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COMMISSION OF THE EUROPEAN COMMUNITIES

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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**

***Summary of the Impact Assessment***

{COM(2008) 816 final}  
{SEC(2008) 2950}

## **SUMMARY**

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

#### **Organisation**

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 to establish a legislation granting passengers general rights. It focuses on the main areas of concern highlighted by the Commission in its policy documents, namely: the rights of persons with reduced mobility (hereinafter referred as to PRMs); quality of service; assistance and compensation to passengers when a travel is interrupted in the event of delay or cancellation; the right to information; and non-discrimination issues.

#### **Consultation and expertise**

In 2005-2006, DG TREN commissioned an independent study that examined the current level of protection of passengers rights in the EU maritime transport sector that were being affected by disruptions. The European Commission also launched a public consultation in 2006. The conclusion for both of these actions was that there should be 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 border.

### **2. PROBLEM DEFINITION**

#### **The problems for PRMs as passengers**

A large majority (79%) of the citizens living in the European Union consider that being disabled is a disadvantage. There is a clear consensus across all Member States (91%) that more should be done, and more money needs to be spent, on improving accessibility. In transport services, the rights of PRMs cannot be limited to accessibility of means of transport, as they also include non-discrimination, seamless assistance throughout their journey and information.

#### **The problems of the maritime sector for EU passengers**

Effective protection of the rights of the passengers when travelling by sea or inland waterway affects the entire maritime sector: i.e. national traffic, intra Community traffic, international traffic and cruise ship traffic.

The opening up of the market has not had the anticipated effect of raising the quality of standards and services, including better passenger rights and user-friendly means of settling disputes. Passengers, who have to cope with different procedures and deadlines, depending on the company, need to be able to avail themselves of common procedures in order to express their dissatisfaction, where necessary. The lack of common procedures isolates passengers and prevents them from expressing their dissatisfaction when they need to do so.

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

- There is a lack of uniformity regarding the extent and depth of passenger rights protection.
- There is no common framework regarding immediate and predefined solutions in the cases of cancellation and delay.
- Passengers in general and PRMs passengers in particular are not informed in case of a critical event.
- Potential discrimination against PRMs exists as well as lack of dedicated facilities in maritime transport.

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

The number of passengers using maritime transport is increasing 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. In 2006, the annual total number of maritime passengers for the countries considered was estimated at 199 million, of which nearly 60% in national traffic, 35% in intra-Community traffic and the remainder being split between international and cruise travel. The total number of PRMs in EU-27 was around 136.2 million persons in 2005<sup>1</sup>.

## **Does the EU have the right to act?**

Passenger protection, and in particular the protection of the most vulnerable groups of passengers, is part of the internal market and the common transport policies of the European Union. The single market is deemed to be established when consumers and 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 transport and rail transport sectors<sup>2</sup>. Moreover, a proposal for a Regulation on the rights of passengers travelling by bus and coach is currently in inter-service consultation.

Passengers and industry need a common set of principles governing liability across all modes of transport: liability in case of accidents; information and quality protection of disabled people and persons with reduced mobility; assistance and reimbursement in the event of delay and cancellation.

## **3. OBJECTIVES**

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

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<sup>1</sup> PwC analysis of data from Eurostat and One-Stop-Shop for Accessible Tourism in Europe (OSSATE): "Accessibility Market and Stakeholder Analysis".

<sup>2</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.

## **4. OPTIONS**

### **"Business as usual" (Option 1)**

No action whatsoever is being undertaken at EU level, and the existing situation, with its divergent national and international laws, is being perpetuated.

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

Another option that could be envisaged is regulatory action at EU level, as this is binding and immediately applicable. 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. Such an EU act would:

- Establish rights regarding PRMs: accessibility in ports, assistance in ports and on board ships, and information requirements
- Establish rights for passengers when travel is interrupted in the event of cancellation or delays
- 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.

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

In this scenario, the EU regulation is confined to promoting a common "soft-law" framework for the Member States. This soft-law framework would be based on best practices and would provide a benchmark for national laws to enforce the rights of passengers when travelling by sea and inland waterway.

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

The efficiency of voluntary agreements in passenger transport is highly debatable: the 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 very limited success of agreements of this type.

## **5. ANALYSIS OF THE ECONOMIC IMPACT**

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

Operators, ports, administrations and local authorities bear no additional costs under this policy option. However, they could ultimately lose out, as no additional traffic would come their way. Without measures in favour of passengers travelling by boat, passenger numbers are not likely to increase.

A further impact on operators, ports, administrations and local authorities in the EU and outside the EU is the cost due to discrepancies between national laws.

## **Option 2: Community legislative intervention**

### **(1) Cost of measures as regard PRMs**

An acceptable level of accessibility in ports can be achieved at minimal cost to operators whenever a terminal is subject to a major refurbishment, or is newly built.

