant.

Moreover, the Thematic Strategy on air pollution shows that emissions of SO<sub>2</sub> and NO<sub>x</sub> from the maritime sector are likely to exceed total emissions from land-based sources by 2020<sup>55</sup>. This finding must be qualified for the purpose of the current assessment: these figures incorporate massive non-EU freight fleets whose flags impose very low environmental standards. Moreover, the environmental impact broken down by transport mode in terms of average external costs per ton-km transported shows that freight transport by ship is eight times less polluting than transport by air, which is often the only alternative transport solution (see Table 12 in Annex 2). Unfortunately, the external costs of maritime passenger transport have not been estimated. However, it seems somewhat rash to transfer this ratio to passenger transport, since maritime freight maximises economies of scale, which is not the case for passenger ships, where size varies significantly. A conservative ratio of 4:1 seems more appropriate.

Since it is unlikely that new ships will be put in service, the environmental impact of this option is neutral.

**5.2. Option 2: Community legislative action**

This option is divided in two sub options: a) Community legislative action covering only the intra-Community and international routes ("cross border only" option); and b) Community legislative action covering cross border and domestic routes.

Under sub-option a) (cross border only) if no further specification is made, it is assumed that the ports and the operators which only serve domestic traffic would simply be excluded from the costs analysed below.

The different kind of costs listed below applies fully to option b) Community legislative action on cross border and domestic routes, since these costs will be the same for the ports and ship operators, regardless of the destination of the passengers. It must be noted throughout this section 5.2 that ultimately the costs listed below will be spread across all passengers, either through an increase in port tariffs, or an increase in the ticket price.

*5.2.1. Economic impact*

Full implementation of the measures proposed in option 2 would have an impact on the companies operating in the European market for the transport of passengers by sea or inland waterway. The main market players likely to be affected are the following:

<b>Port and terminal operators</b>	<b>Ship operators</b>
<ul style="list-style-type: none"> <li>- port authorities</li> <li>- terminal operators</li> <li>- public bodies responsible for investment in port infrastructure</li> </ul>	<ul style="list-style-type: none"> <li>- ferry and fast ferry carriers</li> <li>- cruise companies</li> <li>- inland waterway passenger transport providers</li> </ul>

This economic impact must be assessed for each point identified above in Chapter 4 "Policy options".

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<sup>55</sup> TERM 2007: indicators tracking transport and environment in the EU - en EEA Report No 1/2008.

### 5.2.1.1. Cost of measures as regard PRMs

As a preliminary remark, it should be noted that the cost of the measures relating to PRMs under the Regulation would ultimately be borne by passengers. The costs should be financed in such a way to spread the burden equitably among all passengers by levying a charge that is added to the basic ticket price, to avoid disincentives to the carriage of the PRMs. Since similar measures already approved for the other modes of transport are financed in the same way, the added costs to the maritime/inland waterways carriers will be neutral in terms of competition.

#### *Cost of accessibility requirements in ports*

It does not appear necessary to draw up an exhaustive list of obligations in terms of specific installations and equipment that ports should provide to ensure accessibility since the Commission proposal will not include any explicit obligation to adapt infrastructures to make them accessible to PRMs. However, a general accessibility obligation imposed on ports would still have an impact in terms of cost, which will be assessed in this report.

The cost of adapting the passenger terminal infrastructure of EU ports to the needs of PRMs is very difficult to estimate in quantitative terms, as it depends very much on local circumstances. However, a number of considerations are set out below in order to better understand all the aspects that have to be considered in evaluating the costs of implementing accessibility in EU ports. They concern (1) the costs of typical accessibility facilities at terminals, (2) the cost for terminals that are to be built or undergo a major refurbishment and (3) the cost for terminals to be adapted.

#### (1) What are the costs of typical accessibility facilities?

The major costs to be considered relate to land accessibility to the terminal, to berths and to ships.

Fixed foot-passenger bridges can be costly, but so can flexible gangways, although to a lesser extent. However, these kinds of facilities are needed only for embarkation and disembarkation on high ships such as cruise vessels.

The provision of mobile ramps to board and disembark from small vessels, such as ‘fast units’, is the responsibility of ship operators. This issue has already been addressed by Directive 2003/24/EC, and does not represent a cost to be examined for the purposes of this impact assessment.

Over short distances, ramps, where practicable, usually do not give rise to excessive additional costs. Lifts, however, tend to be rather expensive, not only in the cost of purchase but also in maintenance. The cost of lift access between two floors could be in the order of €450 000 (DG TREN, 1999).

Apart from these facilities, equipment to assist hearing-impaired persons, such as induction loops, and provision for visually impaired persons, such as tactile edges and markings, involve a relatively minor cost. Facilities to be provided and their costs vary significantly, between €400 and €15000 per unit (see Table 13 in Annex 2).

#### (2) What are the costs of terminals to be built or subject to a major refurbishment?

Whenever a terminal is subject to a major refurbishment, or is being built as new, an acceptable level of accessibility can be achieved at minimal cost. As mentioned in a recent POLIS report<sup>56</sup>, the provision of accessibility is not expensive if it is taken into consideration from the first stages of the design. In turn, it can be expensive to remove the barriers in existing buildings. According to existing calculations (Seeger, 2002), the costs of making a building accessible from the outset are less than 1% of the total construction cost.

### (3) What are the costs of terminals to be adapted?

In most situations, terminals are already built and are not planned to be subjected to a major refurbishment. However, two types of costs associated with adapting terminals have to be considered<sup>57</sup>: namely, initial costs and permanent costs.

The **initial costs** are encountered once during the life of the passenger terminal building and infrastructures. Their costs always arise, regardless of whether it is an existing building or a new building that is being adapted. Only the quantities will vary.

**Permanent costs** exist throughout the lifetime of the building or infrastructure, and are usually estimated as annual costs. The main permanent costs are operating costs and maintenance and replacement costs.

#### *Cost of assistance in ports and aboard ships*

The **cost of assistance in ports**. In most cases, training courses to enable carrier personnel to provide assistance in port to PRMs and sensory/cognitive-impaired persons may be the only cost to be borne by the ship operators. However, it should be noted that carriers are already required under “Assistance aboard ships” to provide similar training courses to their personnel. Therefore, this type of cost should be considered only once, under that heading.

On the other hand, even if port authorities and terminal operators are not responsible for assisting PRMs in ports, their personnel are likely to come into direct contact with them. It is therefore reasonable to provide training courses for those employees to give them the skills they need in order to provide adequate and qualified assistance to PRMs, if so requested.

Unfortunately, no detailed data are available on the distribution of personnel in ports and their duties. The proposed estimate relies on data gathered by means of a survey<sup>58</sup>.

The estimate of the volume of personnel needing to attend training courses in order to provide proper assistance to PRMs is based on a selection from a list of passenger ports (Eurostat data) ranked by passenger traffic<sup>59</sup>. This allows the number of personnel to be estimated for each category (see Table 15 in Annex 2).

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<sup>56</sup> POLIS: Deliverable D1.2 “Universal Building Design (UBD): Classification and techno-economical approach” (January 2006). POLIS is a project funded by the Commission under the PRIORITY 8.1 (Policy Oriented Research) programme.

<sup>57</sup> This section was taken primarily from POLIS: Deliverable D1.2.

<sup>58</sup> Cf. Annex I of PwC study. See Table 14 in Annex 2.

<sup>59</sup> Cf. Annex 2, “Market analysis” of PwC study.

Port operators were also asked to provide information on staff training practices. For countries that provided data<sup>60</sup> that an employee spends on courses an average of four days per year and the average cost per employee for one day of training is €167.

It has to be noted that training for port personnel will differ from training for ship personnel: it is not necessary to provide training to deal with the physical handling of PRMs when travelling at sea or on inland waterways. Training courses might aim not only to make personnel more aware of the specific needs of PRMs, but also to improve communication and attitudinal skills in order to facilitate assistance as much as possible.

Training courses should primarily be aimed at personnel who have direct contact with passengers. The estimated cost of training front-office employees is about €2.9m. Nevertheless, back-office personnel might also need to attend training courses to raise awareness. Here, additional costs of about €1m are anticipated. Finally, it should be recalled that these costs relate only to the first year of the training requirement, as expenditure in the following years should be lower, being limited to newly employed personnel and refresher courses. Refresher courses would be less costly than the initial courses, although these are likely to be needed every year.

Therefore, based on the data and information above, the total training cost for the European Union as a whole can be estimated by multiplying the number of employees (for each category) by the estimated average daily cost of training (€167). (See Table 16 in Annex 2).

**The cost of assistance aboard ships.** In maritime transport, adequate assistance is needed for passengers with disabilities. The number of employees (and therefore costs) is not expected to increase, since in most cases the assistance can be provided by the existing personnel on ships when they are free of other duties. Therefore, training courses may be appropriate for onboard personnel to enable them to provide assistance and cope with emergencies in the case of PRMs, although operator policies do not yet cover this issue.

It is worth pointing out that properly trained personnel on board might help not only to make travel more comfortable for passengers, but also to reduce the risk of accidents on board and prevent unease or situations that could represent a danger for passengers.

According to the STCW95 Code (see Annex 10)<sup>61</sup>, training in providing assistance to PRMs should address deck personnel, such as masters, officers or ratings and hotel personnel who may have direct contact with passengers. Unfortunately, no detailed data are available on the number of employees on ships in the EU. Therefore, the number of persons employed in the deck and hotel areas of Italian ships has been used as a proxy to estimate the number of seafarers on board ships in the European Economic Area (EEA) who should be trained to provide assistance to PRMs. The data were obtained with the help of Confitarma<sup>62</sup>.

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<sup>60</sup> Denmark, Estonia, Finland, Germany, Greece, Ireland, Italy, Lithuania, Malta, UK, Netherlands.

<sup>61</sup> The STCW95 Code specifies standards for training for seafarers also with regard to the specific needs of PRMs. See Annex 9 for details.

<sup>62</sup> Confitarma is the Italian shipowners confederation. It represents more than nine tenths of the Italian merchant fleet.

Data for the European Union as a whole have been estimated by applying the same criteria as those used in the Italian case<sup>63</sup>. It is assumed that the cost per employee for attending the assistance course would be approximately €150.

The total cost of training personnel on board ships in the EEA is about €8.4m (see table 17 in annex 2). These figures also include: countries, like Italy, the UK and Ireland, that already impose a training policy for national employees in order to guarantee adequate assistance to passengers with reduced mobility; and countries not belonging to the European Union, such as Norway and Iceland.

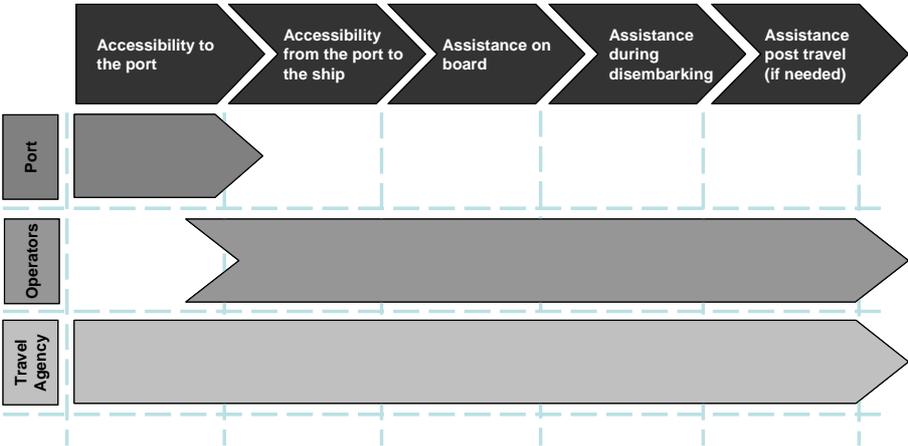
As a result, the total cost would probably be lower than that estimated in this report. Nevertheless, in a conservative approach, the above figure can be considered to be a fair estimate of the training cost at European level. Moreover, this full cost would be borne only in the first year, since training courses during the following years would be confined to newly employed personnel and refresher courses. Refresher courses should be less costly than initial courses.

**Cost of information obligations**

Information obligations should cover the different stages in the transport service. In particular, PRMs require information on: accessibility to the port; accessibility from the port to the ship (embarking); assistance on board; assistance during disembarking; and post-travel assistance, where needed.

Not all the actors in the industry can be considered to bear equal responsibility for the quality and accessibility of the information provided to PRMs. However, a reasonable distribution of information responsibilities is given in the following chart. For the sake of clarity, carriers should also bear responsibility.

*Mapping of responsibilities for providing information*



*Source: PwC*

Information should be made available not only before the journey, but also during all stages of the trip. Information should be provided in advance about accessibility on board and in ports, and about assistance on departure or arrival. Moreover, cruise trip brochures should

<sup>63</sup> Cf. Annex II, “Market Analysis” in the PwC report.

give details of the services offered to disabled persons in ports of call to allow them a minimum autonomy of movement<sup>64</sup>.

*Mapping of information by stage of trip*

<b>Actors</b>	<b>Information pre-travel</b>	<b>Information in ports/ships</b>	<b>Information post-travel</b>
Port Authorities and Terminal Operators Shipping Operators Travel Agencies	Internet Brochures (special format) Advertising Tickets Mailing lists	Brochures Assistance from personnel Tickets	Internet Tickets Mailing lists Customer care

*Source: PwC*

The shipping operators should provide in the first instance general information about the shipping service, but in general this should be an obligation for everyone involved in the tourism sector, e.g. travel agencies, tour operators and port authorities. This information can be provided on the internet or by any other means normally used to promote the shipping service (e.g. brochures, tickets, etc.). It will involve only minor costs since it can be incorporated within the other information material already provided by operators. This limited marginal cost (if any) might be borne by the operators without any impact in terms of profitability or tariff increases for passengers. However, providing information in special formats, like Braille, seems to be more costly. According to TiS.pt (2006) the unit costs incurred by an operator for preparing information brochures in Braille lies at around € 2,246 for an Index Basic Braille Embosser Printer and € 300 for a Braille Translator.

More important could be the cost of guaranteeing adequate information on ships and in ports and having adequate tools for properly informing passengers during travelling or waiting times in ports. This matter is regulated for shipping operators by Directive 2003/24. The costs of facilities to be provided at terminal buildings to improve information accessibility vary between 150 and 400€ per item (see Table 13 in Annex 2).

***Who should bear the cost of accessibility, assistance and information in ports?***

It is not easy to determine which actors should bear the investment costs necessary to ensure accessibility for PRMs, since the European framework for port governance and management is very complex.

As claimed by ESPO<sup>65</sup> and confirmed by the preparatory study conducted by PwC, terminals are not always physically linked and are mostly operated by different parties, sometimes the port authority itself. However, the majority of European ports are operated by various separate private companies, terminal operators or shipping lines.

In addition, on some routes there is no port and therefore no port authority as such (e.g. small cruise services departing from beaches). It could therefore be envisaged that carriers should handle the organisation of assistance and bear the cost, with the possibility of significant economies of scale given that the same carrier staff would be providing assistance both aboard ships and in ports.

<sup>64</sup> Commission Staff Working Paper “Strengthening the protection of the rights of passengers travelling by sea or inland waterway in the European Union” — summary of contributions.

<sup>65</sup> ESPO (European Sea Ports Organisation) response to the European Commission consultation.

Accordingly, the most obvious solution is to require the ship operators concerned to ensure that assistance is provided to PRMs in ports<sup>66</sup>. The number of employees (and costs) is not expected to increase, since the assistance can be provided by the existing personnel on ships when the ship is moored in port.

The financing of terminal-related infrastructure and superstructure<sup>67</sup> in European seaports and charging for their use are highly sensitive issues, since port authorities and port operators regard them as means of enhancing competitiveness. Due to the increasing competition between seaports to attract both vessel operators and port-related companies, the authorities run a very restrictive information policy<sup>68</sup>.

The approaches to the financing and maintenance of port superstructure vary across Member States (see table 18 in annex 2). In most Member States, a public entity or the port authority is responsible for infrastructure investment and maintenance. In some other countries, responsibility is shared by the public and private sectors. Finally, in a few Member States, it is wholly in the private sector.

Furthermore, in some ports infrastructure investment is initially financed by the port authority and paid back by the terminal operator through a lease fee. In other cases, infrastructure investment is financed by the private terminal concessionaire and then refunded by the public authorities through a discount on concession fees.

Such a complex architecture calls for a solution that needs to be workable and transferable to all the scenarios described above. Any legislative proposal should leave as much flexibility as possible to the sector to meet the envisaged objectives. Leaving the responsibility and therefore the cost to carriers, with the possibility to subcontract, appears to be the most practical solution.

As to the impact of the proposed measures, a general remark has to be made: the economic importance of the cargo will still be considerable in comparison with the revenues expected from the transport of passengers. Where both passengers and cargo are transported on the same ship, carriers will still tend to have more incentives to comply with their obligations regarding freight rather than passengers. The positive difference of the measures envisaged will be on the passenger side: when and if the carrier has decided for instance to incur a long delay at port, he will have to provide assistance, and possibly rerouting and compensation to his passengers. This may not lead to possible changes in the incentives for certain carriers, but will make sure that the passenger does not bear the consequences of such an economic decision by the carrier.

Finally for those routes subject to a PSO, the extra costs of the proposed measures for operators might be absorbed by Member States through compensation provided under the terms of the PSOs.

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<sup>66</sup> The ship operator may provide such assistance itself. Alternatively, it may meet its responsibility by contracting one or more other parties to provide the assistance.

<sup>67</sup> Port superstructure comprises: roads and rail tracks at the terminal; terminal paving/surface finishing; port/office buildings; mobile equipment; warehouses; cranes.

<sup>68</sup> Study ordered by DGTREN on “Public Financing and Charging Practices of Seaports in the EU”. Prepared by the Institute of Shipping Economics and Logistics, 2006.

### 5.2.1.2. Cost of the contemplated measures when travel is interrupted (cancellation & delays)

As already indicated at the beginning of this IA, there are few data available regarding the number of critical events<sup>69</sup>. Even the definition of this concept is not same for all operators. Despite this lack of data, a qualitative process was conducted to produce reliable estimates of the parameters of interest in order to have a real picture of the situation and of how much these measures would cost<sup>70</sup>.

#### *Cost of the assistance and rerouting*

As to assistance, the cost will be nil in a number of cases; accommodation will be free for cruises, since cabins are already available on board. The cost of refreshment and meals will be nil for cruises and ro-ro ferries which have such services aboard their ships.

In other cases, the contemplated measures will have an inbuilt proportionality principle i.e. assistance must be provided within the limits of what is possible under local circumstances. This is particularly crucial for smaller companies in smaller ports where sometimes no facilities are available. Assistance should be available in such cases, but should be limited to what is available. For instance, potable water is to be considered as available in all cases, at a marginal cost almost zero.

As to re-routing, the cost is difficult to assess since many different scenarios are covered.

Therefore, the effects on revenue and profits are likely to be insignificant; equally, the impact on the competitiveness of Community companies should be slight, as all operators involved in the sector would be covered.

