

**Summary of contributions received by the Commission
in response to the Commission Staff Working Paper**

***“Strengthening the protection of the rights of passengers travelling by sea
or inland waterway in the European Union”***

DISCLAIMER

The summary of the consultations does not express the position of the Commission, neither does it commit the Commission, nor should it be assumed that it will be the position taken by the Commission following this consultation process.

TABLE OF CONTENTS

INTRODUCTION	3
GENERAL COMMENTS	5
THE NEED FOR REGULATION.	9
PASSENGERS WITH REDUCED MOBILITY	19
DEALING WITH COMPLAINTS AND MEANS OF REDRESS	26
INTEGRATED TICKETING SYSTEMS	32
INFORMATION	33
QUALITY OF SERVICES	35
THE ROLE OF PORTS	37
PACKAGE HOLIDAYS	38
DISCUSSION FORUM	38
Annex I.....	40
List of Member States and other stakeholders that submitted contributions	40
Annex I I.....	43
Some examples of legislation regarding maritime transport and PRM in the Member States	43

Introduction

In its White Paper "*European transport policy for 2010: time to decide*"¹ the European Commission envisaged the establishment of passenger rights in all modes of transport.

In its Communication of 16 February 2005 on strengthening passenger rights within the European Union², the Commission announced its intention to consider whether the protection already enjoyed by air passengers should be extended to other transport users, with particular reference to the protection of persons with reduced mobility (PRMs). To this end, the Commission undertook to examine the best way of improving and guaranteeing the rights of passengers travelling by sea or inland waterway in the European Union.

Accordingly, the Commission launched a public consultation of Member States and other stakeholders in January 2006, focusing in particular on the following two considerations:

- a) protection of the rights of PRMs during a journey by sea or inland waterway;
- b) protection of the rights of passengers particularly in the event of denied boarding, interruption, delay or cancellation of a journey by sea or inland waterway.

Taking due account of all types of maritime transport³, the aim of this consultation was to enable interested parties to express:

- their views on whether the broad lines 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 to make them.

The consultation has now been concluded and this document contains a summary of the responses to each of the questions asked in the consultation paper.

The Commission received **46** responses to the working paper, from:

- National authorities (17),
- European maritime passenger operator organisations (3),

¹ COM(2001) 370 final.

² COM(2005) 46 final.

³ Domestic traffic, including inland waterways, shipping inside and outside the Community, and tourist voyages/cruises.

- National maritime passenger operators (10),
- User organisations, apart from those representing PRMs (7),
- PRM organisations (7),
- Other organisations (2)

Among these responses, 10 were from EU-wide organisations.

General comments

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 Convention⁴). 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. Although the Commission did not receive contributions depicting the situation in every Member State, it can be assumed that the others are no exception to the general rule of differing levels of passenger protection.

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 great 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 less purchasing power than air passengers, 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 agree that a minimum level playing field is necessary. As a general rule, the former see limited need for regulation at EU level, whereas the latter call for extensive rights for passengers, and even more so where PRM passenger rights are concerned.

⁴ Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, and its 2002 protocol.

Most of the replies received from governments of Member States or regional governments support the further strengthening of protection in the maritime sector. Many responses coming from all stakeholders (operators, Member States and consumer associations) underline that a balance between consumer protection and business interests should be sought.

It is worth pointing out that 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. Broadly speaking, ferry companies serving urban and interurban maritime routes and international organisations in the field of urban transport urge the exclusion of their services from any text regulating the rights of maritime users. Cruise operators and associations tend to request a similar exclusion.

Similarly, it can be seen from all the answers that there are no agreed common definitions of certain "critical events" in maritime transport, as is the case in air transport for denied boarding, long delays or the principle of assistance, for example. It is also clear from the answers that neither the Member States nor the operators, apart from 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 seem not to be conscious of, or do not value in the same way, the difficulties passengers are confronted with in such cases. This lack of information also helps to explain why, as mentioned in the reply by one consumer association, maritime passengers are generally unaware of their rights. This could be the reason why few complaints are recorded by operators.