As regards the cost of assistance in ports, the only costs that may need to be borne by ship operators will be for training courses. Carriers are already required to provide training courses for their personnel on “assistance on ships”. The estimated yearly cost for training front office employees is about €2.9m. Nevertheless, in the interest of improving awareness, back office personnel might also be required to attend these training courses. In this specific case, the additional cost has been calculated at about €1m.

Information obligations can be considered to be a minor cost, as this item can be added as part of other information already produced / disseminated by operators.

### **(2) Cost of measures when travel is interrupted in the event of delay or cancellation**

The actions oriented towards defining compensation schemes and towards providing information to make passengers aware of their rights are unlikely to involve excessive costs, although this is hard to predict. Nevertheless, the effects on revenue and profits are likely to be insignificant; moreover the impact on the competitiveness of Community companies should be slight, as all operators involved in the sector would be covered.

### **(3) Costs deriving from the obligations to provide information**

It does not appear that the obligation to provide information will give rise to any particular additional costs for the operators.

### **(4) Cost of complaint handling service and monitoring**

The process of managing the settlement of disputes is not expected to lead to any major additional economic burdens for the operators.

### **(5) Impact on maritime passengers**

The increased costs may lead either to a reduction in operating margins for ship operators or to an increase in passenger fares. Any impact on ticket fares would depend on the additional costs that ship operators would have to face.

### **(6) Impact on the tourism industry**

The measures proposed are likely to have a beneficial impact on the competitive position of EU businesses.

### **Option 3: EU coordination and exchange of best practices to enhance national legislation**

The anticipated benefits and costs deriving from the proposed measures will depend on the extent to which EU Member States commit to adopting national rules, and to enforcing them. A positive impact on the tourism industry is expected where national measures apply. However, potential additional revenues from tourism would be lower than under option 2, since services would be fully accessible only in Member States that fully adhere to the EU recommendations.

### **Option 4: Voluntary agreements**

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

## **6. ANALYSIS OF THE SOCIAL IMPACT**

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

Passengers' confidence in other modes of transport, based on rights already approved at Community level, would turn into mistrust if maritime transport refuses to provide passengers with this minimum level of uniformity, clarity and effectiveness as regards their rights. Negative social consequences could eventually lead to job losses and a lack of integration of the elderly and the disabled.

### **Option 2: Community legislative action**

Passengers travelling by sea and inland waterways will benefit as a result of an improved quality of service. They will also have the benefit of assistance if they experience inconvenience during the journey.

As regards additional employment in ports, an increasing number of passengers travelling by ship may necessitate extra staff in ports and passenger terminals. The potential number of additional employees to be hired in ports would be approximately 176 400 in the most conservative case. Additional employment in the tourism sector could vary from nearly 12 000 to over 24 000 FTEs.

### **Option 3: EU coordination and exchange of best practices to enhance national legislation**

Under this option, the likely benefits and costs will depend on the level of commitment on the part of the EU Member States in adopting and enforcing the new rules.

### **Option 4: Voluntary agreements**

The likely benefits and costs will depend on the level of commitment by operators in adopting passenger rights, accepting them if they are adopted collectively, and in any event respecting them in practice.

## **7. ENVIRONMENTAL IMPACT**

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

If maritime transport fails to meet passenger expectations passengers are likely to express their dissatisfaction by opting for an alternative mode of transport where one is available. Freight transport by ship is eight times less polluting than transport by air, which can be considered to be the only alternative transport solution. The environmental cost of the "no action" option is therefore considerable.

### **Option 2: Community legislative intervention**

A significantly better quality of services for passengers would increase the demand for maritime transport. If the number of passengers were to increase, the main effects would be to increase average load factors and to allow better management of the existing European fleet. However, if the number of maritime transport services was to increase, this would have a marginal positive impact on the environment, as most new passengers would be coming over from other (more polluting) modes of transport.

### **Option 3: EU coordination and exchange of best practices to enhance national legislation**

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

### **Option 4: Voluntary agreements**

Maritime services are not expected to improve. The outcome would be similar to Option 3 above.

## **8. ADMINISTRATIVE COST**

The entity responsible for enforcement and monitoring of the proposed rules and for dealing with complaints would be very similar in terms of the scope of its activity, tasks and structure to the one designated by each Member State to enforce the "Regulation on International Rail Passengers' Rights and Obligations"<sup>3</sup> or the "Regulation on Air Passengers' Rights".<sup>4</sup> The experience already gained in air transport is therefore very valuable in this case. The total predictable cost would be some €68 000 for the EU.

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<sup>3</sup> COM(2004) 143.

<sup>4</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.

## **9. COMPARING THE OPTIONS**

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.

Judging by the example of other transport modes, it is apparent that a real improvement in passenger protection can only be achieved at EU level. While the benefit for passengers is evident, harmonising basic rights also confers a considerable advantage on the transport industry operating in a single market. Piecemeal national rules enshrined in disconnected pieces of legislation and contracts tend to generate adaptation costs and restrict the geographical flexibility of operators to make use of staff and means of transport.