The economic impact of the application of the new measures should be small. Therefore, there should be no significant effect on employment, investment or the creation of new business. Nevertheless, operators can expect an increase in staff and training costs, along with a possible slight increase in ticket price without any decrease in passenger demand.

Some expenses are to be expected for all parties involved. Price could be affected in the long run, as operators will be forced to operate more carefully, increasing production costs and also to cover the risk of future penalties.

#### *Cost of the compensation scheme*

The issue of financial compensation when travel is interrupted is one which cannot be assessed in quantitative terms owing to one of the main constraints encountered during the process of making this IA, and which has already been mentioned: namely, the lack of data in the maritime passenger sector.

However, the cost of paying compensation to passengers is unlikely to be excessive, although this is hard to predict. As has been explained earlier in the text, the phenomenon of denied

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<sup>69</sup> TiS study 2006: Only 5 countries out of 17 provided data on critical events (France, UK, Ireland, Poland and Estonia)

<sup>70</sup> As highlighted in the EC guidelines, even when it is not possible to make a well-founded estimation of costs, the process of identifying impacts should help to understand and explain the consequences of the different proposals.

boarding for overbooking does not appear to be particularly significant in the context of passenger transport by ship.

Moreover, considering that the average cost of a ticket in the maritime sector is much lower than in the air sector (where the total price of measures has not given rise to an insuperable burden for the actors involved) and considering that the suggested compensation would amount to a maximum of the total price paid for the ticket, compensation would not have a significant economic impact.

The situation may differ slightly when it comes to delays, as these appear to be a very significant issue in the maritime passenger sector. Nevertheless, assuming that the compensation would not exceed of 50% of the price paid for the ticket and considering the average cost of a ticket, the economic impact of the application of the new measures is likely to be quite limited. Finally, the circumstances in which operators are excluded from liability in the case of delays (e.g. exemption for companies from providing compensation when extreme weather conditions and *force majeure* makes it impossible to provide services contracted) and cancellations may effectively lessen the economic impact of this measure.

Therefore, it is unlikely that there will be any significant effect on employment, investment or the creation of new business.

Nevertheless, operators can expect an increase in staff and training costs, along with a possible slight increase in ticket price without any decrease in passenger demand.

#### 5.2.1.3. Cost of the obligation to provide information

Some of the arguments are the same as those mentioned above in "Information obligations for ports, shipping companies and travel agencies" in the PRMs section.

It does not appear that the obligation to provide information will give rise to any particular additional costs for the operators. The obligation could be covered by short training programmes for counter staff whose skills need to be upgraded, and by the operator making available an internal circular at its customer contact points, and/or posting up a document on the ship that explains the rights of passengers under the new rules.

Therefore there might be a slight increase in the costs of training and of printing information, and some moderate administrative costs related to information obligation.

#### 5.2.1.4. Cost of complaint handling service and monitoring

The process of managing the settlement of disputes is not expected to result in any major additional economic burdens for the operators. The approach should provide for a review of internal procedures so as to guarantee that written feedback is provided quickly and efficiently to the traveller submitting the complaint.

#### 5.2.1.5. Economic impact on passengers

The adoption by the EU of all the measures proposed to enforce passenger rights would increase costs, leading either to a reduction in operating margins for ship operators or to an increase in passenger fares. The impact on ticket fares, if any, would depend on the additional direct or indirect costs that ship operators would have to face.

Direct costs would mainly be expenditure for personnel training (as regards PRMs) and the provision of information. However, the impact of these costs on ship operators' margins is expected to be almost insignificant.

Indirect costs might arise primarily from increases in port tariffs, which would depend on the additional costs to be borne for improving accessibility in ports for PRMs. However, it should be noted that there is not always a direct correlation between investment costs and changes in port tariffs. Depending on the country or even the specific port, the costs of investment can be the responsibility of either the public or the private sector. When a private body is responsible, the investment is often refunded via a discount on concession fees. Finally, it should be recalled that a number of EU ports do not require major adaptations since they are already accessible or partially accessible to PRMs.

Another aspect to be considered is that improved accessibility would have a positive impact on the number of persons travelling, i.e. both PRMs and other passengers that will benefit from an improved service, and hence have a positive impact on ship operator revenues.

All these considerations mean that the precise positive or negative effect on ticket fares is difficult to quantify, but it seems clear that any impact would be small including for the measures benefiting the PRMs. This is confirmed by the experience of the United Kingdom where significant action has already been taken in recent years to enforce PRM rights without causing any significant increase in ticket fares (see annex 13).

It would be speculative to try to estimate the total cost of the proposal. It is worth noticing that, in any event, the aggregated costs will ultimately be borne not by the companies, but by the passenger (see point 5.2.1.1). However, such an estimate may be extrapolated from similar measures based on the same principles that have been put in place in the air transport sector, where evaluations made by airports show that the total cost of measures (accessibility, assistance information) is around 60 cents per ticket in many airports. However, smaller airports have to manage with cheaper costs. While the cost of these measures at bigger EU airports may be between 1.3 EUR and 0.91 EUR per passenger, smaller airports are normally cheaper and costs can range from 0.30 to 0.50 EUR. The cheapest airport charge that it is known is 0.22 EUR per passenger. These figures must be used with great care. However, in air transport, similar measures based on the same principles apply to all airports and airlines regardless of their size. Therefore, there is no "a priori" reason why it should be different in the maritime sector.

These figures must be used with great care, since the measures dealing with assistance for PRMs in the air transport have only entered into application on 26 July 2008. The Commission only started receiving data on airport charges on irregular basis in September 2008 onwards. These figures are in themselves a useful indication as a proxy, but have no statistical or scientific value, and therefore cannot be used as a basis to calculate a sound overall impact of the measures.

#### 5.2.1.6. Economic impact on the tourism industry (mainly cruises)

The maritime tourism sector mainly consists of cruises, a segment of the market that represents roughly 8% of total maritime passenger traffic.

The measures proposed are likely to involve costs to ensure accessibility and to provide assistance and information in ports and aboard ships for PRMs. However, such costs are unlikely to have a significant and lasting impact on ticket fares.

On average, maritime travel represents 1.6% of all trips of four nights or more made by European tourists<sup>71</sup>. It could therefore be assumed that 1.6% of all trips of four nights or more made for tourism purposes in the EU use cruises as the means of transport. In this context, the potential (not additional) demand for accessible tourism by ship can thus be assumed to amount to 0.6 million journeys per year (see table 19 in annex 2). Furthermore, persons with disabilities usually travel accompanied. On average, 59% of European families have a member who is disabled and an average of 38% of the European population have a friend with a disability<sup>72</sup>.

If a multiplier effect of 0.5 is assumed<sup>73</sup>, meaning that half of the population with accessibility requirements will have at least one person travelling with them once a year, the total potential travel market is 0.9 million (see tables 19 and 20 in annex 2). Given that the average expenditure per holiday in Europe in 2005 was €620<sup>74</sup>, the potential additional revenue amounts to €0.55m.

Assuming that disabled people take, on average, more than one holiday per year, travel with other family members or friends, and would travel even more frequently if they could find more information and more accessible sites, a multiplier effect of around 2 can be posited<sup>75</sup>. In this case, the potential travel market would increase by up to 1.8 million (see tables 19 and 20 in annex 2).

Depending on the multiplier used, the estimated potential additional tourism revenues range between €0.55m and €1.1m (see table 21 in annex 2). Potentially, this represents a considerable market and will continue to grow due to the ageing of the population.

The potential impact of the proposed measures on employment may be divided into direct and induced effects. The first category includes impacts on both port and shipping employment, while the second includes impacts on employment in the tourism industry.

The measures proposed are likely to have a beneficial impact on the competitive position of businesses, since they would help to harmonise the legislation on passengers' rights, applying equally to ship operators and port and terminal operators from different Member States. This aspect would facilitate the creation of a single EU market in which passengers in general and PRMs in particular would be guaranteed an equal level of protection, and operators would have to commit to the same level of service, without distinction as to the country of origin.

The outcome would be a positive economic effect on the competitiveness of terminal operators and shipping companies complying with the new requirements for passengers with reduced mobility.

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<sup>71</sup> Eurostat: "Statistics in focus — How Europeans go on holiday" (2006).

<sup>72</sup> Eurobarometer (2001), Attitudes of Europeans to Disability.

<sup>73</sup> This multiplier is consistent with the assumption made by Deloitte Touche "Tourism for All in Europe".

<sup>74</sup> Eurostat: "Statistics in focus — Tourism in the Enlarged European Union" (2005).

<sup>75</sup> This multiplier is consistent with the assumption made by OSSATE: "Accessibility Market and Stakeholder Analysis" (20 October 2005).

The scenario under sub option a) ("cross border only" option) would not give domestic ship operators and domestic only port operators the benefit of increased competitiveness.

It is a fact that more and more small "domestic only" port operators in Europe are trying to attract cruise operators to their ports as a way of increasing direct and indirect revenues for the port and its economic zone of influence. The boom in the cruise sector justifies this expectation from small ports, which will be able to offer a more personalised service to new operators. However, if the bigger ports or the small ones which happen to already cover at least a cross border route adapt their terminals to the new Community legislation, they will be in a much better position to attract the new cruise lines to the detriment of the domestic ports.

#### 5.2.1.7. Impact among Member states

Coastal countries (such as the UK) which have adopted and actively implemented more advanced legislation for the protection of PRM rights would bear the least costs, since they have already made the necessary investments. The provisions set out in this proposal establish general principles to be respected, not specific practical requirements on how ports should be modified, which kind of equipment should be purchased and in which quantities etc. Therefore, the existing structures in these more advanced countries would not have to be modified, and it is not likely that additional investments would be needed.

The costs will be higher for countries with little or no legislation currently in force, which to our knowledge means most of them. However, the flexibility given to companies and ports to adapt to the new principles to be respected will allow them to minimize their costs.

The scenario under sub option a) ("cross border only" option) would mean that Member States apply two sets of measures, the Community measure for the ports and operators covering cross border lines and another (possibly none) for "domestic only" ones. The monitoring and enforcement of two different sets of measures will become very complex for Member States in a dynamic scenario where ports and maritime carriers evolve over time and can suddenly decide to launch a cross border service.

#### 5.2.2. *Social impacts*

Passengers travelling by sea and inland waterways will benefit if the quality of service is improved. They will also have the benefit of assistance if they experience inconvenience during the journey. Moreover, PRMs will receive more assistance than is currently the case.

In general terms, it can be recognised that there will be significant positive effects on customers, mainly as a result of better information on rights and procedures, but also beneficial effects on social cohesion, in particular through better attention being paid to PRMs travellers. The single market will certainly be advanced, even if absolute uniformity is not achieved.

In addition, the feeling of social protection is also expected to be enhanced, along with the protection of consumer interests.

The scenario under sub option a) ("cross border only" option) would mean that domestic passengers are the only type of passengers excluded from the minimum set of rights agreed for the other modes of transport and for cross border passengers travelling by boat. The feeling of a lack of social protection will be accentuated by the fact that these passengers will

become more and more aware, with the full application of rights in other modes of transport, of the existence of a set of minimum standards for all kind of passengers but them. This exclusion would not only affect passengers who are on the same boat but have embarked at different ports, but it would also affect domestic passengers embarking at ports with both domestic and cross border routes, since they will be fully aware of the rights granted to the cross-border passengers sitting next to them at the port terminal and of the fact that those rights that are denied to them.

The vast majority of maritime carriers usually combine cargo and passenger transport. Whenever this is the case, the economic importance of the cargo is huge in comparison with the revenues anticipated from the transport of passengers. Maritime carriers tend to give preference to solutions which allow them to sail with all the intended cargo onboard, even if it means = waiting for more than 20 hours at the port, since the economic losses (loss of revenue plus the compensation to be paid for not having fulfilled their freight contract) if they decide to respect punctuality are enormous, whereas currently maritime companies face no extra costs for not honouring their contracts with passengers.

Without a legal obligation on companies to offer passengers care and information, plus compensation in some cases to passengers, maritime companies will not have any incentive to change a behaviour which makes complete sense from an economic point of view. From the average citizen's point of view, however, it is impossible to understand why, under the remote subsidiarity principle, domestic passengers are left with no protection confronted with the economic choice made by the company, whereas the cross border passengers do receive protection.

It must be remembered that maritime passengers are often "captive" passengers, who depend on their journey by ship to reach other means of transport. It must be borne in mind that a huge number of maritime passengers choose the maritime mode of transport because they need to travel with their car. Just imagine all those passengers with families that cannot afford the price of five train or bus tickets to the small airport from where the low cost company flies; plus the five plane tickets which, even if low cost, inevitably include a lot of extra taxes, which usually doubles the price of the ticket; plus the five train tickets from the secondary airport where the low cost company lands to their final destination, and the cost of renting a car for the duration of their trip. For all these passengers, even when there is some competition between modes of transport (such as on routes where maritime transport has to compete with the low cost airlines or a nearby train station) there is *de facto* no competition between the low cost company and the boat.

The same applies to cruise companies, which without a legal obligation to compensate passengers in the event that it does not cover one of the legs of the trip, will easily prime give precedence to the economic incentive to reduce their costs by not stopping in one port over the vaguer incentive of satisfying their clients.

#### 5.2.2.1. Impact on accessibility for PRMs

Under the proposed measures, PRMs would be able to enjoy the same opportunities as other passengers in maritime transport. Without such opportunities, they would lose not only the direct benefits of travel but also the indirect benefits of full inclusion in economic and social life: they would be unable to travel to work, visit family and friends and go on holiday like other citizens.

The proposed measures would ensure that the journey is accessible from beginning to end and that disabled people are aware of this before departure. All groups of PRMs would benefit.

The scenario under sub option a) (the "cross border only" option) would mean that PRMs who are domestic passengers will remain be the only kind of PRMs that remain excluded from the minimum set of rights agreed for the other modes of transport and for cross border passengers by boat. The main difference between passengers in general and PRMs is that the lack of right for passengers does not prevent them from travelling, whereas the absence of rights for PRM under a Community action will perpetuate their exclusion from maritime travel.

#### 5.2.2.2. Additional employment in ports

A growing number of passengers travelling by ship may require extra staff at ports and passenger terminals<sup>76</sup>. Only the possible additional traffic due to increased numbers of PRMs travelling as tourists has been considered for the purpose of estimating the possible impact on employment.

Based on the index for the estimated number of personnel needed in ports for every 1000 passengers, the potential number of additional employees to be hired at ports would total approximately 176.400 in the more conservative case (see Table 20 in annex 2).

#### 5.2.2.3. Additional employment on ships

For shipping services, the need for new employees is strictly related to the number of ships, which in turn depends on their capacity and on the relative loading factor with respect to current traffic. According to the traffic figures (see table 20 annex 2), the predicted potential number of accessible tourism trips represents, at most, an increase of 0.85% on the current traffic<sup>77</sup>. This percentage is not high enough to justify an increase in the number of vessels to serve the new demand. For a 0.67% increase in traffic (optimistic scenario), the capacity of a vessel would be wholly taken up only if it were currently operated with an average load factor of 96.3%, which is unusual on the EU shipping market. However, such a traffic increase might justify the introduction of additional journeys by existing ships in a few cases, depending on the specific market requirements of the particular period of the year.

Three different scenarios are therefore possible: (1) the traffic increase can be handled by the existing fleet; (2) the traffic increase might allow an increase in the number of journeys; (3) the new traffic demand may justify additional investment in fleet and crews (including replacing ships with bigger vessels).

For the reasons mentioned above, the most likely scenarios are (1) and (2), for which the likely employment increase would be very limited. Nonetheless, it is still very difficult to

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<sup>76</sup> It should be noted that additional staff in ports are not required because assistance must be provided to PRMs, but because the number of passengers as a whole is expected to increase. This does not represent a threat to the industry, since the additional labour cost will be fully offset by the consequent increase in port and carrier revenues.

<sup>77</sup> It is estimated that the total potential number of accessible tourism vacations by ship is at most 1.8 million, corresponding to 3.6 million passenger journeys. Moreover, it has been estimated that the total number of passenger trips by ship in the EU varies between 243 600 000 (Eurostat) and 306 600 000 (ShipPax). Finally it was calculated that potential accessible tourism traffic is expected to be between 0.67% and 0.85% of total passenger traffic by ship. It is worth recalling that these figures might be overestimates, since many other barriers apart from those affecting ship transports still prevent potential customers from travelling.

predict the effect of an increase of passenger traffic on shipping employment because, on the one hand, the assessment depends on the decisions of operators, who might decide that it is better to forgo part of the market, since the predicted marginal cost might be higher than the relative marginal revenue. On the other hand, the shipping market is capital-intensive, and an increase in fleet numbers and the attendant, cost of employees must be justified by the stability (or steady increase) of the market in order to optimise the return on investment.

#### 5.2.2.4. Additional employment in the tourism sector

The increase in passenger traffic might also increase the level of employment (and turnover) in the tourism industry.

The relative impact on employment is calculated by taking into account the additional tourism revenues estimated in the Section of the economic impact on the tourism industry. In 2004 the average turnover per person employed in the hotels and restaurants sector was €44 600<sup>78</sup>. Table 21 in Annex 2 presents an estimate of the potential number of new employees in the tourism sector.

Depending on the scenario considered the estimated number of additional employees needed in the tourism industry varies from almost 12 300 to more than 24 600 FTEs.

#### 5.2.3. *Environmental impact*

The main issue here is the potential shift between modes of transport due to the improved quality of maritime transport services. This will depend on two main factors:

- increased tariffs, a factor that reduces demand;
- better quality of services for passengers in general and PRMs in particular, a factor that increases demand.

A significantly better quality of services for passengers would increase the demand for maritime transport. In this case, two aspects should be considered for any modal shift:

- If the number of passengers were to increase, this would not necessarily entail an increase in transport frequencies or services. In fact, the main effect would be to increase average load factors and allow better management of the existing European fleet;
- If the number of maritime transport services were to increase, given that most new passengers would come over from other (more polluting) modes of transport, there would be a marginal positive impact on the environment.

It might be concluded that this option does not take account of any important environmental impacts.

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<sup>78</sup> Eurostat Database: NACE H Hotels and Restaurants, year 2004, EU-27

### **5.3. Option 3: EU coordination and exchange of best practices to enhance national legislations**

#### *5.3.1. Economic impact*

The adoption by some Member States of the measures proposed to enforce passengers rights might result in an increase in passenger fares. However, the UK's experience (see Annex 12) shows that the impact is likely to be limited.

A positive impact on the tourism industry is expected. However, potential additional revenues from tourism would be lower than with option 2, since services would be fully accessible only in Member States that fully adhere to the EU recommendations.

If the national legislation approach were to be adopted, all of the types of costs for option 2 above would also be incurred. However, total costs in this case would be lower than with option 2, since only the operators of Member States that adhered to the EU recommendations would bear any additional costs.

Some distortion of competition may be expected between ports situated in the same area but in different Member States, where the applicable legislation on accessibility may be different.

It is not possible to ensure that all Member States will specify one or more specific authority for monitoring and complaint management.