Operators mostly argue that there is no real need for regulation on these issues, stating that there are specific rules concerning passengers' rights for maritime journeys, at least when they are part of package travel (Directive 90/314⁵) or when the Athens Convention⁶ is applicable; that the current status quo is sufficient and adequate; that any improvement in the situation should be dealt with by the companies through voluntary agreements or the exchange of best practices.

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 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.

⁵ Directive 90/314/EC of 13 June 1990 on Package Travel, Package Holidays and Package Tours.

⁶ Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, and its 2002 protocol.

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

Unlike in the air transport sector, where companies keep record of all events encountered by passengers, very few data are available on denied boarding 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. Most PRM and consumer associations 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. In contrast, most operators consider that the situation is constantly improving. There is at least a consensus on the fact that information targeted to 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.

Regulation 1107/2006 on the rights of passengers 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.

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 journey⁷ who want to claim their rights. Exercising 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 are made regarding the practicalities of such a redress system. 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 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 that this is unnecessary.

⁷ i.e. long delay, cancellation of journey, lost or damaged luggage or car, lack of assistance, etc.

With regard to the information provided to passengers on their rights as well as the quality of services, all consumer and PRM associations, as well as a majority of Member States and regional authorities, welcome the proposal for a charter of passengers' rights and the establishment of some quality standards, to be published or reported to a national authority by companies. PRM associations insist that all information on tickets, charters, onboard notices, etc. must be always provided in adequate and accessible formats so that all PRMs can have real access to the information. Operators disagree to a certain extent on the need to establish a charter or define any standards. If any measures are to be taken, they consider that they should be dealt with by the industry through voluntary agreements, whereas consumers believe that only a regulatory approach can ensure that they will be successfully applied.

Most respondents also welcome the principle of including scheduled shipping routes in integrated ticketing systems, although a number of contributions underline the difficulty of introducing this in practice — or indeed point out that such systems already exist.

Last but not least, most if not all contributions agree on the principle that there should be an exchange between shipping companies and consumer organisations, including those representing PRMs. Views are more contrasted as to whether a forum should be formally set up for this purpose, to define more clearly the problems of passengers travelling by sea and possible ways of dealing with them.

The responses to each of the groups of questions listed in the questionnaire attached to the consultation paper are summed up below.

The need for regulation.

Question 1

Protection of the rights of passengers in the European Union should be governed by the same principles whatever the mode of transport used, subject to the requirements of each mode of transport. Do you:

- fully agree**
- agree to some extent**
- disagree to some extent**
- totally disagree**

with this statement.

The majority of respondents fully agree with the statement in this question.

There is unanimity among consumer associations and PRM organisations 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 frontier. It is underlined 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 for their rights.

Those Member States that replied to the consultation also support the statement. Two replies agree to some extent, while insisting on the need to take into account the kind of ship, the length of journeys and the principle of proportionality. Only one regional answer disagrees, considering that ferry companies that cover commercial routes should be treated differently from those that cover lifelines or subsidised routes.

The large majority of maritime operators and their professional organisations agree, either totally or to a certain extent, with a minimum level of protection for passengers' rights regardless of the mode of transport. The general comment is that, while the principles should be the same, the particular characteristics of each mode and type of service should be fully taken into account. Several answers also stress that regional differences cannot be ignored. The influence of bad weather, which is greater for maritime transport than for rail or air transport, is underlined.

The Commission has only received two negative answers, one from a tour operator and travel agency association, the other from a ferry company. They consider that the current legislation is sufficient. They think that the differences among modes of transport are such that it is very difficult to apply similar standards.

Question 2

2.1. Passengers travelling by sea should enjoy a clear, standard level of protection which applies equally to:

- a) travel between Member States;**
- b) travel within a Member State;**
- c) international travel;**
- d) short- and long-haul travel;**
- e) passengers travelling on package trips.**

Do you:

- fully agree**
- agree to some extent**
- disagree to some extent**
- totally disagree**

with this statement.