#### *5.3.2. Social impact*

The aim of the measures proposed to ensure the following: a service of quality; proper information to passengers in all circumstances; accessibility and assistance in ports, and assistance aboard ships for PRMs; and for enforcement and monitoring, are the same for every policy option. However, each policy option differs in terms of delivery mechanisms (European or national) and the level of compliance required of the sector in implementing the measures. With this option, the likely benefits and costs will thus depend on the level of commitment of the EU Member States in adopting and enforcing the new rules.

A number of Member States have already adopted specific legislation to protect passenger rights in maritime transport, while others may decide to take action to improve the current passenger rights situation. However, all things being equal, few Member States are likely to enact specific legislation on this matter in the coming years. If no action is taken, there is a real risk of creating widening disparities between European Member States, especially as regards the level of accessibility for PRMs:

- For accessibility in ports, one of the main dangers is the following: a route with a fully accessible departure or arrival port (because it is located in a Member State with proactive legislation for PRMs) and a non-accessible departure or arrival port (because it is located in a Member State with no or insufficient legislation for PRMs) is a fully non-accessible route, despite all the efforts made by the proactive Member State. Even where both ports are accessible, the potential lack of clarity in the two Member States as regards rules and conditions for accessibility and assistance may in itself be a disincentive for PRMs to travel, and “de facto” nullify the investment made by both Member States in this area.

- As regards assistance in boarding and disembarking from ships, maritime passenger carriers that operate between two or more EU Member States may find it economically costly and difficult in practice to comply with different sets of legislations on PRMs, even if they are similar in scope and content.

All passengers would potentially benefit from the proposed measures in those Member States that implement the EU recommendations. As with option 2 above, there should be positive impacts on employment. However, employment impacts would be confined to Member States that actually implement the EU recommendations.

### 5.3.3. *Environmental impact*

As noted above and with regard to option 3, the likely benefits and costs depend on the level of commitment by Member States in adopting new rules.

Improved quality of service in countries that adopt the measures proposed by the EU is likely to result in an increase the number of passengers. Considering that maritime transport is in second place in terms of lower external costs, a modal shift would probably have a positive environmental impact.

In those countries that do not adopt the measures proposed by the EU, service is not likely to improve. Passengers are thus likely to express their dissatisfaction by opting for alternative modes of transport that are more polluting than maritime transport.

## 5.4. **Option 4: Voluntary agreements**

### 5.4.1. *Economic impact*

The types of costs are the same as for previous options. However, the total costs are expected to be limited compared to the other options, since only a limited number of operators are likely to bear any additional costs on a voluntary basis.

PRMs, for their part, would benefit from accessible travel services only when embarking and disembarking at EU ports and terminals where accessibility was already acceptable and where operators and port authorities had taken voluntary initiatives to improve the existing situation. Therefore, if only a few operators voluntarily improve their services, maritime and inland waterway transport will still be perceived by PRMs generally as a non-accessible mode of transport. Here, the major risk is that operators that do invest in accessibility will not see an increase in their traffic, simply because PRMs would not even consider this mode of transport.

### 5.4.2. *Social impact*

In this case, the policy option differs from the others in terms of its delivery mechanism (mandatory vs. voluntary) and the level of compliance by the sector in implementing the proposed measures. Under this option, the likely benefits and costs would thus depend on the level of commitment by operators in adopting the new rules, accepting them if they are adopted collectively, and in any event respecting them in practice.

Even if a large proportion of operators adhered to acceptable voluntary agreements, the policy objectives would still not be satisfactorily achieved. In maritime and inland waterway transport, a variety of actors and operators all play a part in providing a passenger service.

Therefore, a small proportion of operators not complying with the voluntary agreements could result in non-accessibility in many cases.

The effectiveness of voluntary agreements in passenger transport is a much debated subject: strong views expressed by consumer organisations confirm that the very few codes of conduct that have so far been developed have failed to deliver. Past experience in regulating the air transport sector seems to confirm the agreements of this type have only very limited success. Initially, the EU allowed air operators (air carriers and airports) to conclude agreements to ensure passenger rights by means of voluntary commitments. However, although the content of such voluntary agreements was valid, they were not correctly applied either by operators in the sector as a whole or even by those who had explicitly committed to them. This failure led the Community to introduce compulsory rules in order to make sure that passenger rights are ensured and enforced.

Further pointers as to the likelihood of success for this policy option in achieving its objectives in maritime transport can be drawn from the EUSG Report<sup>79</sup>. According to this report, some 531 transport operators across all modes of transport were contacted in order to find out what kind of voluntary agreements and/or service guarantees they offered to their customers -if any. About 70% of the operators who were contacted provided information on their passenger service standards. For the operators surveyed, 148 quality charters and 161 service guarantees were identified (see table 22 in annex 2).

Compared with all other modes of transport, the maritime sector had the lowest number of quality charters and service guarantees. Only a few ferry companies in Italy, Sweden and the United Kingdom provided details. Three quality charters and five service guarantees were identified for all the maritime operators surveyed. These examples either have some formal basis such as legislative or contractual obligations or are described as “informal guarantees”. Voluntary schemes in the strict sense are thus even rarer than the figures indicate.

As with option 2 above, there ought to be positive impacts on employment. However, employment impacts would be confined to companies that actually do implement the EU recommendations.

In conclusion, as mentioned previously there is no guarantee that the objectives will be achieved: given the non-enforceable nature of such rules, too much depends on the willingness of operators.

#### 5.4.3. *Environmental impact*

As noted above, with regard to option 4, the likely benefits and costs depend on the level of commitment by operators in adopting new rules.

Maritime services are not expected to improve. Passengers are therefore likely to express their dissatisfaction by opting for alternative modes of transport that are more polluting than maritime transport.

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<sup>79</sup> TENDER TREN/A5/25-364/2005: “Evaluation and monitoring of trends with regard to passenger needs on the level of service and treatment of passengers” (“EU Service Guarantees — EUSG”) (Dec. 2006)

## 5.5. Administrative costs

### 5.5.1. Enforcement through monitoring, and complaint management

#### Preliminary remark

Three main means of redress can be mentioned: complaint handling within companies, arbitration external to companies, and schemes run by public authorities. These three means of redress have their merits and their limitations in the context of this proposal.

Arbitration external to companies involves significant costs due to the type of litigation at stake here: the price of the tickets is normally quite low, which makes such litigations candidates for small claims courts under civil law, where such courts exist. Therefore it has not been considered in the context of this proposal.

The system of self regulation, including complaint handling within companies, was tested between 2001 and 2004 in the air transport sector. The air transport business model is more passenger-focused than the maritime model, and is better organised for self regulation. However, self regulation in air transport, including complaint handling by companies, ultimately failed (companies did not enforce the rules they had established). This failure led to Regulation 261/2004 being adopted by the Parliament and the Council. There is no reason why the outcome in the maritime sector would be different.

This proposal actually provides for an enforcement scheme run by public authorities: namely the national enforcement bodies. The Member States must also establish a regime of sanctions. This type of enforcement will be assessed below.

The entity responsible for enforcement and monitoring of the envisaged rules and for complaint management would be very similar -in terms of its activity, tasks and structure- to the body designated in each Member State to enforce the “Regulation on International Rail Passengers’ Rights and Obligations”<sup>80</sup> or the “Regulation on Air Passengers’ Rights”<sup>81</sup>. The experience already gained in air transport is therefore very valuable in this respect.

It can be estimated that the designated national enforcement bodies (or NEBs) would have to employ at most 7.6 FTEs to handle complaints about maritime transport (not even one employee per Member State). Given that the average labour cost of an FTE employee in public administration in the EU-27 was €32 600 per year in 2004<sup>82</sup>, the total cost of employing 7.6 extra FTEs will be €249 800 (see Annex 11).

It is possible that this figure for the administrative costs is an overestimate; in fact, considering the small number of staff needed, it is likely that complaints would be handled initially by existing staff. However, if the number of complaints rises significantly, additional staff may need to be employed.

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<sup>80</sup> Regulation (EC) N° 1371/2007 of 23 October 2007 on rail passengers' rights and obligations. JO L315 of 3.12.2007.

<sup>81</sup> Regulation (EC) 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91.

<sup>82</sup> Eurostat Labour Market Survey (2004).

In order to ensure that the measures adopted are applied correctly and that the processes involved are managed in accordance with the rules, a specific entity should be given responsibility for monitoring. NEBs may take on this task, although the choice will depend on the specific form of organisation to be set up.

In general, monitoring should encompass the following activities: assessment of the number of well-trained employees in ports and ships; reporting on complaint management; detection of bottlenecks and feedback to improve the process; corrective interventions, where needed; and reporting to the EU authority in charge of collecting and organising Member State data.

These activities have predictable costs. Assuming that 2 and 4 man-days<sup>83</sup> respectively are needed for each shipping operator and port to carry out the monitoring exercise, and also assuming that the collection and organisation of data in each Member State takes at most three days, the total predictable cost would be about €568 000 for the EU (see table 23 in annex 2).

#### 5.5.2. *Administrative cost for the sector*

The sector will incur additional costs in order to provide assistance and information and to construct or refurbish accessible facilities. To ensure smooth implementation of the new rules, and at the same time reduce the administrative costs of enforcing passenger rights, the EU needs to consider the resources needed in order to ensure effective planning to comply with the obligations imposed on the sector.

Under the EU rules, Member States would be required to report to the Commission on the investment needed in infrastructure and facilities to guarantee adequate accessibility in each national port, on the entities providing passenger services when in port, and on the personnel needing specific disability awareness training for each national port.

The effort required might differ from port to port. Moreover, most port authorities generally administer more than one port, so the resources needed might be the same for several terminals. Therefore, a conservative estimate puts the effort required of each Member State to undertake this reporting activity at 5 man-days for each port, i.e. one man-day for each of the following activities: a) Specification of procedures and responsibility for assistance to PRMs; b) Identification of the infrastructure and facilities needed; c) Evaluation of the investment needed and, where appropriate, reasons for non-intervention; d) Internal approval of measures; and e) Administrative documentation.

On the basis of these data, the total administrative cost is estimated at €1 632 000 (see table 24 in annex 2).

### 5.6. **Small and medium-sized enterprises**

#### 5.6.1. *The importance of small and medium-sized enterprises in the sector*

Small and medium-sized enterprises (SMEs) are defined as enterprises that have fewer than 250 employees, and have either an annual turnover not exceeding EUR 40 million or an annual balance-sheet total not exceeding EUR 27 million. Where it is necessary to distinguish between small and medium-sized enterprises, a ‘small enterprise’ is defined as an enterprise

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<sup>83</sup> The reason for the greater number of days needed for port monitoring is that more indicators need to be checked, as set out in the table of indicators in “Monitoring and evaluation” below.

that has fewer than 50 employees and has either an annual turnover not exceeding EUR 7 million or an annual balance-sheet total not exceeding EUR 5 million<sup>84</sup>.

In order to determine whether the envisaged measures will have an impact on SMEs in the passenger carrier business, an analysis of the structure of the sector has to be carried out first. The maritime and IWW (inland waterway) passenger sector in the EU is characterised by a lack of reliable, aggregated data on a number of aspects<sup>85</sup>. To our knowledge, as confirmed by the European associations concerned<sup>86</sup>, the size of the sector, or the percentage of SMEs among maritime and IWW passenger carriers, is one of these missing statistics. Moreover, given the complex definition of SMEs, constructing these statistics for the entire sector for the sole purpose of this impact assessment would have been a disproportionate exercise.

However, a proxy can be obtained using only one component of the definition, namely the number of employees per company. A distinction should be made between cruise and ferry operators.

Regarding ferry operators, data on the number of employees are available for 109 companies<sup>87</sup> out of a total of 288 operators, which amounts to 38% of the sector. Among these 109 operators, 38 companies report having fewer than 250 employees and therefore could be considered as SMEs.

Regarding the cruise sector, there are around 21 cruise companies working in the EU. If the same proxy, namely the number of employees per company, is used to determine the size of the sector, the conclusion is that the number of small and medium-sized cruise companies is either zero or not significant<sup>88</sup>.

#### 5.6.2. *The impact on SMEs in the maritime sector*

In the previous chapters, all economic social and environmental impacts of the measures proposed were assessed. It is worth recalling that the measures proposed under options 2, 3 and 4 do not differ in essence. In fact, the options differ only in terms of the manner in which the proposed measures are to be implemented (either binding or not binding, at national or at Community level), and the degree of compliance with the measures.

A preliminary issue to be explored is whether the SMEs should benefit from a more flexible regime than other companies. In this respect, three measures are relevant for SMEs in the proposal: (1) measures in favour of PRMs (essentially assistance), (2) assistance measures for cancellations and delays and (3) compensation for cancellations and delays.

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<sup>84</sup> Article 1 of Commission Recommendation 96/280/EC of 3 April 1996 concerning the definition of small and medium-sized enterprises (OJ L 107, 30.4.1996, p. 4), quoted in Annex I of Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises — OJ L 10, 13.1.2001, pp. 33–42.

<sup>85</sup> This lack of data is acknowledged by the industry and research bodies. See ShipPax Market Statistics '07, page 16. See also the summary of contributions received by the Commission in response to the Commission consultation mentioned in point 1.2.2.

<sup>86</sup> European Cruise Council (ECC) and European Community Shipowners Association (ECSA).

<sup>87</sup> ShipPax Market statistics '07, table in page 16, plus data provided to the Commission by some ferry operators.

<sup>88</sup> Commission analysis of data collected from company websites and an ad hoc survey carried out via phone calls to companies.

The issue of compensation in case of delay and/or cancellation was evaluated earlier in this report, (see Section 5.2) and also when the question of SMEs was taken into account. Nevertheless, it is worth recalling that the impact of establishing such a compensation scheme might be greater in SMEs than in large companies. SMEs usually operate only in one market and are therefore more dependent inter alia, on local exceptional weather conditions because they cannot change their route. These exceptional circumstances must therefore be taken into account in order to mitigate damaging economic impacts on SMEs.

Regarding to measures in favour of PRMs, the provisions of the draft regulation are based on four principles (accessibility, assistance, non discrimination and information). All companies have to respect these principles vis-à-vis PRMs. However, companies are free to determine the best way for them to fulfil these objectives. This very significant flexibility naturally also applies to SMEs. In the air transport sector, this type of approach has so far proved to be very satisfactory.

The same flexibility applies in respect of assistance in case of cancellation and/or delay. The content of the assistance to be given will have to be assessed with the particular operational constraints of each company. This flexibility will also have to be reflected when the company is a SME. Such an approach has been also followed with success in the air transport sector.

As regards the specific costs incurred by SMEs in the maritime sector, the costs calculated in the previous chapters also apply to SMEs. As shown above, the costs for operators would be minor, regardless of the size of the operator. As an example, the cost for operators to provide assistance in ports for PRMs would be around €170 per employee on training and about €150 per employee for assistance on ships. Both costs arise in the first year only, since refresher training courses will not be necessary until some years later. Moreover, since the ship operator may itself provide assistance at the port and use the same personnel on board and in ports, these costs, already modest, will be borne only once.

In view of the structure of the sector, SMEs are unlikely to face competition on most of the routes they sail. In most cases PSO contracts granted to operators demonstrate the lack of commercial viability for competitive service offers. The profitability of SMEs on the market would not be affected by the proposed measures for three reasons: firstly, the costs involved are small; secondly, on more than 60% of the domestic routes, companies may be cushioned against the costs of the new measures through PSOs contracts; thirdly, the low level of competition on the majority of routes allows companies to determine their own pricing policy and, even in cases where there is some competition, it is likely to be among enterprises of a similar size. In view of the modest size of the burden that will be imposed on operators by the measures envisaged, the small proportion of SMEs in the sector as a whole, the fact that companies do not face strong competition on the vast majority of routes, and the actual structure of the routes, the conclusion is that the impact of these measures on SMEs in the maritime sector would not be significant, whichever option is considered.

#### **5.7. Assumptions on routes subject to Public Services and Member States which accessible infrastructure**

A) It might be that some Member States have included certain passenger rights, especially regarding the principle of non discrimination and some assistance for PRMs, in a number of their public service contracts.

That is why the EU regulation would leave some flexibility for measures on routes subject to public service contracts (see point 2.2). It will give Member States the possibility of exempting maritime transport services covered by PSCs from the Regulation when such contracts ensure a level of passenger rights comparable to the level afforded by Community action.

B) Secondly, it may be the case that some Member States have already achieved the minimum standards on accessibility in ports desired by the Commission. This could be the case for the United Kingdom, and might be partially the case for Ireland and the three Nordic countries.

In order to assess the implications of these two cases, four scenarios have been constructed. The baseline scenario as described earlier assumes that 100% of the market would be affected by the proposed measures. This assumption is made because: A) the kinds of rights that may already be in place for some routes through PSC under the first assumption are unlikely to be the same as those being assessed here. The main difference is that the rights under a Community action are specifically aimed to provide passengers with an automatic and immediate solution on the spot to cope with the inconveniences of a critical event, whereas the few Member States who have addressed the issue of maritime passenger rights have focused on other types of rights, such as those linked to liability in case of accident, or general consumer rights; B) the second assumption only affects accessibility for PRM, which is but a small part of the scope of the Community action.

An extreme assumption would have been to exclude from the market all the PSCs routes and all the routes from the most advanced countries, this would have meant excluding roughly 50% of the market<sup>89</sup>. A more realistic approach would be to consider that only some Member States impose - through their PSC - obligations reflecting passenger rights, including, accessibility for PRM, and that only some of the most advanced Member States have already achieved the minimum accessibility standards for all their ports. To reflect this approach, two scenarios have been selected; one excludes 40% of the market and the other excludes 20%.

In the range between total inclusion (100%, which is the baseline) and total exclusion (50%), the estimates provide indications of the impact of Community action if some Member States already apply a similar level of passenger rights. The table below makes assumptions based on these four scenarios.

	All routes	A few PSC on domestic routes excluded + all routes from UK excluded	Many PSC on domestic routes excluded + UK and two other of the most advanced countries excluded	All PSC domestic routes excluded + all routes from UK, IE, SE, DK, FI excluded
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<sup>89</sup> Which amounts to the addition of 28% of the total PSC routes plus all the remaining routes for five countries (UK, IE, DK, SE, FI) which means roughly 22% of the total market.

	100%	80%	60%	50%
Unit cost per passenger ticket*	60 cents	60 cents	60 cents	60 cents
Total increase in tourism	1.8million	1.44 million	1.08 million	0.9 million
PRM passengers beneficiaries <sup>90</sup>	38.1 million	30.48 million	22.86 million	19.05million

\* Estimate based on the air sector costs for comparable measures

For the sake of simplicity, the table above assumes that the exclusion of a certain percentage of routes would result in an identical percentage decrease in the number of PRM passengers who are beneficiaries. However, this assumption is probably too pessimistic, because PSC routes are often minor domestic routes with little passenger numbers. But lack of data on this point makes it impossible to adjust the range of PRM passengers mentioned to get a sound fixed figure.

## 6. COMPARING THE OPTIONS

In order to recommend the “most promising” policy option, the proposed options are analysed and compared in terms of effectiveness in achieving the main policy objectives; cost; and added-value for the EU.

The evaluation criteria used are thus:

- Effectiveness: none (-), very modest (√), modest (√√), significant (√√√), high (√√√√), very high (√√√√√).
- Additional costs: none (-), very modest (€), modest (€ €), significant (€ € €), high (€ € € €), very high (€ € € € €).
- Added value for the EU: none (-), very modest (+), modest (+ +), significant (+ + +), high (+ + + +), very high (+ + + + +). Accessibility in port for PRMs

It should be noted that the number of potential beneficiaries mentioned in this Impact assessment is different from the number of additional beneficiaries.

### 6.1. Rights of Persons with Reduced Mobility

#### 6.1.1. Accessibility in ports

The suggested policy is “*Option 2 — EU regulation*”. This option will guarantee that the policy objective is achieved in all Member States. Under option 2, about 38.1 million PRMs will potentially benefit from full accessibility in all EU ports. Moreover, a significant impact on the tourism sector is expected.

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<sup>90</sup> See footnote 31

Under this option, the cost of adaptation might be very high for some EU ports. Other ports in Member States that already have specific legal requirements regarding PRM accessibility might have to bear extra costs in order to comply with new requirements.

Depending on the port charging systems in the Member States, the costs of new investment might be passed on in port tariffs, i.e. spread across all passengers. However, the UK experience (see Annex 13) shows that this is not necessarily true.

To avoid or mitigate these risks, the legislator may consider the following recommendations:

- As far as possible, the EU regulatory text should try to avoid technical details so as not to conflict with any existing national law on the matter. If a specific investment is found not to be reasonable compared with the expected benefits, this will then allow alternative and cost-effective interventions to be explored on a case-by-case basis.
- Ideally, ports could be required to meet all the low-cost requirements set by the legislator in the short term, whereas high-cost interventions could be undertaken when the port or terminal is undergoing a major refurbishment, although not later than a fixed date. In practice, this would mean a transitional period that allows the sector to spread costs over time.

Accessibility in ports for PRMs			
Options	Effectiveness	Costs	Added value for the EU
<b>Option 1: No Intervention</b>	<p>✓ ✓</p> <p>Specific legislation in some Member States already addresses this issue.</p>	<p>-</p> <p>N/A</p>	<p>N/A</p>
<b>Option 2: EU Regulation</b>	<p>✓ ✓ ✓ ✓ ✓</p> <p>Ensures that the objective will be achieved in all Member States. This measure applies equally to all kind of ports (inland waterway and sea ports). Passengers in some member states may already benefit from accessible ports. Passengers in some domestic routes of some member states may already benefit from some kind of assistance under the service public contracts.</p> <p>Costs of investment might be passed on in port tariffs, thus spread over all passengers.</p> <p>✓ ✓</p> <p>Cross border only sub-option: The objective will not be achieved for 60% of the market.</p>	<p>€ € € € €</p> <p>For some ports the cost of adaptation may be very high,</p> <p>€ € €</p> <p>Cross border only sub-option: For the member states where this accessibility is already in place, the EU regulation will imply no extra cost.</p>	<p>++++</p> <p>All PRM passengers in the EU) can benefit from full accessibility in all EU ports.</p> <p>Passengers in some domestic routes of some member states may already benefit from some kind of assistance under the service public contracts.</p> <p>++</p> <p>Cross border sub-option: PRM will not benefit from full accessibility in a large number of ports. Lack of clarity about their rights is a main deterrence to PRM travel.</p>
<b>Option 3: National Legislation</b>	<p>✓ ✓ ✓</p> <p>Ensures that the objective will be achieved only for those Member States following the recommendations.</p>	<p>€ € €</p> <p>Costs will be significant but not as high as with option 2 (more flexibility than with option 2).</p>	<p>++++</p> <p>PRMs will benefit from full or acceptable accessibility in most EU ports.</p>

<b>Option 4: Voluntary Agreement</b>	✓ No assurance that the objective will be achieved.	€ Port authorities and terminal operators are not likely to bear major costs if they can avoid it.	++ Benefits are not expected to differ from option 1 since only few operators are likely to invest voluntarily in accessibility.
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### 6.1.2. Assistance in ports

The suggested policy is “Option 2 — EU Regulation” as this ensures that the objective will be achieved in all Member States. Following implementation of this measure, ship operators will be responsible for assistance to PRMs in ports. Ship operators should be able to provide such assistance without incurring in any additional costs, since their onboard personnel can take on this task when the ship is moored in port. Onboard personnel will have to undergo training in order to provide adequate assistance to PRMs, both in ports and on board. Alternatively, ship operators may contract one or more other parties to provide the assistance.

Although port authorities and terminal operators will not be responsible for assistance to PRMs in ports, their personnel are likely to come into direct contact with PRMs. Therefore, it is reasonable to expect these employees to receive training so that they can provide adequate and qualified assistance to PRMs when asked to do so. Approximately 24 300 workers employed in EU passenger ports will be trained to provide assistance to PRMs. The cost to port operators for providing training to their employees will be very modest (about €167 per employee per 8 hours). Employees will need to be trained only for the first year and will then be required to follow refresher courses.

This approach will allow PRMs to benefit from harmonised procedures for assistance in all EU ports. Furthermore, as it will help increase the confidence of PRMs in travelling by ship, positive effects on the tourism sector are also expected.

Assistance in ports for PRMs			
Options	Effectiveness	Costs	Value added to the EU
<b>Option 1: No Intervention</b>	✓ Specific legislation in a few Member States already addresses this issue.	- N/A	- N/A

<b>Option 2: EU Regulation</b>	<p style="text-align: center;">✓ ✓ ✓ ✓ ✓</p> <p>The objective will be achieved in all Member States. This measure applies equally to all kind of ports (inland waterway and sea ports). Passengers in some domestic routes of some Member States may already benefit from some kind of assistance under the service public contracts.</p> <p style="text-align: center;">✓ ✓</p> <p>Cross border sub-option: The objective will not be achieved for domestic only ports.</p>	<p style="text-align: center;">€</p> <p>No additional cost to ship operators since training is needed anyway for assistance on ships. The cost per port and terminal operator will be very modest (about €167 per employee). This cost applies both to sea and to inland waterway ports.</p> <p style="text-align: center;">€</p> <p>Cross border sub-option: No additional cost to ship operators since training is needed anyway for assistance on ships.</p>	<p style="text-align: center;">+ + + + +</p> <p>All PRM passengers in the EU) can obtain assistance when needed in all EU ports. About 24 300 workers employed in EU passenger ports will be trained to provide assistance and made aware of the specific needs of the PRM segment of the society Passengers in some domestic routes of some member states may already benefit from some kind of assistance under the service public contracts.</p> <p style="text-align: center;">+ +</p> <p>Cross border sub-option: PRM will not benefit from assistance in a large number of ports. Lack of clarity about their rights is a main deterrence to PRM travel.</p>
<b>Option 3: National Legislations</b>	<p style="text-align: center;">✓ ✓ ✓</p> <p>The objective will be achieved only for the Member States following the recommendations.</p>	<p style="text-align: center;">€</p> <p>No additional cost to ship operators for the same reason given above. Costs per port and terminal operator will be very modest, and unlike with option 2 not all workers will necessarily be required by Member States to be trained.</p>	<p style="text-align: center;">+ + + + +</p> <p>PRMs will benefit from assistance in most EU ports. Possibly not all the workers will be trained. Assistance procedures will not be harmonised as with option 2.</p>
<b>Option 4: Voluntary Agreement</b>	<p style="text-align: center;">✓</p> <p>No assurance that the objectives will be achieved.</p>	<p style="text-align: center;">-</p> <p>Costs will be negligible since only few operators will voluntarily commit.</p>	<p style="text-align: center;">+ +</p> <p>Benefits are not expected to differ much from option 1.</p>

### 6.1.3. Assistance on ships

The suggested policy is “Option 2 — EU Regulation”. This option will guarantee that the policy objective is achieved in all Member States. Under option 2, about 38.1 million PRMs will benefit from assistance in ships when travelling in Europe. As with the other measures outlined above, this measure will have a positive impact on the tourism sector.

In drafting a new Regulation, it is recommended that the legislator should refer to the specifications in the STCW95 Code, sections A-V/2 and A-V/3.<sup>91</sup>

<sup>91</sup> The IMO STCW95 Code specifies standards for training for seafarers, also with regard to the specific needs of PRMs. The Code is the result of the 1995 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, which was signed by all European Member States. Unfortunately, only a few Member States have so far taken effective steps to comply with the STCW95 Code.

Assistance on ships for PRMs			
Options	Effectiveness	Costs	Added value for the EU
<b>Option 1: No Intervention</b>	✓ Specific legislation in a few Member States already addresses this issue. Training for assistance is also required by the IMO STCW95 Code.	- N/A	- N/A
<b>Option 2: EU Regulation</b>	✓✓✓✓✓ The objective will be achieved in all Member States and for the two segments of the market, ferries and cruises, independently of the kind of port they use (sea and inland waterways). Passengers in some domestic routes of some member states may already benefit from some kind of assistance under the service public contracts.	€ The cost per operator will be very modest (about €150 per employee). Since the cost is related to training, it may be assumed that the cost linked to the training of a seafarer is the same for the two segments of the market: ferry and cruise.	+++++ PRMs will benefit from assistance if needed on all kind of ships and market segments in the EU. 70 500 seafarers employed on EEA passenger ships will be trained to provide assistance and made aware of the specific needs of the PRM segment of the society. Passengers in some domestic routes of some member states may already benefit from some kind of assistance under the service public contracts.
	✓✓ Cross border sub-option: The objective will not be achieved for domestic only carriers.	€ Cross border sub-option: there will be no cost for the excluded carriers.	++ Cross border sub-option: PRM will not benefit from assistance in a large number of routes. The uncertainty of assistance will deter PRM from using transport by boat.
<b>Option 3: National Legislations</b>	✓✓✓ The objective will be achieved only in the Member States following the recommendations.	€ The cost per operator will be very modest (about €150 per employee) and unlike with option 2 not all workers will be necessarily required by Member States to be trained.	++++ PRMs will benefit from assistance when travelling by ship in the EU. Possibly not all seafarers will be trained. Assistance procedures will not be harmonised as with option 2.
<b>Option 4: Voluntary Agreement</b>	✓ No assurance that objectives will be achieved.	- Costs will be negligible since only few operators will voluntarily commit.	++ Benefits are not expected to differ much from option 1.

## 6.2. Quality of service and assistance in case of cancellation and delays

The suggested policy is “Option 2 — EU Regulation”. This option will guarantee that the policy objective is achieved in all Member States. Under option 2, about 398 million of passengers will benefit from better services and assistance in case of cancellation and delays when travelling in Europe. As with the other measures outlined above, this measure will have a positive impact on the tourism sector. None of the 27 Member States currently offers to the passenger in any of the segments of the market the kind of automatic, immediate rights on the spot that are sought by the Community action assessed (see point 4).

Quality of service and assistance in case of cancellation and delays			
Options	Effectiveness	Costs	Added value for the EU
<b>Option 1: No Intervention</b>	✓✓ Specific legislation in some Member States already addresses this issue.	- N/A	- N/A
<b>Option 2: EU Regulation</b>	✓✓✓✓✓✓ Ensures that the objective will be accomplished in all Member States. Guarantees full harmonisation, enabling the global assessment of sector performance in whole EU covering all passengers.  ✓✓ Cross border sub-option: The objective will not be achieved for domestic only carriers.	€€ Minimum cost for operators are envisaged. The cruise segment of the market will likely have no added costs related to the assistance in case of delays.  - Cross border sub-option: there will be no cost for the excluded carriers.	++++ About 398 million passengers (including PRM) will benefit from standards of quality service and assistance in the event of cancellation and delays at EU level which do not currently exist in any of the 27 Member States.  + Cross border sub-option: passengers of domestic maritime and inland waterways transport will remain the only passengers in the EU (all modes of transports included) with no minimum standard rights in case of cancellation, delays and refuse of carriage.
<b>Option 3: National Legislation</b>	✓✓✓✓ Not an insurance that is widely subscribed to. Ensures that the objective will be achieved only for those Member States that follow the recommendations	€ Same as in option 2, but total costs would be lower since only operators of Member States adhering to EU recommendations would bear additional costs.	++++ Potential increase if compare with option 4, once it is expected that most countries will follow EC guidance. Likely economic impact as regard innovation and performance improvements resulting from monitoring/benchmarking
<b>Option 4: Voluntary Agreement</b>	✓ Not sufficient to improve the quality of the sector. No assurance that the objective will be achieved.	- Port authorities and terminal operators are not likely to bear major costs if they can avoid it.	++ Benefits are likely to be limited in the beginning, but may increase if voluntary agreements become more general across the EU.

### 6.3. Information provided to passengers before and during their trip

The suggested policy is “Option 2 — EU Regulation”, as it ensures that the objective will be achieved in all Member States. Not just general passengers but some 38.1million PRMs could potentially benefit from harmonised information provided in all the formats required for every category of passengers with reduced mobility or sensory/cognitive impairment (Braille format, large format, signs in relief, etc.). This measure will also increase the confidence of passengers in travelling by ship.

In fact, proper information has positive effects not only by facilitating the choice of the means of transport, but also by enabling passengers to determine in advance what their needs will be and what problems they may encounter, thus avoiding possible emergencies. Furthermore, the measure might have positive effects for the tourism sector too, as it will make it easier generally to travel by ship.

The cost to operators for providing information will be very modest, as this can mostly be achieved with the normal means of communication they already use to promote their services.

Information delivered to passengers before and during their trip			
Options	Effectiveness	Costs	Value added to the EU
<b>Option 1: No Intervention</b>	✓ PRMs will benefit from accessible information in only a few instances, as only 9.3% of operators provide information in Braille, 16.3% adapt information points to PRMs, 2.3% provide specific information to PRMs, while 14% of operators do not provide any particular information to PRMs.	- N/A	- N/A
<b>Option 2: EU Regulation</b>	✓✓✓✓✓ The objective will be achieved in all Member States. Guarantees full standardisation of information procedures in the whole of the EU covering all passengers.  ✓✓ Cross border sub-option: The objective will not be achieved for domestic-only carriers.	€ Costs for shipping operators (both ferries and cruise), port authorities (for both sea and inland waterway ports) and travel agencies will be very modest as most of the objectives can be achieved with the normal means of communication already used to promote their services.  - Cross border sub-option: there will be no cost for the excluded carriers.	++++ Passengers (including PRM passengers) will benefit from adequate and standard information which will allow them to better plan their trips and what to expect from the carrier..  + Cross border sub-option: passengers of domestic routes will remain the only passengers in the EU (from all modes of transports) with no minimum standard rights regarding information.
<b>Option 3: National Legislations</b>	✓✓✓ The objective will be achieved only for the Member States following the recommendations.	€ Costs for shipping operators, ports authorities and travel agencies will be very modest not only for the above-mentioned reasons, but also because only operators in compliant Member States will incur costs.	++++ Passengers will benefit from adequate information when travelling in the EU  Possibly not all operators will use harmonised tools and procedures as with option 2.
<b>Option 4: Voluntary Agreement</b>	✓ No assurance that the objective will be achieved.	- Cost will be negligible since only few operators will voluntarily provide adequate information to both general passengers and PRMs.	++ Benefits are not expected to differ much from option 1

#### 6.4. Enforcement, monitoring and complaint management

The suggested policy is “*Option 2, EU Regulation*”. This option will allow better enforcement of the EU legislation and thus ensure that the policy objectives are achieved in all Member States. Under option 2, maritime passengers will be able to avail themselves of a standard complaint management system, which allows out-of-court procedures.

Furthermore, under this option all Member States will be required to designate a specific authority responsible for reporting to the monitoring system. As a result, this system will be able to verify whether the legislation is being implemented and to what extent it is achieving

its objectives. Where a problem is identified, corrective action can be taken to re-align implementation to the primary objectives.

Choosing this option entails a certain lack of flexibility regarding the definition of the nature and structure of the enforcement and monitoring authorities, including procedures and interventions. However, this risk can be mitigated by allowing Member States to set additional indicators to monitor specific national issues without modifying the basic set of indicators proposed by the EU.

Enforcement, monitoring and complaint management			
Options	Effectiveness	Costs	Benefits
<b>Option 1: No Intervention</b>	N/A -	N/A -	N/A -
<b>Option 2: EU Regulation</b>	<p>✓ ✓ ✓ ✓ ✓ ✓</p> <p>Objective will be achieved in all Member States.</p> <p>✓ ✓</p> <p>Cross border sub-option: The objective will not be achieved for domestic-only carriers.</p>	<p>€ €</p> <p>Cost per complaint is insignificant. Modest cost to Member States for reporting activities to the monitoring system.</p> <p>€</p> <p>Cross border only: even more modest cost for Member States.</p>	<p>+++++</p> <p>National enforcement bodies will be designated by all Member States. Passengers travelling by boat will benefit from complaint management allowing out-of-court procedures. EU-wide monitoring system will allow a better knowledge of the sector and further improvement.</p> <p>++</p> <p>Cross border sub-option: The objective will not be achieved for the domestic segment.</p>
<b>Option 3: National Legislations</b>	<p>✓ ✓ ✓</p> <p>The objective will be achieved only for the Member States following the recommendations.</p>	<p>€</p> <p>Cost per Member State will be as with option 2 above. However, only Member States that follow the recommendations will incur costs.</p>	<p>+++</p> <p>Benefits predicted for option 2 above will be achieved only in the Member States following the recommendations.</p>
<b>Option 4: Voluntary Agreement</b>	<p>✓</p> <p>No assurance that objectives will be achieved.</p>	<p>-</p> <p>Cost will be negligible since only few operators will voluntarily commit.</p>	<p>+</p> <p>Possibility of surveys launched by operators to check specific PRM needs and requirements</p>

## 7. MONITORING AND EVALUATION

A monitoring and evaluation system needs to be established in order to verify whether the policy or regulation is being implemented and to what extent it is achieving its objectives. This will identify discrepancies with respect to the policy objectives, and their causes (such as: problem definition is not accurate, objectives are not relevant and/or attainable, parties do not fully understand the policy or are unable to implement it). Once the root causes have been identified, corrective action can be taken to re-align implementation with the primary objectives. Monitoring–evaluation–cause identification–correction should be an iterative process throughout policy implementation.

### 7.1. Core monitoring indicators

The definition of a monitoring and evaluation system starts with identification of the key indicators. An indicator can be defined as the measurement of an objective to be met, a resource mobilised, an effect obtained, a gauge of quality, or a context variable. The table

presented in Annex 12 details the indicators identified for monitoring the rights of passengers when travelling by sea or inland waterways within the EU.

## 7.2. Monitoring and evaluation

### 7.2.1. Monitoring

The key indicators will be identified in order to report regularly on performance and enable measurement of the extent to which policy objectives are being achieved. Data should be relevant for the responsible authorities, the operators and PRM representative organisations at different levels.

The monitoring system will operate from the outset, and adequate provisions will be in place to ensure that the collection of data from Member States or third parties proceeds reliably and smoothly. See Annex 12.