All the consumer associations that answered agree unanimously on the need to apply a single standard of protection to all the forms of travel mentioned in the question. Only one respondent outside the European Union agrees to some extent, since it would like to see passengers travelling on package trips excluded from the scope of such standard protection.

Member States are also in favour of establishing a simple, standard level of protection, though which takes into account the differences among the five forms of travel listed in the question. Again, only one country outside the European Union agrees to some extent, since it wishes to exclude passengers travelling on package trips as well as domestic transport, explaining that its maritime domestic transport is more urban or interurban in nature than maritime as such.

Operators and their associations agree, either fully or to some extent, with the application of the same standards to all forms of travel, but insist that this should take into account the differences between them (kind and size of ship, length of route, etc).

One national association considers that the classification in the questionnaire is not relevant. They propose a new range of categories to replace the 5 categories in the questionnaire. These definitions should be based, among other things, on the nature of the service offered, on the distance covered, on the frequency of services available and on the possible alternatives (e.g. transport between two Member States can be shorter than via a national route).

The Commission has received two partially negative answers, one from a ferry company providing estuarial transport and another from an international organisation representing waterborne urban transport. They consider that the urban (and suburban) transport sector should not be covered by any text regulating passenger rights, irrespective of whether the services are maritime or inland waterway services.

The Commission has received three partially negative answers, one from a consumer association from a country outside the European Union, another from a cruise company, and a third from an international travel agency and tour operator organisation. They wish to exclude passengers travelling on package trips from the scope of any future text on this issue.

Question 3

The following table shows four different ways of protecting the rights of passengers travelling by sea. Please indicate your attitude towards each of them by ticking the appropriate box.

Please give a brief explanation to justify your preferences.

	Very negative	Negative	Positive	Very positive
Binding agreements in the context of the international maritime organisations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Regulations at EU level	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
National regulations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Voluntary agreements between companies and/or ports	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

All consumer associations take the view that regulation at EU level is the best way to protect passengers' rights. Binding legislation is the only way these rights can be properly enforced. From their point of view, self-regulation is not a solution.

All the Member States who answered this question accept the need for regulation. The majority prefer to seek regulation at Community level. Two countries consider that international agreements are better tools for regulating this issue, with EU regulation as the second choice. Voluntary agreements are considered to be a negative option.

A large majority of operators and their associations, on the other hand, would prefer, if need be, to self-regulate through voluntary agreements. In general, operators tend to consider that voluntary agreements would allow them to broaden their customer services and develop best practice. From their point of view, voluntary agreements are more flexible and are better suited to the diversity of the sector. For the majority of stakeholders in this category, international regulations are the second-best choice. However, it should be pointed out that most of the international operator associations consider further regulation unnecessary, since companies have already implemented regulations and certification procedures. The cruise sector considers that passenger rights are extensively covered by the EU Package Directive (90/314/EC). There is therefore no need for new regulation.

Question 4:

4.1. Can you provide the Commission with figures for and examples of boarding denied by shipping companies?

The large majority of respondents claim not to have data or statistics regarding denied boarding by shipping companies. Neither the public authorities nor the operators have ever recorded such cases. Consumer associations acknowledge the same lack of data. However, all stakeholders admit that there are indeed cases of denied boarding, although they differ in their assessment of the number, the reasons and even the definition of denied boarding cases.

Concerning the definition of denied boarding, a lack of consensus on the definition to be used emerges from the answers received. From the operators' point of view, refusal to sell a ticket or provide a service should not be considered as denied boarding. Consequently, they consider that cases of denied boarding are rare or non-existent. The replies of consumer and PRM associations indicate that the definition of denied boarding should include the refusal to sell a ticket to a certain kind of person, a PRM or foot passenger for instance, and not be limited only to those cases when a ticket has been delivered. If places are available, companies should be compelled to sell a ticket and to provide a service to whatever person asks for it, unless there is a regulation that justifies objectively and clearly such a refusal. From their point of view, therefore, denied boarding cases are not so rare and deserve the Commission's attention.