The potential users of the information are the Commission and stakeholders with their own areas of responsibilities and therefore their distinctive information needs. The following table shows the main information suppliers to be involved in the monitoring process.

Type of supplier	Supplier of information
Public bodies	European Commission, Member States, Ministries of Transport, Port Authorities
Transport operators	Shipping operators, inland waterways and maritime passenger liners, terminal operators, tour operators
Wider public, including civic organisations	Education / research organisations, PRM representative organisations, training institutions

*Source: PwC analysis*

Furthermore, given that implementation of the proposed measures depends on the joint efforts of the Member States, it is crucial that the national monitoring systems should be harmonised so that they can be integrated in order to provide an overall vision. Moreover, efforts must be made to enhance the level of efficiency in transmitting and exchanging reports.

### 7.2.2. Evaluation

In order to ensure that the chosen policy option contributes to the achievement of the objectives set, an initial evaluation of its implementation will be launched at the latest three years after the legal instrument has become fully applicable.

The evaluation will assess to what extent the legal instrument has been effective and efficient in collecting data, reporting and monitoring critical events; providing assistance to passengers when travel is interrupted; establishing standards for the provision of information about maritime passenger rights; and in reducing inequalities as regards PRMs' access to and use of maritime transport. The evaluation might recommend, if necessary, elements for the revision of the legal instrument in view of past experience. Moreover, the evaluation will assess the reliability and added value of the existing reporting and monitoring tools and will provide recommendations in this regard if relevant. Finally, the evaluation will recommend dates for a new evaluation of the legal instrument.

## Annex 1

### Summary of the public consultation launched in 2006

Unlike with other modes of transport, the rights of maritime users are not generally covered either by Community legislation or by international agreements (except for the Protocol to the Athens Convention<sup>92</sup>). The contributions received clearly indicate divergences in the protection of maritime passengers between different Member States. Passenger protection varies from country to country depending on the level of rights established by national legislation, best practices and voluntary commitments by operators.

Taking due account of all types of maritime transport, the aim of this consultation was to allow interested parties to express:

- their views on whether the principles of existing Community policy on the protection of users of other means of transport should be applied to maritime transport;
- how they view the general situation and the laws concerning the protection of the rights of passengers carried by sea or inland waterway and the information provided to travellers;
- their opinions and suggestions on how best to make the improvements that might be needed, and what general and legal means should be used.

Many contributions draw the Commission's attention to the specific and distinctive features of the maritime passenger transport sector. For instance:

- there are more factors that could result in delays and interruption of journeys (mostly the influence of bad weather, which is greater for maritime transport than for any other mode of transport, or the difficulty of changing ships in the event of a ship breaking down);
- there are big differences in weather and infrastructure conditions depending on countries and regions within a country;
- local and regional services play a particular role;
- some services (e.g. maritime regional transport) are mainly provided by medium-sized enterprises with limited financial means;
- maritime transport is essential for people living on islands and in peripheral regions;
- maritime passengers tend to be people with lower purchasing power than air passengers, and who are not accustomed or do not have the means to lodge a complaint or to stand up for their rights.
- The scope of the definition of maritime transport is subject to discussion, which is not the case for air transport.

The contributions received reveal a clear split between maritime operators and their associations and federations on the one hand, and consumer associations on the other, even though all of them (Member States included) agree that a common minimum level of protection of passengers' rights throughout the EU is necessary. As a general rule, operators see a limited need for regulation at Community level, whereas consumer associations call for extensive rights for passengers and even more so where PRM

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<sup>92</sup> Athens Convention relation to the Carriage of Passengers and their Luggage by Sea, 1974, and its Protocol of 2002.

passengers rights are concerned. Most of the replies received from Member State governments supported a further strengthening of protection in the sector through EU intervention.

There is no unanimity among respondents about the inclusion or exclusion of particular types of service (namely the cruise sector, inland waterway services, or coastal routes, which tend to be local and regional services) within the definition of maritime transport for the purpose of this consultation.

It can be seen from all the answers received that, unlike the case in air transport for denied boarding, long delays or the principle of assistance, for example, there are no agreed common definitions of certain "critical events" in maritime transport. It is also clear from the answers that neither the Member States nor the operators, with very few exceptions, have ever compiled data or statistics relating to such critical events.

This lack of consensus regarding the definition of some critical events, as well as the lack of data and statistics on the actual incidence of these events, help to explain why operators appear not to be conscious of, or do not evaluate in the same way, the difficulties that confront passengers in such cases.

Consumer associations feel that the level of consumer protection is far from sufficient. As a matter of principle, they believe that maritime passengers should enjoy the same level of protection as passengers in other transport modes, which is not yet the case. They consider that self-regulation initiatives and voluntary commitments may indeed benefit consumers, but are insufficient due to their non-binding nature, and that national regulation would create different levels of protection among countries linked by intra-Community routes, which militates against the proper implementation of such passenger rights.

Some Member States and some operators are also concerned that any increase in the regulatory burden could raise fares and be passed on to consumers. Concerns were also voiced that provisions for compensation in the event of delays could undermine safety.

As to means of redress, a very large majority of respondents consider that legal action may be too expensive, too slow or too complicated for passengers inconvenienced during a journey who wish to claim their rights. The exercise of these rights must be made as simple as possible. The best way of protecting passenger rights will be to provide fast, transparent, flexible and straightforward out-of-court procedures for settling disputes.

Various suggestions have been made regarding the practicalities of such a system of redress. Some favour complaint handling within companies, while others favour arbitration systems external to companies or schemes run by public authorities at national or EU level. A very large majority of contributors support the idea of creating a national body for complaint handling and providing means of redress. Only the operators are opposed to such a system. Similarly, most PRM and consumer associations, together with local authorities, are in favour of the publication of an annual list of complaints received, broken down by the subject of the complaint and how it was resolved. In contrast, most operators and some Member States consider this unnecessary.

With regard to the information provided to passengers on their rights and also on the quality of services, there are some differences of opinion. Most consumer and PRM associations think that the information provided on tickets for journeys by sea is insufficient. Many Member States and most operators take the opposite view. Consumer and PRM associations are generally in favour of quality standards, whereas operators are reluctant. Member States are divided on the issue.

As to the protection of the rights PRMs in the European Union:

Need for regulation. There is a consensus among stakeholders on the need for a minimum set of standards for the rights of passengers with reduced mobility, which should be consistent with what has

been established for other modes of transport while reflecting the particularities of maritime transport. On the other hand, stakeholders' views are divided as to the means of setting those standards: some advocate a regulatory approach through Community action and others prefer a self-regulatory approach via codes of conduct or voluntary agreements.

Non-discrimination and assistance. Most associations representing consumers and PRMs consider, along with Member States and national authorities, that the assistance given by shipping companies and ports to PRMs, including access to ports and ships, is not satisfactory. In contrast, most operators consider that the situation is constantly improving. There is at least a consensus on the fact that information aimed PRMs should be improved. All respondents also agree on the following point: the additional costs of measures to improve accessibility and assistance for PRMs should not be borne solely by the latter. The contributions received point out that access must be extended in particular to deaf, blind and intellectually impaired people. For instance, blind people are a substantial group: 1 in 7 European citizens over 70 years of age have a visual disability, rising to 1 in 4 for those over the age of 80<sup>93</sup>.

Information and accessibility issues. Stakeholders consider that additional facilities are needed at ports. They suggest introducing a variety of technological equipment and tools to provide information<sup>94</sup>.

Enforcement. Consumer associations are in favour of a common complaint handling system imposed on companies by regulation. As regards the protection of the rights of passengers with reduced mobility in the European Union, they agree on a common, harmonised three-step system (direct complaint to the company; complaints not satisfactorily settled to be dealt with by a cheap, quick out-of-court conciliation and arbitration body; and, finally, complaint to the Court of Justice).

Regulation 1107/2006 on the rights of persons with reduced mobility travelling by air gives airport authorities a major role in providing services for passengers with reduced mobility. There is a consensus among respondents that ports clearly have a role to play in providing specific services to PRMs travelling by sea.

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<sup>93</sup> In particular, the main suggestions regarding the type of assistance for persons with reduced mobility are: care during boarding/disembarking and journey, care at ports, loading luggage, travel information in required format, physical assistance at any stage.

<sup>94</sup> Such as: vibrating, visual and acoustic alerts, brochure published in an accessible format, tactile information boards.

## Annex 2: Figures and tables

Figure 1: Percentage of complaints occurred in intra-community traffic for 2005.

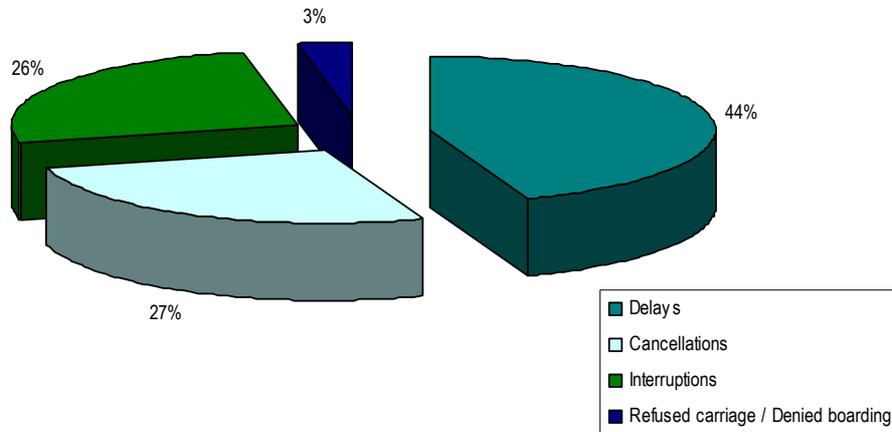
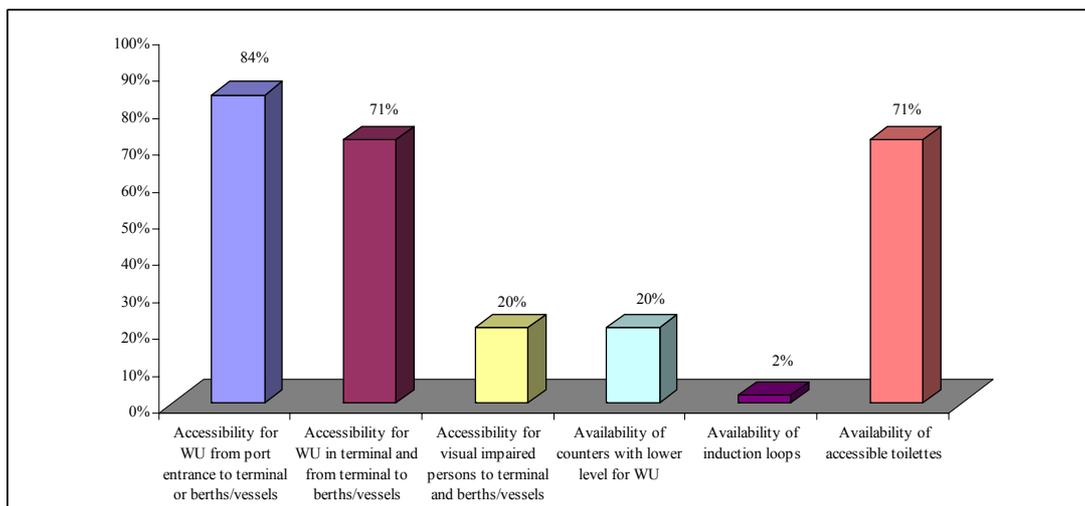


Figure 2: Level of accessibility in the 49 EU terminals surveyed



*Source: PwC analysis of survey results (2007)*



**Table 1: Distribution of passengers by zones**

Source:	ShipPax (2005)	SAI (2005)
<b>Baltic Sea:</b>	187 182 008 (36'5% )	147 113 319 (40'3%)
<b>North Sea:</b>	131 772 903 (25'6%)	90 514 727 (25%)
<b>Mediterranean Sea:</b>	192 195 725 (37'5%)	126 733 725 (35%)

**Table 2 - Passenger ports in Europe categorised by their major type of traffic (2004)**

	National	Intra-community	International	Cruise	All major passenger ports
Mediterranean	20	19	4	12	55
Atlantic	66	59	5	13	143
Baltic	67	67	1	4	139
Nordic	107	17	0	0	124
Total EU	260	162	10	29	461

*Source: Country reports (Tis.pt,2006)*

**Table 3 Passenger Traffic at major EU seaports**

Total (passengers embarking + disembarking) 1000 Passengers

		2002	2003	2004	2005
1	Dover (UK)	16449	14770	14429	13501
2	Calais (FR)	14991	13729	13259	11695
3	Helsingborg (SE)	11666	11693	11808	11102
4	Helsingor (DK)	11609	11646	11612	11023
5	Paloukia Salaminas (EL)	12133	12541	11568	11663
6	Perama (EL)	12133	12541	11568	11663
7	Piraeus (EL)	8639	9315	10713	11076
8	Messina (IT)	10256	9833	10128	9802
9	Reggio Di Calabria (IT)	10137	9698	9992	9645
10	Antirio (EL)	14210	13688	9105	2414
11	Rio (EL)	14210	13688	9105	2414
12	Helsinki (FI)	8871	8549	8747	8854
13	Stockholm (SE)	6826	7294	7823	8211
14	Napoli (IT)	6708	6811	6801	6084
15	Rodby (Faergehavn) (DK)	6508	6421	6744	6761
16	Puttgarden (DE)	6592	6422	6741	6760
17	Tallinn (EE)	5136	5172	6452	6701
18	Santa Cruz De Tenerife (ES)	4861	5011	5164	4564
19	Capri (IT)	5028	4749	4771	3860
20	Algeciras (ES)	4286	4542	4605	4828

21	Turku (FI)	4025	4039	3828	3697
22	Palma Mallorca (ES)	2286	2537	3773	4611
23	Piombino (IT)	3675	3716	3702	3277
24	Porto D'Ischia (IT)	3576	3494	3535	3169
25	Frederikshavn	3597	3537	3449	3004
26	Portoferraio	3176	3120	3195	2829
27	Portsmouth	3469	3169	3127	2679
28	Olbia	2683	2764	2908	3253
29	Mariehamn	2311	2389	2843	3192
30	Goteborg	2747	2750	2608	2267
31	Genova	2820	2961	2507	2406
32	Sjaellands Odde	2191	2294	2381	2310
33	Norddeich	2285	2332	2267	2257
34	Holyhead	2371	2333	2262	2173
35	Rostock	2099	2332	2253	2417
36	Igoumenitsa	2202	2467	2221	2338
37	Ceuta	2353	2091	2147	2135
38	Civitavecchia	1975	1932	2145	2099
39	Barcelona	1473	1869	2039	2208
40	Livorno	1792	1907	2013	2103

Source: EU 2007/2008 statistical pocketbook

**Table 4: Routes by number of passengers**

<b>Routes with</b>	<b>More than 1.000.000 pax/year</b>	<b>More than 500.000 pax/year</b>	<b>More than 100.000 pax/year</b>	<b>More than 50.000 Pax/year</b>	<b>Less than 50.000 pax/year</b>
<b>Baltic zone</b>	Approx. 18+7* (13,8%). <i>5 routes with competitors</i>	Approx. 16 (8,8%) <i>2 routes with competitor</i>	Approx. 46 (25,5%) <i>4 routes with competitors</i>	Approx. 16 (8,8%)	Approx. 79 (43.8%)
<b>North Sea zone</b>	Approx. 19 (9,5%). <i>2 routes with competitors</i>	Approx. 19 (9,5%) <i>2 routes with competitors</i>	Approx.51 (25,5%) <i>4 routes with competitors</i>	Approx. 27 (13,5%)	Approx. 83 (41.5%)
<b>Mediterranean Zone</b>	Approx. 17 (4,3% of the total). <i>9 routes with competitors</i>	Approx. 14 (3,5% of the total) <i>11 routes with competitors</i>	Approx 57 (14,6%) <i>26 routes with competitors</i>	Approx. 20 (5,1%) <i>4 routes with competitors</i>	Approx. 282 (72.3%) <i>19 of them with competitors</i>

\*domestic NO

**Table 5 - Maritime ferry operators in Europe by main type of activity and main area of operation**

	<b>National</b>	<b>International</b>	<b>Cruise</b>	<b>All operators</b>
Mediterranean	26	32	55	113
Atlantic	15	29	15	59
Baltic	3	17	0	20
Nordic	26	22	0	48
All European operators	70	100	70	240

**Table 6 - Number of critical events and passengers affected, reported by country and type of traffic**

Country	UK		France	Ireland	Poland	Estonia
	Nat (4)	Intra (5)	Mixed (1)	Intra (1)	Intra (1)	Intra (1)
Delays	14.932	257	219		1 (400)	
Cancellations	1.429	419		50		
Interruptions	1.136	50 (6.644)				
Refused carriage / Denied Boarding		77 (228)			3 (3)	
Handling complaints					45 (63)	
Total	17.497	803	219	50	49	100

*Source: Country reports (Tis.pt,2006)*

Legend: Between brackets is the number of passengers affected.

There is a lack of data on number of critical events. Individual companies differ in their definition of delays. Only the UK and Poland had reported the number of critical events disaggregated by their cause, along with the number of passengers affected. In the case of Estonia, France and Ireland, only one operator (in each country) provided data on critical events. Data presented here should be understood as illustrative.

**Table 7 – Current situation regarding protection of passenger rights**

	General policy on Passenger rights	Maritime Passenger rights	PRM rights (general and in maritime transport)
Internationals		Athens Convention relating to the Carriage of Passengers and their Luggage by Sea 1974 (IMO) Protocol to the Athens Convention 1976.	“Recommendation on the Design and Operation of Passenger Ships to Respond to Elderly and Disabled Persons’ Needs” (IMO)
European	Com (2001) 370: White Paper European transport policy for 2010 : time to decide COM (2004) 374 final: White Paper on services of general interest COM (2005)46 final: Strengthening passenger rights within the European Union Directive 90/314/EEC: Package travel, package holidays and package tours regulations REGULATION (EC) No 2006/2004 of the European parliament and of the council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation)	COM (2002) 158 final: Communication from the Commission on the enhanced safety of passenger ships in the Community Directive 2003/25/EC, 14 April 2003 - specific stability requirements for ro-ro passenger ships COM (2003) 375 final: Proposal for a Council Decision concerning the conclusion by the European Community of the Protocol of 2002 to the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974 COM (2005) 592 final: Proposal for a Regulation of the European Parliament and of the Council on the liability of carriers of passengers by sea and inland waterway in the event of accidents	Directive 1999/35/EC on a system of mandatory surveys for the safe operation of regular ro-ro ferries and high speed passenger craft services COM (2000) 284 final – Towards a barrier free Europe for people with disabilities Directive 2003/24/EC, 14 April 2003 - amending Council Directive 98/18/EC on safety rules and standards for passenger ships; COM (2003) 650: Equal opportunities for people with disabilities: A European Action Plan CEN/CENELEC Workshop Agreement: Guidelines to standardisers of Collective Transport Systems - Needs of older people and persons with disabilities - Part 1: Basic guidelines (CWA 45546-1:2004)

**Table 8 - Information provided to passengers in general**

	Estonia (1)	France (3)	Germany (1)	Greece (3)	Ireland (1)	Italy (3)	Malta (1)	Netherlands (2)	Nordic countries (6) *	Poland (3)	Portugal (1)	Spain (3)	UK (15)
Printed copies of applicable framework	x	x	x		x			x		x			
Copy of applicable framework on ticket		x		x		x					x		
Reference to web site	x	x	x		x			x					
Oral information only	x			x				x	1	x	x	x	11
Other information					x						x		
Passengers request		x					x					x	
Written information			x						4				15
Identification of the operator			x						1				5
Comparative information			x			x							
Electronic notice board					x								

Source: Country reports (Tis.pt,2006)

Legend: \* Nordic countries – Denmark, Finland, Norway and Sweden.

Between brackets is the number of responders in the respective country.

**Table 9: Information provided to PRMs**

	Information in Braille	Information points adapted to PRM needs	Information adapted to PRM needs	No special information for PRMs	Number of respondents
Estonia					1
France					3
Germany		1			1
Greece					3
Ireland	1				1
Italy					3
Malta					1
Netherlands					2
Nordic countries *	1			4	6
Poland			1		3
Portugal					1
Spain		1		1	3
UK	2	5		1	15
<b>Total EEA</b>	<b>9.3%</b>	<b>16.3%</b>	<b>2.3%</b>	<b>14.0%</b>	<b>43</b>

Legend: \* Nordic countries = Denmark, Finland, Norway and Sweden (TiS.pt Report, 2006)

**Table 10 - Information provided in case of critical events**

	Estonia (1)	France (4)	Greece (3)	Italy (3)	Malta (1)	Netherlands (2)	Nordic countries (6) *	Poland (3)	Portugal (1)	Spain (3)	United Kingdom (15)
Printed copies of applicable framework	D, C, I, DB	D, C, I, DB, RI				On request	D, C, I, RC, O	D, C, I, DB		D, C	D, C, I, RC
Copy of applicable framework on ticket	D, C, I, DB	D, C, I, DB, RI	D, C, I, DB	D, C, I, DB, RI			X			all	D, C, I, RC
Reference to web site	D, C, I, DB	D, C, I, DB, RI	D, C, I, DB	D, C, I, DB, RI		Someti mes	D, C, I, RC, O	D, C, I, DB		all	D, C, I, RC
Oral information only	O				D, C, I, RC	Someti mes		D, C, I, DB	D, C, I, DB, RI, O	D, C, I, DB	D, C, I, RC, O
No information			RI				x				D, C, I, RC, O
Other information											D, C, I, RC
Passengers request					x						

Source: Country reports (TiS.pt,2006)

Legend: D: Delay; C: Cancellation; I: Interruption; DB: Denied Boarding; RI: Refusal of Information; RC: Refused Carriage; O: Overbooking. Nordic countries – Denmark, Finland, Norway and Sweden. ( ) Between brackets is the number of responders.

**Table 11: Specific services provided to PRMs**

	Support / Assistance to PRMs	Accessibility facilities	Assistance throughout the entire trip
Cyprus			
Estonia		1	
France	1	1	
Germany	1	1	
Greece			
Ireland	1	1	
Italy	1	1	
Malta	1	1	
UK*	11	9	5

Legend: \* Out of 13 respondents (TiS.pt, 2006)

Source: ShipPax Statistics, 2004

**Table 12: Average external costs in 2000 by category and transport mode**

Environmental impact	Average Costs for Passengers (EUR / 1000 pkm)							Average Costs for Freight (EUR / 1000 tkm)						
	Road				Rail	Air	Tot	Road			Rail	Air	Water	Tot
	Car	Bus	MC	Tot				LDV	HDV	Tot				
Noise	5.2	1.3	16.0	5.1	3.9	1.8	4.2	32.4	4.9	7.4	3.2	8.9	0.0	7.1
Air pollution	12.7	20.7	3.8	13.2	6.9	2.4	10.0	86.9	38.3	42.8	8.3	15.6	14.1	38.5
Climate change	10.1	4.8	6.7	9.5	3.6	26.4	13.6	32.8	7.3	9.7	1.9	134.7	2.5	9.7
Nature & Landscape	2.9	0.7	2.1	2.1	0.6	0.8	2.0	10.9	2.0	2.9	0.3	3.8	0.8	2.6
Up/Downstream	5.2	3.9	3.0	5.0	3.4	1.0	3.9	22.4	7.4	8.8	2.4	7.4	3.3	8.0
Urban effects	1.6	0.4	1.1	1.5	1.3	0.0	1.1	5.2	1.1	1.5	0.5	0.0	0.0	1.3
<b>Total EU-17<sup>95</sup></b>	<b>37.7</b>	<b>31.8</b>	<b>32.7</b>	<b>36.4</b>	<b>19.7</b>	<b>32.4</b>	<b>34.8</b>	<b>190.6</b>	<b>61.0</b>	<b>73.1</b>	<b>16.6</b>	<b>170.4</b>	<b>20.7</b>	<b>67.2</b>

Source: INFRAS/IWW, 2004

<sup>95</sup> EU-15 plus Switzerland and Norway.

**Table 13: Facilities to be provided at terminal buildings to permit better accessibility**

Facility	Cost
Ramps	€200 per m <sup>2</sup>
Automatic doors	€15 000 each
Accessible toilet at terminal building	€15 000 each
Double handrails on stairs	€100 per m
Glass markings	€20 per area of glass
Guideways	€100 per m
Warning markings	€100 per m
Obstacle markings	€200 per m <sup>2</sup>
Indications in relief	€400 each
Spoken information	€150 per transmitter

Source: COST 335

**Table 14: Average number of employees in passenger terminals for every 1000 passengers**

	Small ports	Medium-sized ports	Large ports	Average for all ports
Front office	0.143	0.052	0.024	0.049
Back office	0.118	0.021	0.002	0.025
All employees	0.261	0.073	0.026	0.074

Source: PwC analysis of survey results (2007)

**Table 15: Estimated number of employees in EU passenger ports per geographic area**

	Front Office	Back Office	Total
Baltic	4 324	1 588	5 912
North	3 085	1 211	4 297
Med	9 869	3 673	13 542
<b>Total</b>	<b>17 642</b>	<b>6 637</b>	<b>24 279</b>

Source: PwC analysis of survey results, Eurostat and ShipPax (2007)

**Table 16: Estimated training costs in ports**

Country	Front Office Employees (€ thousand)	Back Office Employees (€ thousand)	All Employees (€ thousand)
DK	411	186	597
EE	31	6	37
FI	82	18	100
LT	4	3	7
LV	4	2	6
PL	24	13	37
SE	165	38	203
<b>Baltic</b>	<b>721</b>	<b>265</b>	<b>986</b>
BE	11	6	17
DE	250	107	357
NL	21	11	32
IE	22	7	30
UK	210	71	281
<b>North</b>	<b>515</b>	<b>202</b>	<b>717</b>
BG	0	0	1
CY	6	4	10
ES	115	34	149
GR	829	339	1 168
IT	511	168	678
MT	5	4	9
FR	164	53	217
PT	16	10	26
SI	1	1	2
<b>Med</b>	<b>1 647</b>	<b>613</b>	<b>2 259</b>
<b>Total</b>	<b>2 883</b>	<b>1 080</b>	<b>3 963</b>

Source: PwC analysis of survey results (2007)

**Table 17: Estimation of the cost of training in the EEA**

Ship categories	No of ships	Thousand GT	Employees in deck and hotel areas	Estimated training costs (EUR)
Cruise	79	2 694	23 118	2 889 731
Ferries	1 167	9 536	37 237	4 351 327
Fast Units	781	270	6 517	907 759
Other Ro-Pax	56	53	1 341	100 544
Ro-Ro Cargo Ferries	278	4 030	2 243	168 228
All Passenger Ships	2 361	16 583	70 456	8 417 589

*Source: PwC analysis of ECSCA Annual Report 2005-2006 and Confitarma*

**Table 18: Port governance in European MSs**

	Investment & Maintenance
<b>Baltic</b>	
<i>DK</i>	<b>Superstructure</b> 100% private sector  (buildings/mobile equipment)  100% port authority  (cranes, warehouses)
<i>EE</i>	<b>Superstructure</b> Service provider
<i>FI</i>	<b>Superstructure</b> 100% private sector  100% port authority (cranes)
<i>LV</i>	N/A
<i>LT</i>	<b>Superstructure</b> Operators
<i>PL</i>	<b>Superstructure</b> Private sector Port authority
<i>SE</i>	<b>Superstructure</b> 100% port authority or private operators
<b>North</b>	
<i>DE</i>	<b>Superstructure</b> 100% private sector
<i>NL</i>	N/A
<i>UK</i>	<b>Superstructure</b> 100% port authority or terminal operators
<i>NO</i>	N/A
<i>IE</i>	<b>Superstructure</b> 100% port authority
<i>BE</i>	<b>Superstructure</b> 100% private sector
<b>Mediterranean</b>	
<i>CY</i>	N/A
<i>GR</i>	<b>Road, rail and superstructure</b> Outside: 100% State Inside: 100% port authority
<i>ES</i>	<b>Superstructure</b> 100% port authority and private operators
<i>IT</i>	<b>Superstructure</b> Private operators / undertakings
<i>MT</i>	N/A
<i>FR</i>	N/A
<i>PT</i>	<b>Superstructure</b> 100% port authority or concessionaries
<i>SI</i>	N/A
<i>BG</i>	N/A
<i>RO</i>	N/A

Source: PwC analysis of "Factual report on the European port sector 2004-2005" ESPO

**Table 19: Potential market for accessible maritime tourism**

	PRM passengers	1.6% will use a ship to travel for tourism purposes	Multiplier effect for accompanying friends and family	Accompanying friends and family	Total potential accessible tourism by ship	Average expenditure per person per holiday	Potential additional tourism revenues
	38.1 million	0.6 million	0.5	0.3 million	0.9 million	€620	€ 0.55m
			2	1.2 million	1.8 million		€1.1m

Source: PwC analysis of OSSATE and Eurostat (2005)

**Table 20: Potential number of additional employees at ports**

	Total potential accessible tourism vacations by ship	Total accesses (embarking and disembarking) <sup>96</sup>	Index employees per 1000 passengers	Total potential new employees in ports
First scenario	0.9 million	3.6 million	0.049	176 400
Second scenario	1.8 million	7.2million		352 800

Source: PwC analysis

**Table 21: Potential additional employees in the tourism sector**

	Potential additional tourism revenues	Average turnover per person employed in hotels and restaurants	New potential employees in the sector (thousand FTE)
First scenario	€0.55m	€44 6000	12.3
Second scenario	€1.1m		24.6

Source: PwC analysis of OSSATE (2005) and Eurostat (2004)

<sup>96</sup> We assume that a return journey consists of two embarkations and two disembarkations. In fact, there might be trips (such as cruises) with a higher number.

**Table 22: Total number of charters and service guarantees identified (cross-national schemes are included for each country where an operator adheres to them)**

Country	Quality Charter					Service Guarantee					Total per country
	Rail	Coach	Local	Air	Ship	Rail	Coach	Local	Air	Ship	
Austria	2	1	--	1	--	2	--	--	--	--	6
Belgium	1	1	1	2	--	3	--	--	--	--	8
Cyprus	--	--	--	1	--	--	--	--	--	--	1
Czech Rep.	--	--	4	1	--	1	--	--	--	--	6
Denmark	2	--	2	1	--	3	--	10	--	--	18
Estonia	--	24	4	2	--	--	15	5	--	--	5
Finland	1	1	--	2	--	1	--	--	--	1	6
France	2	--	6	4	--	1	--	1	--	--	14
Germany	2	1	24	2	--	2	--	56	1	--	88
Greece	1	2	4	--	--	1	2	3	--	--	13
Hungary	1	1	--	--	--	3	--	--	--	--	5
Italy	1	1	10	2	2	2	1	8	1	2	5
Ireland	2	1	1	1	--	1	--	--	--	--	31
Latvia	--	1	--	1	--	--	--	--	--	--	2
Lithuania	1	2	--	--	--	--	1	--	--	--	4
Luxemburg	1	--	--	1	--	1	--	--	--	--	3
Malta	--	--	--	--	--	--	--	--	--	--	0
Netherlands	--	1	1	1	--	2	--	2	--	--	7
Poland	1	1	1	1	--	1	--	--	--	--	5
Portugal	1	--	--	1	--	3	--	--	--	--	5
Slovakia	--	--	--	--	--	1	--	--	--	--	1
Slovenia	1	--	--	1	--	1	--	--	--	--	3
Spain	--	1	1	--	--	16	--	17	1	--	5
Sweden	1	2	5	1	--	3	1	14	--	1	28
UK	12	1	6	--	1	12	1	6	--	1	40
Total	33	20	66	26	3	45	7	101	3	5	309

Source: EUSG (December 2006)

**Table 23: Estimated cost of monitoring**

	Number of:	Man-days needed for monitoring	Daily cost per man (EUR) <sup>97</sup>	Total cost (EUR)
Ship operators	274	2	193	105 565
Ports	583	4		449 228
MSs on coast	22	3		12 714
<b>Total predictable cost</b>				<b>567 507</b>

Source: PwC analysis of “Maritime passenger traffic in Europe: a picture of the ferry and RoRo sector” - DG TREN (2007)

**Table 24: Administrative costs for the sector**

Total number of passenger ports <sup>98</sup> (q <sub>1</sub> )	Number of man-days per port (q <sub>2</sub> )	Total number of man-days (Q = (q <sub>1</sub> ) x (q <sub>2</sub> ))	Average administrative cost per day <sup>99</sup> (P)	Total administrative cost (P x Q)
583	5	2 915	€560	€1 632 000

Source: PwC elaboration

<sup>97</sup> The above estimation of the labour cost per day for administrative employees is augmented by 30% for expenses and allowances.

<sup>98</sup> Total number of EU passenger ports was estimated in Annex II — “Market Analysis”

<sup>99</sup> In order to calculate the average daily administrative cost, we have assumed in line with Eurostat data that the gross hourly tariff for an expert consultant is €70.

**Annex 3**

**Public Service Obligations and Contracts in the Member States**

<b>Country</b>	<b>Route / Area</b>	<b>PSO / PSC</b>	<b>Start date</b>	<b>Duration</b>	<b>Expiry date</b>
<b>DENMARK</b>	Rønne-Ystad and Rønne-Køge	PSO	-	-	-
	Rønne-Ystad and Rønne-Køge	PSO / PSC	1/5/04	5 years	30/4/09
	Kolby Kås-Kalundborg	PSO / PSC	1/10/03	5 years	30/9/08
	Bøjden-Fynshav	PSO / PSC	1/5/03	5 years	30/4/08
	Spodsbjerg-Tårs	PSO / PSC	1/5/06	5 years + 1	30/4/11
	Baagø-Assens	PSC	1/1/01	5 years	31/12/06 Expired but extended

<b>Country</b>	<b>Route / Area</b>	<b>PSO / PSC</b>	<b>Start date</b>	<b>Duration</b>	<b>Expiry date</b>
<b>DENMARK</b>	<b>Bjørnø-Faaborg</b>	<b>PSC</b>	<b>1/1/01</b>	<b>5 years</b>	<b>31/12/06</b> <b>Expired but extended</b>
	<b>Avernakø-Lyø-Faaborg</b>	<b>PSC</b>	<b>1/1/01</b>	<b>5 years</b>	<b>31/12/06</b> <b>Expired but extended</b>
	<b>Strynø-Rudkøbing</b>	<b>PSC</b>	<b>1/1/01</b>	<b>5 years</b>	<b>31/12/06</b> <b>Expired and extended until 31/12/2007</b>
	<b>Birkholm-Marstal</b>	<b>PSC</b>	<b>1/1/01</b>	<b>5 years</b>	<b>31/12/06</b> <b>Expired but extended</b>
	<b>Sælvig-Hou</b>	<b>PSC</b>	<b>1/12/03</b>	<b>4 years 10 months</b>	<b>30/8/08</b>
	<b>Marstal-Rudkøbing, Ærøskøbing-Svendborg, Søby-Faaborg</b>	<b>PSC</b>	<b>1/5/02</b>	<b>4 years 8 months</b>	<b>1/5/02</b>

Country	Route / Area	PSO / PSC	Start date	Duration	Expiry date
DENMARK	Agersø-Stignæs, Omø-Stignæs, Sejerø-Havnsø, Nekselø-Havnsø	PSC	1/1/02	5 years	31/12/06
	<p>16 routes:</p> <p>Anholt-Grenaa; Egholm-Aalborg; Aarø-Aarøsund; Orø-Holbæk; Livø-Rønbjerg; Askø-Bandholm</p> <p>Tunø-Hou; Fejø-Kragenæs;</p> <p>Femø-Kragenæs; Barsø-Barsø Landing; Venø-Kleppen; Fur-Branden; Skarø-Drejø-Svendborg; Hjortø-Svendborg; Endelave-Snaptun-Horsens; Hjarnø-Snaptun</p>	PSC		-	
	<p>11 routes:</p> <p>Thyborøn-Agger; Bogø-Stubbekøbing; Feggesund</p> <p>Næssund; Sundsøre-Hvalpsund; Udbyhøj</p> <p>Mellerup-Voer; Stige</p> <p>Hardeshøj-Ballebro; Læsø-Frederikshavn; Kulhuse-Sølager</p>	PSC		-	

<b>Country</b>	<b>Route / Area</b>	<b>PSO / PSC</b>	<b>Start date</b>	<b>Duration</b>	<b>Expiry date</b>
<b>ESTONIA</b>	<b>Rohuküla–Heltermaa, Virtsu–Kuivast</b>	<b>PSO / PSC</b>	<b>24/3/06</b>	<b>10 years</b>	<b>30/09/2016</b>
	<b>Sõru–Triigi</b>	<b>PSO / PSC</b>	<b>27/9/06</b>	<b>5 years</b>	<b>30/09/11</b>
	<b>Rohuküla-Sviby (county of Läänemaa)</b>	<b>PSC</b>	-		
	<b>Roomassaare-Ruhnu, Pärnu-Ruhnu, Pärnu-Kihnu, Kihnu-Munalaid and Ruhnu-Munalaid (county of Pärnumaa)</b>	<b>PSC</b>			
<b>FINLAND</b>	<b>Southwestern Islands, 14 routes between mainland and islands</b>	<b>PSO</b>	<b>Depends on the route</b> <b>(normally at the beginning of the year)</b>	<b>2-5 years</b>	<b>Depends on the route</b> <b>(normally at the end of the year)</b>