On the consumer side, the general feeling seems to be that there are a high number of cases of denied boarding and of overbooking, even though they cannot provide figures but only examples. A European consumer association mentions that in Greece, during the summer season on 2005, there were huge problems with denied boarding because of overbooking.

PRMs appear to be a very vulnerable group where this issue is concerned. Operators put forward safety or security reasons to deny them boarding, without clearly specifying which regulations hinder them from taking them on board. Some companies deny PRMs the right to travel unless accompanied by non-disabled people, to ensure that they can follow the normal safety/security instructions. PRM associations also report that disabled persons have been denied boarding because the company could not assure the transport of their equipment in safe conditions. Blind people face not being allowed to embark with their guide dogs. Other answers mention the impossibility of boarding because of the absence of adequate assistance and the impossibility to get information in accessible formats.

Since Member States do not record any kind of data on the issue at stake, they have provided very little input on this question. Only a couple of answers mention safety and security reasons (transport of hazardous materials, drunken people, non-presentation of documents, etc), or public health (advanced pregnancy, cardiac problems, etc) as possible reasons to deny boarding.

On the operators' side, the general comment is that there is no need for further EU regulation, since problems with overbooking or denied boarding in maritime transport are non-existent or very rare. The only answer that expands on the matter, from a big operator organisation, mentions the same safety/security or public health reasons, or

cases where reservation is defective or inadequate. From their point of view, it is one thing to restrict a service to a certain kind of passenger, or not to offer a service, and quite another to deny boarding. Therefore, if a ferry line decides not to offer a "foot passenger" or "passenger with bicycle" service, and only offers a service for "passengers with cars", they should not be obliged to accept foot passengers.

Where interurban maritime transport is concerned, one operator explains that in many cases their ticket is part of the general transport pass for the city. The respondent points out that cases of passengers staying ashore because the boat is full and waiting for another due to arrive within a few minutes are not the same as denied boarding. In situations like this, it is also impossible to keep a register of passengers. As for delays, which are usually far less than an hour, there should be no penalties, as bus delays are not sanctioned either.

4.2. Can you provide the Commission with figures for and examples of cancellation by shipping companies of a planned journey where cancellation was not justified by weather conditions?

As for the previous question, respondents have no data to provide to the Commission, since neither the Member States nor the companies, apart from very few exceptions, have ever kept track of cancellation cases and the reasons for those cancellations. Some cases are reported, however.

The main reason for cancellation of a planned journey by shipping companies where not justified by weather conditions is technical problems. This is typically a ship breakdown following e.g. an engine failure or fouling of a propeller. It can even be a flood or a fire on board.

More generally, the following reasons are mentioned:

- technical reasons;
- safety;
- security;
- problems in ports (e.g. non-availability of a berth);
- strikes or social action;
- political conflicts.

One respondent underlines that social actions or problems in ports are not the responsibility of the operators, so should not give rise to compensation.

A PRM association regrets that disabled people do not receive adequate information and assistance in such cases.

4.3. Can you provide the Commission with figures for and examples of long delays compared with the published timetable?

As for the two previous questions, respondents claim not to have any data to provide, even though it is generally admitted that companies do not always respect the posted timetables. Ministries and the large majority of companies have never compiled this type of information. As is the case for denied boarding, the answers clearly indicate that a common definition of 'long delay' is needed. One operator association suggests that such a definition should depend on the different duration of trips, and that delays should be measured by comparing the scheduled time of arrival and the actual time, since a long delay at departure is sometimes made up during sailing. When long delays do occur, however, the same reasons as for cancellations are advanced: technical reasons, weather reasons, port problems, etc.

Consumer associations come up with examples. One complains about operator inaction. It states that throughout an entire season, ship breakdowns, not repaired by the company, led to long delays without any compensation for passengers. PRM associations again stress that disabled people do not receive adequate information and assistance in such cases.