<b>Country</b>	<b>Route / Area</b>	<b>PSO / PSC</b>	<b>Start date</b>	<b>Duration</b>	<b>Expiry date</b>
	<b>Gulf of Finland, 4 routes between mainland and islands</b>	<b>PSO</b>	<b>Depends on the route  (normally at the beginning of the year)</b>	<b>2-5 years</b>	<b>Depends on the route  (normally at the end of the year)</b>
	<b>Åland Islands, 3 routes</b>	<b>PSC</b>	<b>-</b>	<b>5 years</b>	<b>-</b>
<b>FRANCE</b>	<b>Mainland - Corsica  (various routes)</b>	<b>PSO</b>	<b>-</b>	<b>-</b>	<b>-</b>
	<b>Marseille - Corsica</b>	<b>PSC</b>	<b>1/1/02</b>	<b>5 to 7 years</b>	<b>Still running</b>
	<b>Côtes d'Armor:  Bréhat Island (3 routes)</b>	<b>PSO / PSC</b>	<b>31/8/05</b>	<b>6 years</b>	<b>30/8/11</b>
	<b>Finistère:  Sein, Ouessant and Molène Islands</b>	<b>PSC</b>	<b>1/1/03</b>	<b>6 years</b>	<b>31/12/08</b>

<b>Country</b>	<b>Route / Area</b>	<b>PSO / PSC</b>	<b>Start date</b>	<b>Duration</b>	<b>Expiry date</b>
<b>FRANCE</b>	(7 routes)				
	<b>Finistère:</b> Batz Island (1 route)	PSC	1/1/03	6 years	31/12/08
	<b>Morbihan:</b> Belle-Ile-en-Mer, Groix, Houat and Hoëdic Islands (5 routes)	PSO / PSC	1/1/01	7 years	31/12/07
	<b>Morbihan:</b> Vannes - Arz Island	PSC	1/1/2007	5 years	31/12/2011
		PSC	1/1/2006	6 years	31/12/2011
	<b>Var:</b> Hyères Islands (Porquerolles, Port-Cros and Le Levant Islands) (5 routes for passengers; 3 for goods; 2 for transport of cars)	PSC	28/12/1990	20 years	27/12/2009

<b>Country</b>	<b>Route / Area</b>	<b>PSO / PSC</b>	<b>Start date</b>	<b>Duration</b>	<b>Expiry date</b>
	<b>Bouches du Rhône: Marseille - Frioul Island</b>	<b>PSC</b>	<b>4/5/2006</b>	<b>12 years</b>	<b>3/05/2018</b>
<b>GREECE</b>	<b>Ministry of Mercantile Marine: 22 routes</b>	<b>PSO / PSC</b>		<b>Most approx. 1 year</b>	
	<b>Ministry of Aegean and Aegean Policy: 39 routes</b>	<b>PSO / PSC</b>		<b>Most approx. 1 year</b>	
<b>ITALY</b>	<b>19 national lines 11 to Sardinia 2 to Sicily 2 to Sardinia and Sicily 29 local lines to islands</b>	<b>PSO / Conventional order</b>	<b>1/1/1989</b>	<b>20 years</b>	<b>31/12/2008</b>
<b>MALTA</b>	<b>Cirkewwa-Mgarr (island of Gozo)</b>	<b>PSO / PSC</b>	<b>2004</b>	<b>6 years</b>	<b>2010</b>
	<b>Mainland Portugal to Islands of Madeira and Azores</b>	<b>PSO</b>	<b>-</b>	<b>Continuity of the service must be guaranteed</b>	<b>-</b>

<b>Country</b>	<b>Route / Area</b>	<b>PSO / PSC</b>	<b>Start date</b>	<b>Duration</b>	<b>Expiry date</b>
<b>PORTUGAL</b>				for at least 2 years.	
	<b>Madeira Island: Funchal – Porto Santo</b>	<b>PSC</b>	<b>23/2/1996</b>	<b>29 years and 8 months</b>	<b>11/11/2025</b>
<b>SPAIN</b>	<b>Balearic Islands</b> <b>(21 routes: Peninsula to Balearic Islands + Inter-islands connections)</b>  <b>Canary Islands</b> <b>(18 routes: Peninsula to Canary Islands + Inter-islands connections)</b>  <b>Ceuta and Melilla</b> <b>(4 routes: Peninsula to Ceuta and Melilla)</b>	<b>PSO</b>			
	<b>Balearic Islands</b> <b>(6 routes: Valencia and Barcelona to Palma, Ibiza and Mahón)</b>  <b>Canary Islands</b> <b>(1 route: Cádiz to Santa Cruz de Tenerife and Las Palmas)</b>  <b>Ceuta and Melilla</b> <b>(3 routes: Algeciras to Ceuta and Melilla)</b>	<b>PSO / PSC</b>	<b>1/10/2007</b>	<b>5 years</b>	<b>1/10/2011</b>

<b>Country</b>	<b>Route / Area</b>	<b>PSO / PSC</b>	<b>Start date</b>	<b>Duration</b>	<b>Expiry date</b>
	to Almeria and to Málaga).				
<b>SWEDEN</b>	<b>Mainland – Gotland</b> <b>2 routes:</b> <b>Visby – Nynashamn</b> <b>Visby – Oskarshamn</b>	<b>PSC</b>	<b>1/1/98</b>	<b>4 +2 years</b>	<b>31/12/03</b>
<b>UNITED KINGDOM</b>	<b>Ballycastle – Rathlin Island</b>	<b>PSC</b>	<b>2002</b>	<b>2 years with scope for further 1 year extensions</b>	<b>2008</b>
	<b>Northern isles</b>  <b>Mainland –Orkney/ Shetland -2 routes</b>	<b>PSC</b>	<b>6/07/06</b>	<b>6 years</b>	<b>5/7/12</b>
	<b>Clyde and Western Isles -28 routes</b>	<b>PSC</b>	<b>1960</b> <b>(most recent Undertak.: 1995)</b>	<b>Open ended</b>	<b>None</b>
	<b>Gourock – Dunoon</b>	<b>PSO / PSC</b>	<b>2007/2008</b>	<b>6 years</b>	<b>2013/2014</b>

## Annex 4

### Handling the missing data in critical events

Little quantitative data was available in relation to critical events that could evaluate clearly if there is a problem. Despite the incompleteness of the data, the following process was undertaken to produce sound estimates of the parameters of interest:

(1) Main assumptions for handling missing data:

- (a) Number of passengers and number of trips (obtained from ShipPax) considered as the basis for comparison<sup>100</sup>;
- (b) Ship load factors are considered as constant and calculated as number of passengers / number of trips;
- (c) Quality of service is considered as constant;
- (d) Legal and regulatory framework do not influence the level of services;
- (e) Passengers affected by critical events were calculated by the number of events multiplied by the occupation factor (see point b).

(2) Concepts adopted:

- Two units were considered for the analysis
- Country
- Sample = universe = 17 countries
- Operator
- Sample = 113 operators (selected through a non-probabilistic sampling method)
- Universe = 240 operators (estimated from ShipPax Statistics)

(3) Definitions applied:

Valid countries and valid operators: questionnaires in which quantitative data on critical events is available (13 operators from 5 countries);

Valid countries and respective sample operators: total operators surveyed in the countries in which quantitative data on critical events is available (31 operators in 5 countries);

Valid countries and respective universe of operators: total operators in the countries in which quantitative data on critical events is available (84 operators in 5 countries);

Sample countries and sample operators: total operators surveyed in the country sample of the study (113 operators in 17 countries);

Universe of countries and operators: universe of the study (240 operators in 17 countries).

(4) Statistical procedures adopted (see Figure below):

Handling of missing data (treatment of non-responses) in two levels

- **Level 1** – from valid countries and valid operators to valid countries and sample operators (done);
- **Level 2** – from valid countries and valid operators to sample countries and sample operators (not done);

Extrapolation (from sample to universe)

- **Level 1** – from valid countries and sample operators to universe of countries to universe of operators (done);

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<sup>100</sup> Even so this should be treated with some caution as the data from ShipPax still has some missing data in some countries. Similarly there is no assurance that this publication covers all of the operators in the different countries.

- **Level 2** – from sample countries and sample operators to universe of countries and universe of operators (not done).

The statistical procedure was **only** performed for Level 1 both in handling missing data and extrapolation from the sample of operators to the universe of operators. Only this first level of analysis, for the five valid countries, was performed because this procedure presents the following gaps:

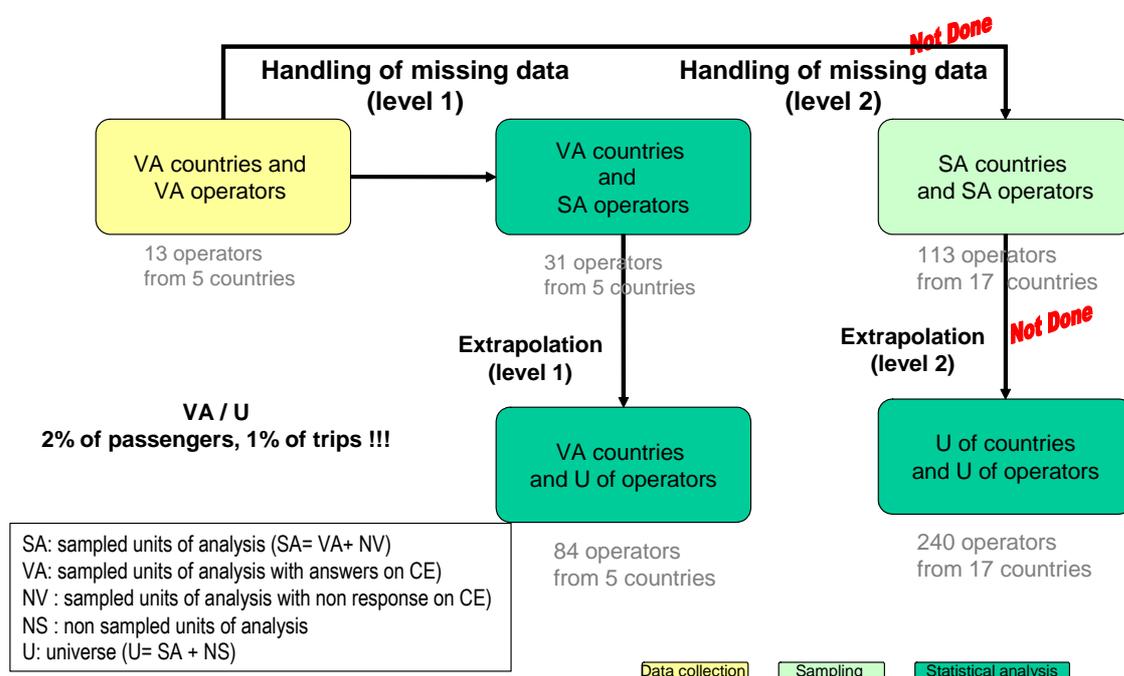
- (b) Low rate of answers by country;
- (c) Available data were rather poor;
- (d) Figures came from different sources.

Despite the detected problems related with this procedure, this was the only way to get an idea of the (non-)existence of a problem in the valid countries. For this analysis, assumptions were made (these are the ones identified previously).

Level 2 of the analysis, which includes: (a) handling the missing data from valid countries to the sampled countries and; (b) extrapolation from the sampled countries to the universe was not carried out, given the fact that it is not guaranteed that the assumptions<sup>101</sup> made for the five countries, for which answers were received, can also be assumed for the universe (17 countries)

- (a) The analysis was then only on Level 1 given the fact that for Level 2 the result would be extremely unreliable. While at Level 1 it could be assumed that conditions are fairly similar (i.e. the legal and regulatory framework) and that company organisation does not influence the quality of service (i.e. quality certifications), the same assumption could not be made directly for the universe level.

*Overall picture of the rationale used to handle missing data*



Source: TiS Analysis (2006)

<sup>101</sup> Assumptions made were related to legal framework, quality of service provided by the operators, etc.

## Annex 5

### Reasonable Accessibility and Reasonable accommodation

Reasonable accessibility and reasonable accommodation are two related concepts that have to be understood within the "social model of disability". They both contribute to solutions to compensate for impairments that persons with disabilities have when interacting with goods, services and infrastructures and when performing activities.

#### **Accessibility:**

Accessibility is a broad concept, which addresses the removal and prevention of barriers that pose problems for persons with disabilities in using products, services and infrastructures on terms equal to those persons without disabilities. General accessibility measures anticipate the most common problems experienced by persons with disability.

As accessibility usually concerns products, services and infrastructures that are intended to be purchased or used by more than one person, a "design for all" methodology is applied.

In the case of maritime transport, it is necessary to preventively remove the most common barriers in the infrastructures, carriers and related services that are already known. These will concern general preventive measures of physical accessibility, access to information (before and during the trip; for example, in emergency situations deaf persons should be able to know the instructions provided to the passengers), and access to the ships themselves.

However, general accessibility measures can not always cover all the needs that a particular person with disability has in order to give them the same access as other passengers (this could be, for example, because the necessary measures would involve a disproportionate cost or simply because the need of the person is so specific that it was not known beforehand or it would not be cost effective to address it by applying general solutions). Therefore, and in order to achieve the goal of equal access, general accessibility measures need to be complemented by "reasonable accommodation".

#### **Reasonable accommodation:**

This notion refers to the specific appropriate measures to be taken, where needed in a particular case, to enable a particular person with a disability to have equal access to a product or a service. These measures complement the general accessibility that is already available. Naturally, if the measures are disproportionate, then the carrier should not be obliged to implement them. However, quite often those measures are cheap and easy to implement. In the context of maritime transport, they could involve providing instructions in writing to a deaf person, or physically carrying a person in a ship when the entry is too small to place a ramp, helping with the luggage, etc. It is also important to have staff that is well trained and able to listen to the person's needs at a particular moment and react accordingly in the light of the possibilities to accommodate his needs.

Annex 6

**Passenger Rights in all modes of transport - correlation table (main provisions)**

	<b>Air transport</b>	<b>Rail transport</b>	<b>Bus &amp; coach transport</b>	<b>Maritime transport</b>
<b>LIABILITY AND INSURANCE</b>	<p><b>Regulation(EC) 2027/97 on air carrier liability in the event of accidents<sup>102</sup></b></p> <p><b>Regulation (EC) 785/2004 on insurance requirements for air carriers and aircraft operators<sup>103</sup></b></p>	<p><b>Regulation (EC) 1371/2007 on rail passengers' rights and obligations<sup>104</sup></b></p>	<p><b>Draft Proposal for a Regulation of the European Parliament and of the Council on the rights of passengers in bus and coach transport</b></p> <p><b>5<sup>th</sup> Motor Insurance Directive<sup>105</sup></b></p>	<p><b>Proposal for a Council Decision concerning the conclusion by the European Community of the Protocol of 2002 to the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974<sup>106</sup></b></p>
<b>Strict liability for death and injuries</b>	x		x	
<b>Liability for loss or damage to the luggage</b>	x	x	x	x
<b>Advance payments</b>	x	x	x	
<b>Compensation for lost or damage mobility</b>	x	x	x	x

<sup>102</sup> Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in the event of accidents OJ L 285, 17.10.1997, p.1; as amended by Regulation (EC) No 889/2002 of 13 May 2002, OJ L 140, 30.5.2002, p. 2.

<sup>103</sup> Regulation (EC) No 785/2004 of 21 April 2004 on insurance requirements for air carriers and aircraft operators, OJ L 138, 30.4.2004, p. 1

<sup>104</sup> Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations, OJ L 315, 3.12.2007, p. 14–41

<sup>105</sup> Directive 2005/14/EC of the European Parliament and of the Council of 11 May 2005 amending Council Directives 72/166/EEC, 84/5/EEC, 88/357/EEC and 90/232/EEC and Directive 2000/26/EC of the European Parliament and of the Council relating to insurance against civil liability in respect of the use of motor vehicles (OJ L 149/14 11.6.2005)

<sup>106</sup> COM(2003) 375

equipment				
Insurance	x	x	x	

	Air transport	Rail transport	Bus & coach transport	Maritime transport
<b>PERSONS WITH REDUCED MOBILITY</b>	Regulation (EC) No 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air <sup>107</sup>	Regulation (EC) No 1371/2007 on rail passengers' rights and obligations.	Draft Proposal	
Non-discrimination on grounds of disability and reduced mobility	x	x	x	-
information	x	x	x	-
Ticket at no additional cost	x	x	x	-
Assistance based on notification	x	x	x	-
Assistance at airports/stations/ports/terminals	x	x	x	-
Assistance onboard	x	x	x	-
Assistance providers	Airport managers Airlines	Station managers Railway companies	Coach terminal managers Bus and coach operators	-
Accessibility rules	x	x	x	-
Quality standards	x	x	-	-
Training of personnel	x	x	x	-

<sup>107</sup> Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air, Text with EEA relevance. (OJ L 204, 26.7.2006 p.1)

	Air transport	Rail transport	Bus & coach transport	Maritime transport
<b>DELAYS</b>	Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights <sup>108</sup>	Regulation (EC) No 1371/2007	Draft Proposal	-
<b>Reimbursement</b>	X	X	X	-
<b>Re-routing</b>	X	X	X	-
<b>Financial compensation</b>	-	X	X	-
<b>Assistance</b>	X	X	-	-
<b>Information</b>	X	X	X	-

	Air transport	Rail transport	Bus & coach transport	Maritime transport
<b>CANCELLATIONS</b>	Regulation (EC) No 261/2004	Regulation (EC) No 1371/2007	Draft Proposal	
<b>Reimbursement</b>	X	X	X	-
<b>Re-routing</b>	X	-	X	-
<b>Financial compensation</b>	X	-	X	-
<b>Assistance</b>	X	X	-	-
<b>Information</b>	X	-	X	-

	Air transport	Rail transport	Bus & coach transport	Maritime transport
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<sup>108</sup> Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (Text with EEA relevance) – (OJ L 46, 17.2.2004, p. 1–8)

<b>DENIED BOARDING</b>	<b>Regulation (EC) No 261/2004</b>	No corresponding provisions	No corresponding provisions	
<b>Reimbursement</b>	x	-	-	-
<b>Re-routing</b>	x	-	-	-
<b>Financial compensation</b>	x	-	-	-
<b>Assistance</b>	x	-	-	-

	<b>Air transport</b>	<b>Rail transport</b>	<b>Bus &amp; coach transport</b>	<b>Maritime transport</b>
<b>NATIONAL ENFORCEMENT BODIES</b>	<b>Regulation (EC) No 261/2004</b>	<b>Regulation (EC) No 1371/2007</b>	<b>Draft Proposal</b>	
<b>Enforcement &amp; complaint handling</b>	x	x	x	-
<b>Cooperation</b>	x	x	x	-
<b>Reporting obligations</b>	-	-	x	-
<b>Penal sanctions</b>	x	x	x	-

## Annex 7

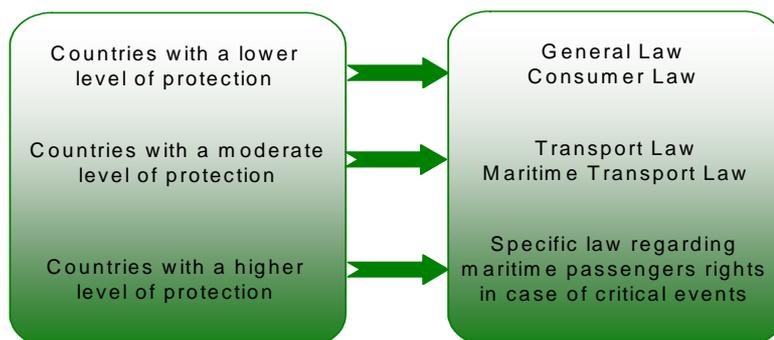
### Overview of the national legal framework for the maritime passenger transport sector

#### All passengers (PRMs included)

In order to measure the national level of protection of passenger rights, countries could be categorised according to the legislation in place:

- **Lower level of protection**: countries where there is only general law or consumer law establishing minimum general rights.
- **Moderate level of protection**: there are some rules concerning maritime passenger transport which include the carrier's liability in the event of passenger death or injury
- **Higher level of protection**: countries where there is a regulation specifying the rights of maritime passenger users in cases of critical events

#### *Framework to categorise the existing legal regimes*



Source: TiS Analysis (2006)

According to the criteria explained above, the categorisation of the countries is given below.

Countries with a lower level of protection	Countries with a moderate level of protection	Countries with a higher level of protection
Malta	Estonia	Denmark
Cyprus	France	Finland
	Germany	Italy
	Ireland	Poland
	Netherlands	Spain
	Portugal	Sweden
		United Kingdom
		Greece

Source: Country Reports

Once there is an overview of the national law of each of the countries mentioned above, Details could be given of the measures which respectively and typically derive from their legal framework:

	General Law Consumer Law	Transport Law Maritime Transport Law	Specific Rules regarding maritime passenger rights in case of critical events
<b>Matters concerned</b>	Mostly related to tour operators and travel agents liability in cases of inaccurate information or misleading advertising on services provided and failure to meet financial or contractual obligations towards consumers	Rules about the contract of passage where liability issues regarding death, injuries of passengers and damage or luggage loss are addressed in a detailed way.	Interruption, delay and cancellation, denied boarding and refused carriage.

<b>Legal Measures</b>	<ul style="list-style-type: none"> <li>- In case of non compliance or lack of information about the services provided: indemnity or compensation for the damages or loss caused to consumers (e.g. Malta)</li> <li>- In case of termination of the contract by the tour operator or the travel agent: the consumer can choose between the total reimbursement of expenses made or the participation in other organized trip (e.g. Portugal).</li> </ul>	<ul style="list-style-type: none"> <li>- Compensation for the damages or loss caused to passengers and their luggage (e.g. UK and Poland).</li> </ul>	<ul style="list-style-type: none"> <li>- In case of delay and cancellation the passenger has the right to demand termination of the contract and the only compensation to be given is the return of any fare the passenger has paid, which is the only entitlement provided for by the national law of most of the countries (e.g. Spain, UK, Poland and Greece).</li> <li>- In case of interruption, passengers are entitled to terminate the contract and to be reimbursed for that part of the ticket price corresponding to the part of journey the carrier did not accomplish (e.g. Spain and Poland). However, in some countries the carrier is obliged to complete the journey and passengers are entitled to terminate the contract only if he has not fulfilled his obligation within a reasonable time (e.g. Nordic countries);</li> <li>- Even when passengers are entitled to some other compensation the amount will equal the economic loss (if any) caused by the critical event. Generally, the passenger's right to compensation depends on the carrier's or master's fault or neglect (e.g. Spain and Nordic countries).</li> <li>- In cases of refused carriage or denied boarding without reasonable grounds , the carrier is liable for the economic loss suffered by passengers, who are entitled to compensation if the carrier has acted negligently (Nordic countries)</li> </ul>
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## PRMs National Legislation

### Overview of some Member States legislation concerning PRM

**Greece:** Ministerial directive for the transport of PRM on passenger sea vessels;

**Ireland and UK:** National Disability Act;

**Italy:** Law indicating carrier obligations to provide special access facilities to PRM;

**Malta:** voluntary practices recommended by Ministry of Social Affairs regarding PRM;

**Netherlands:** Act on Equal Treatment on the Grounds of Handicap or Chronic Illness;

**Spain:** Law on Equality of Opportunities, Non Discrimination and Universal Accessibility. LIONDAU (Law 51/2003, 2 December), sets deadlines to ensure compliance with certain "basic conditions" of accessibility regarding goods, services, transport, buildings and public places.

**Other EU countries:** EU legislation: Article 6(b) Directive 2003/24/EC on safety rules and standards for passenger ships is crucial when it comes to securing access to maritime transport

Anti-discrimination laws are present in some countries such as **Sweden, UK, Ireland and Netherlands**. These rules are mainly administered by a public authority and, to a certain extent, cover PRM access to maritime transport. It is uncertain, however, to what extent these regulations give a PRM the right to demand access to maritime transport and assistance if this is necessary.

## **Annex 8**

### **Policy option 2: Illustrative list of measures to be taken for accessibility in ports**

**The aim of this annex is to show a non-exhaustive sample of possible measures,**

- The approach to the terminal should be free of steps and wheelchair-accessible. When needed, ramps and handrails should be provided.
- The approach to the check-in should be designed to be accessible to passengers with reduced mobility. For instance, clear signage should indicate a designated parking area or a pathway.
- The entrance(s) should be clearly identifiable by means of appropriate lighting, signage etc. Entrance doors should be automatic and side-sliding.
- The reception, ticket office and check-in should be well-signposted and wheelchair-accessible. Induction loops should be provided at desks and in terminals. It is essential for all counters to include at least one position at a lower level.
- Waiting areas should be adapted. Seats should be designed to meet the safety and comfort needs of elderly and disabled passengers.
- Unisex wheelchair-accessible toilets should be provided. Unisex wheelchair-accessible baby-care facilities, for feeding and nappy changing, should also be provided.
- Assistance dogs should be permitted in restaurants and other catering areas;
- Emergency alarm systems should be both audible and visual. Means of egress should be designed at least to the same standard as other circulating routes and facilities.
- The walkway from the terminal to vessels should be free of steps and wheelchair-accessible. When needed, ramps and handrails should be provided.
- When courtesy bus services are provided, these should be accessible to passengers with reduced mobility or substitute services should be made available.

## Annex 9

### Minimum information Requirements to be provided by maritime undertakings and/or ticket vendors<sup>109</sup>

#### Pre-journey

- a. Conditions applicable to contract
- b. Time schedules and conditions for the fastest trip
- c. Time schedules and conditions for the lowest fares
- d. Accessibility and access conditions for PRM
- e. Availability of seats for different patterns (smoking, classes)
- f. Any activities likely to disrupt or delay services
- g. Availability of on board services
- h. procedures for complaining in case of failure

#### During the journey

- a. On board services
- b. Delays
- c. Connecting services
- d. Security and safety issues

#### After journey

- a. Procedures for complaining

#### Ticket information

- a. Operator carrying out the service
- b. Validity of tickets (dates, services, classes)
- c. Conditions of use of the ticket (i.e. Validation)
- d. Price, including taxes and other charges

#### Specific Information for PRMs

- a. Availability of information in Braille (this can be a print version)
- b. Availability of staff to provide oral information

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<sup>109</sup> These requirements have been taken from Regulation EC 1371/2007. OJ L 315/14, 3, December 2007 on rail passengers rights and obligations, and they have been adapted to the necessities of the maritime sector.

In addition to the information requirements mentioned above: Placards in port terminals making passengers aware that they have rights when they choose a certain mode of transport and that they could complain in the event of non compliance with the contract established (i.e. a ticket), whether or not there is any method of compensation .

## **Annex 10**

### **IMO STCW95 Code**

The IMO STCW95 Code specifies standards for training for seafarers, including with regard to the specific needs of persons with reduced mobility.

The Code is the result of the 1995 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, which was signed by all European Member States. Unfortunately so far, only a few European Member States, which include the UK, Ireland and Italy, have taken effective steps to comply with the Code.

Sections A-V/2 and A-V/3 of the STCW95 IMO Code set mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on Ro-Ro passenger ships and on other passenger ships. The relevant requirements here are:

- Crowd management training (including training in the evacuation of disabled persons and persons needing special assistance).
- Safety training for personnel providing direct services in passenger spaces with a focus on communication skills.
- Passenger safety training (including embarking and disembarking passengers, with special attention to disabled persons and persons needing assistance).

#### **Case Study: Training for assistance to PRMs in Italy**

On 4th January 2007, Italy adopted Circular No.10/SM that sets out specific provisions for the training of seafarers as regards assistance to PRMs. The Circular was based on the requirements laid down by STCW95 and on previous UK experience on the same matter.

According to letter (f) of the new Circular, the training to familiarize seafarers with PRMs issues has to cover the following topics:

- information on PRMs problems and type of disabilities;
- information on obstacles and barriers faced by PRMs;
- procedures to remove obstacles and barriers;
- methods available for evacuation of disabled persons and persons needing special assistance;
- procedure for providing assistance to PRMs by means of specific facilities;
- procedure for the utilization of mobility devices for PRMs.
- training course developed by CONFITARMA

Following the adoption by Italy of the above-mentioned Circular n.10/SM, Confitarma - the Italian Ship owners' Confederation - has developed a specific training course for seafarers employed on passenger ships of its members.

The main characteristics of the course are presented below:

- duration: 8 hours;
- the maximum number of participants for class is 20 and the minimum is 10;
- the course was developed in collaboration with AIAS – Italian Association for Assistance to Spastics.
- cost of the course per person: 100 Euro
- if the course is not held in Naples, additional costs for travelling and hotels for instructors have to be taken into account: estimate of 1.000 Euro per class.
- average total estimated cost per person: 150 Euro
- seafarers that should undertake the course and estimation of costs
- According to the STCW95 code, the training on assistance to PRMs should be aimed at deck personnel such as masters, officers, ratings and other personnel (stewards, etc) that may have direct contact with passengers.
- The following table gives an estimate of the number of persons employed in deck and hoteling mansions on board Italian ships.

*Table 1 Estimated jobs on board Italian ships of more than 100 GT (2005)*

<b>Ship Categories</b>	<b>Deck and Hoteling</b>	<b>Engineering department</b>	<b>Total</b>
Cruise	6.250	1.250	7.500
Ferries	5.500	1.560	7.060
Fast Units	650	50	700
Other RoPax	430	430	860
RoRo Cargo Ferries	600	600	1.200
<b>All Passenger Ships</b>	<b>13.430</b>	<b>3.890</b>	<b>17.320</b>

*Source: PwC elaboration Confitarma estimations (2007)*

Based on this estimation, the number of seafarers that should be trained for providing on board assistance to PRMs totals 13.430. Thus in Italy, for the first year, the total estimated cost for training is estimated to be 2.014.500 Euro. For the following years, the cost will be considerably lower since the training will be limited only to the newly employed persons.

## Annex 11

### Calculation of the administrative costs to the Member State authorities

The national enforcement body (NEB) designated by each Member State will also have to process complaints received in connection with maritime passenger issues. According to the “Review of Regulation 261/2004”<sup>110</sup> on air transport, the 25 NEBs reported they had received around 32 000 complaints under the Regulation since it came into force, which is equivalent to 44 complaints for every million passengers departing from EU airports.

The resources available to NEBs to handle such complaints vary significantly. However, the average number of staff working in the EU on the enforcement of Regulation 261/2004, expressed in terms of full-time equivalents (FTEs), is 0.09 per million departing passengers. In order to estimate the potential number of complaints from passengers in maritime and inland waterway (IWW) transport, it has been assumed that the rate of complaints in maritime and IWW transport will be similar to that reported for air transport.

Given that the number of passengers embarking and disembarking in European sea ports or IWW ports is calculated between 398 million (Eurostat), and 511 million (ShipPax information)<sup>111</sup>, the number of complaints from passengers is estimated below.

	A	B		D	E
	Passenger port accesses	No of trips (60% of A)		Complaints per passenger	Total number of complaints
<b>1st scenario (Eurostat)</b>	398 000 000	238 800 000		0.0044%	10 507
<b>2nd scenario (ShipPax)</b>	511 000 000	306 600 000			13 490

*Source: PwC analysis of Eurostat (2005), NEB (2007)*

Accordingly, we expect that the number of PRM complaints to be handled per year will be between 10 507 to 13 490. We further estimate that the designated NEBs will have to employ at most 7.6 FTEs to handle these complaints (not even one employee per Member State). Given that the average labour cost of an FTE employee in the public administration in the EU-27 was €32 600 per year in 2004<sup>112</sup>, the total cost of employing 7.6 extra FTEs will be €249 800.

<sup>110</sup> European Commission DG TREN: “Review of Regulation 261/2004”. The report was prepared by Steer Davies Gleave (February 2007).

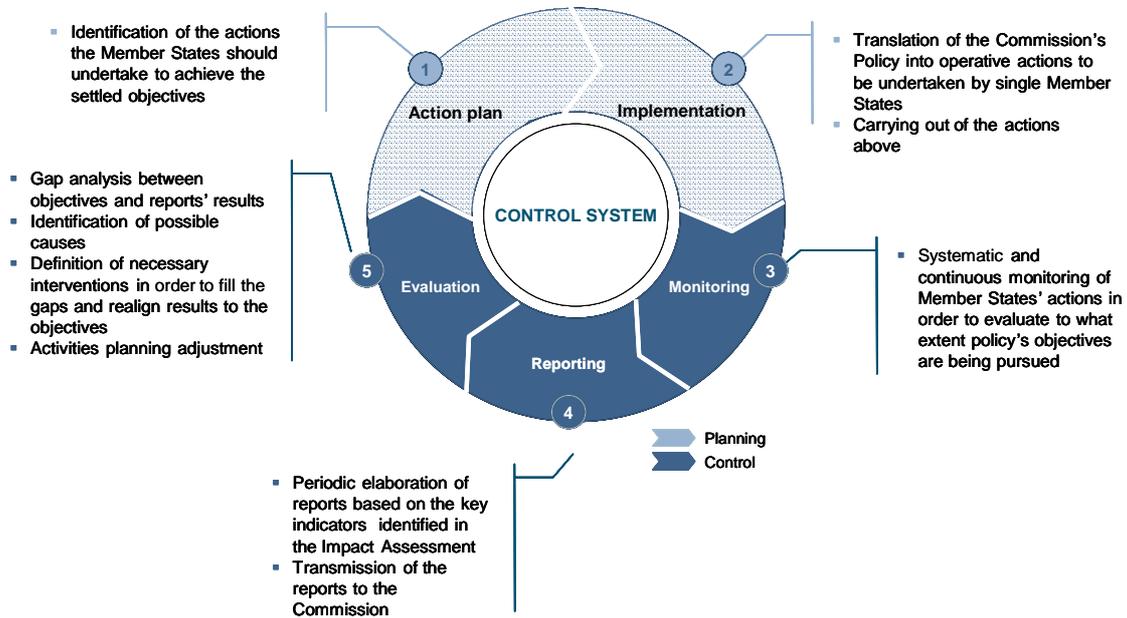
<sup>111</sup> Source: DG TREN. These figures duplicate trips by considering both embarking and disembarking. It has therefore been assumed that the actual number of passenger trips could be 60% of the estimated traffic figures (60% rather than 50% because extra-EU transport is not double-counted).

<sup>112</sup> Eurostat Labour Market Survey (2004)

## Annex 12

### Monitoring and evaluating system process

Table 2 Monitoring and evaluation process



Source: PwC analysis of EU Impact Assessment guidelines

## Annex 13

### The influence of PRM measures on ticket fares: The United Kingdom experience

#### UK Disability Discrimination Act 1995

In 1995 the UK adopted the Disability Discrimination Act (DDA), which aims to eliminate discrimination against disabled people. The duties on service providers under Part 3 of DDA 1995 have been introduced in three stages:

Since 1996 it has been unlawful for service providers to:

treat disabled people less favourably than other people for reasons related to their disability.

Since October 1999 service providers, have been required to take reasonable steps to:

change any practice, policy or procedure which makes it impossible or unreasonably difficult for disabled people to use a service; and

provide an auxiliary aid or service which would enable disabled people to use a service.

Since 1 October 2004 service providers have been required by law to take reasonable steps:

to ensure that any physical feature that makes it impossible or unreasonably difficult for a disabled person to use a port should be removed or altered or a reasonable means of avoiding it should be provided.

1. As indicated in the table above, most of the investment by industry operators to comply with DDA 1995 was needed by the end of 1999 and by October 2004.
2. Table below and Figure 1 show the fluctuation in the consumer price index for passenger transport services by sea and inland waterway in the UK and EU-27, taking 2000 as the reference year.

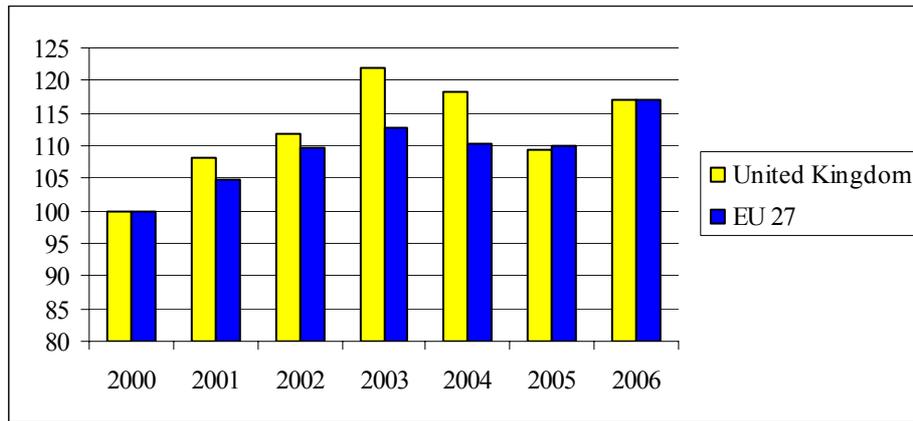
*Consumer price index for "Passenger transport by sea and inland waterway" in the UK and EU-27 (2000 = base year)*

	2000	2001	2002	2003	2004	2005	2006
United Kingdom	100	108.1	111.8	122.1	118.1	109.3	116.9
EU-27	100	104.9	109.6	112.6	110.4	110.1	116.9

*Source: PwC analysis of Eurostat harmonised indices of consumer prices (2007)*

3. As shown in Figure 1, prices for these types of transport services increased more in the UK than in the EU-27 for the period until 2003. After 2003, prices decreased more rapidly in the UK than in the EU-27. Finally, it is very interesting to note that in 2006 the prices for maritime passenger transport services were 16.9% higher than in 2000, with no difference between the UK and the EU-27.

*Figure 1 Consumer price index for "Passenger transport by sea and inland waterway" in the UK and EU-27 (2000 = base year)*



Source: PwC analysis of Eurostat harmonised indices of consumer prices (2007)

4. Price variations for a specific transport service can be explained by many exogenous factors such as inflation, oil price fluctuation, labour cost, or development of new technologies. However, over the six-year period considered, all the above factors are likely to have had a similar influence on both the EU-27 market and the UK market, which is a part of it. Therefore, it can be deduced that the extra costs borne by UK terminal and ship operators in order to comply with DDA 1995 did not result in any significant increase in ticket fares.

## Annex 14

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