On the operators' side, some respondents particularly stress the weather factor, as atrocious conditions leading to delays are quite frequent in winter and in the countries of northern Europe. Some ferry companies claim that operators are seldom responsible for delays and that they then generally propose an alternative solution under interoperability agreements.

It also pointed out by another shipping company association that "mutual validity" agreements between carriers, common in the EU ferry sector, allow passengers to take a ship from another company when their original ship is delayed. As a result, the ship may be delayed but not the passengers.

4.4. Do you think that passengers travelling by sea should receive proper assistance in the event of denied boarding, cancellation of their journey or a long delay, as provided for in Regulation (EC) No 261/2004 on air transport (right to make a telephone call, right to receive food and drink, right to a hotel, etc.)?

Yes

No

The issue of the provision of proper assistance in maritime transport as in Regulation (EC) No 261/2004⁸ received mixed responses.

⁸ Regulation (EC) No 261/2004 *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* (cited below as Regulation (EC) No 261/2004).

Many answers from all categories of stakeholders agree on the principle. However, some respondents suggest some adjustments due to the particularities of the maritime transport sector. They also stress that any future regulation should be effectively implemented.

From the consumers' point of view, there is unanimity on the need for proper assistance and on the use of Regulation (EC) No 261/2004 as a benchmark. One individual answer and one from a consumer organisation suggest that any future maritime text should avoid the shortcomings identified in practice regarding Regulation 261/2004, such as the difference between long delays and cancellations, which should be eliminated, or the failure of operators to apply the regulation without any real consequence.

One PRM organisation considers that the shipping company should be liable for delays in providing assistance at the port or on board the boat which lead a passenger with a disability — or any other PRM passenger — to miss the departure or miss a connection on arrival. In such cases, shipping companies should bear any additional cost of accommodation, transport etc.

All the Member States responding to this question give a positive reply. However, one Member State nevertheless insists on the difference between air and maritime transport and the need to respect the proportionality principle. One country outside the European Union suggests excluding domestic transport and the cruise sector from the application of any future scheme.

The large majority of operators and operator associations oppose the idea of establishing any rules on proper assistance to be provided to passengers. They believe that the current legislation is sufficient. Some respondents also fear the increased financial burden of providing such assistance, which will translate into higher fees for passengers.

One operator organisation considers that the kind of assistance prescribed by Regulation 261/04 is not appropriate to the circumstances of ferry passengers. Where their passengers do face a long delay or cancellation, the assistance should be appropriate to the circumstances of the ferry service and the needs of the passenger. They think such assistance should not be regulated, but left to the ferry companies deal with in accordance with their own standards.

Some operators that support the idea of proper assistance under an EU regulation mention that the industry already has established some standards. Examples mentioned by a cruise association include the repatriation of passengers where necessary and compensation for cancellations. However, they admit that, while these are industry standards, there is no obligation to comply with them.

One respondent, although supporting the idea of better assistance, is uncertain as to whether this should be achieved through regulation.

Where interurban maritime transport is concerned, as with the previous questions, one international operator organisation asks for the exclusion of urban and interurban maritime transport from any text regulating assistance to be provided to maritime passengers.

One international association thinks that if a regulation is adopted, only ship owners should be subject to the obligations it imposes.

4.5. Do you think that financial compensation similar to that provided for in the case of air transport should apply to the maritime transport sector in the event of denied boarding or cancellation?

Yes

No

The responses to this question can be clearly divided into two groups. On one hand, consumer and PRM associations as well as Member States support unanimously the idea of financial compensation in the event of denied boarding or cancellation. Some even insist that long delays should be regarded as cancellations and therefore compensated as well. In contrast, most of the operators are against such an initiative.

All the answers received from Member States are in favour of compensation. One Member State favours the proposal because it considers that the hardships suffered by maritime transport passengers are indeed similar to those suffered by air passengers. Another Member State thinks that compensation should be calculated with regard to the price of the tickets, which are cheaper in maritime transport than in air transport. One local authority suggests that compensation should be provided except in cases of "force majeure" (e.g. extreme weather, industrial action, strikes).

On the other hand, all operators oppose the idea of regulating financial compensation. Some of the answers state that compensation is already provided by some companies and that it varies from one company to another due to the diversity of the ferry sector. Operators underline the need to leave this issue to the companies themselves.

Some operators indicate that they already have their own system of dealing with complaints and providing compensation. For instance, one operator offers alternative sailings without charge or refunds if the passengers decide to travel via another mode of transport. Discount vouchers are also issued for travel with the company within a year. Another has a customer support department to deal with these issues. One operator states that it does even more in the event of cancellations or delays. Its practice is to contact passengers by phone or e-mail when their travel is affected by delays or cancellations. Updated news is also available online every 30 minutes. Refreshment vouchers are issued on a regular basis depending on the delay.

Another answer states that compensation is given in cases where it has been proven that the carrier or its employees or subcontractors have been negligent or have not respected the contract.

For a large majority of respondents from all categories, compensation should consist in the refunding of the ticket and the provision of an alternative mode of transport.

One respondent believes that denied boarding or cancellations are not the responsibility of the operator (weather conditions, technical difficulties). Therefore no particular financial compensation should be provided.

Cruise operators believe that the provisions of the Package Directive on this topic are comprehensive and that there should be no further regulation.

4.6. If you have replied “yes” to the above question, what, in your view, would constitute exceptional, unforeseeable circumstances which could justify

exonerating a company from liability in the three abovementioned cases (denied boarding, cancellation and long delay)?

There is a consensus amongst all categories of respondents as to the reasons that could justify exonerating a company from liability in cases of denied boarding, cancellations and long delays.

Reasons put forward are:

- Weather conditions;
- Acts of terrorism or war;
- Reasonable safety considerations;
- *Force majeure* (natural disasters for instance);
- Strikes on ships or in ports;
- Unforeseeable technical difficulties concerning the ship or the port;
- Same reasons as for air transport;
- Any factor out of the control of the operating companies.

Consumer and PRM associations underline the need to provide assistance and alternative solutions to passengers in such events, even if companies are not obliged to compensate them.

At the same time, one of them raises the issue that bad weather is usually foreseeable and should not therefore be considered in all cases as *force majeure*. In its view, shipping companies should use all means of communication currently available to inform passengers of a delay before they set off for the port.

4.7. If you are in favour of financial compensation, what sums, in your view, would be most appropriate in the case of maritime transport to compensate for damage caused by denied boarding and cancellation?

Respondents in favour of financial compensation, in all categories, mostly suggest applying a system similar to air transport as set out in Regulation (EC) No 261/2004. As a minimum, they recommend that the compensation should cover the price of the ticket and that alternative transport should be offered.

One consumer association believes that the amount of compensation should be sufficiently high to constitute an incentive for maritime operators to provide a quality service. Amounts should be then decided on the basis of the duration of the journey and on the length of the delay.

One Member State suggests that passengers should have their tickets refunded and money for a stay at a hotel, a phone call and a small amount depending on the length of the journey. One regional respondent considers that all reasonable costs should be compensated, not only the price of the ticket.

One tour operator and travel agency association, not keen on the idea of a compensation system, suggests that compensation should be half of that granted under Regulation

261/2004. It should depend on the ticket price, which should be the maximum paid to the passenger.

Another ferry company states that it currently provides compensation in the form of discount vouchers valid for one year for any future travel with the company.

4.8. Do you think that different ceilings should be set depending on whether the transportation provided is maritime transport by inland waterway, domestic or international maritime transport, or a cruise?

Yes

No

All the answers favour different ceilings depending on the characteristics of the transport, even though a majority indicate that the ceilings should be based on criteria other than the national, Community or international nature of the route, as suggested in the question.

Even those answers opposed to the idea of compensation offer some reflections on possible ceilings. From the answers received, two main suggestions emerge regarding the criteria for ceilings: one is that they should be determined depending on the distance of the journey, while the other calls for ceilings to be based on the price of the ticket.

Other suggestions are to base the ceilings on the length of the trip and on the possible provision of alternative transport. Some respondents think that the cost and nature of the services offered should also be taken into account in fixing the ceilings.

As for all the previous questions, a couple of answers point out that short sea journeys are equivalent to bus or metro trips, so no compensation with or without ceilings should be provided in such cases.

Geographical location is also mentioned as something to be taken into account, since there are proportionally more delays and cancellations in some Northern European countries, due to their bad winter weather.

One operator association reminds the Commission that both compensation and the determination of ceilings should be on a voluntary basis.

The Commission has only received one negative answer, from outside the European Union, which considers that compensation should be the same for all kinds of maritime routes.

Passengers with reduced mobility

Passengers with reduced mobility (PRM) should never find themselves in the position of being refused to be carried or given a reservation because of their reduced mobility. They should be guaranteed appropriate assistance, wherever they are going and whatever mode of transport they are using, so that they can travel with confidence, both through ports and on board ships, throughout the European Union.

Furthermore, as far as information about a journey is concerned, they should receive full information about access during all parts of their journey, and access should be optimised as far as possible. Lastly, the application of these four principles (non-discrimination, access, assistance and proper information) should not entail any additional cost for such passengers.

Question 5

5.1. Do you:

- fully agree
 - agree to some extent
 - disagree to some extent
 - totally disagree
- with the above statement.**

The majority of respondents, including all Member States and local authorities who replied, fully agree with the above statement. They recognise that any legislation should be founded on the above-mentioned principles and that information and assistance for PRMs should be enhanced.

A few Member States have launched national initiatives with the consultation of interested parties, leading to the production of guidance principles⁹. However, the few national statutory frameworks that already exist remain inconsistent and patchy across Member States within the EU¹⁰. The objective of such schemes is to reduce the social exclusion of PRMs. One Member State asserts that the availability, affordability, accessibility and acceptability of public transport services are key issues.

One Member State particularly insists on the need for an EU regulation regarding the issue of PRMs in maritime transport in order to address the current weaknesses of EU and international legislation. For instance, Directive 2003/24 of the EP and Council of 14 April 2003 on safety rules and standards for passenger ships only covers certain

⁹ See Annex II.

¹⁰ See Annex II for examples of regulations in the United Kingdom and Ireland.

categories of domestic passenger vessels, i.e. steel-hulled and high-speed craft. Similarly, IMO circular MSC/Circ 735 of 24 June 1996 contains recommendations for international vessels only., Consideration therefore needs to be given at EU level as to whether mandatory standards for international vessels should be put in place.

PRM associations also firmly support enhanced protection of PRM rights. One insists on the need for many additional requirements, not only relating to safety and physical access to ships and ports but also relating to attitudinal and information barriers and the lack of assistance for disabled people in the sector. Passengers would also enjoy greater security when travelling in Europe, since they would know what basic standards to expect in maritime transport. Binding legislation would be the relevant tool in order to reduce inequalities and harmonise applicable rules.

The non-discrimination principle is also widely supported in many answers from PRM associations, which argue that PRMs should not bear any additional costs for the special services they receive. One respondent even adds that PRMs should benefit from reduced tariffs on account of their physical or mental condition and also because of their frequent need to be accompanied. New legislation at EU level would help reduce the discrimination faced by disabled passengers.

Many operators, and one Member state, agree more or less with the objective of better social inclusion for PRMs through access to maritime transport. But they express concerns as to the practical implementation of this principle, based on three different considerations.

Firstly, a large proportion of operators argue that it might be irresponsible for an operator to carry disabled persons for health or safety reasons. Some contributions underline that the very nature of maritime travel can make it difficult, or even dangerous, to provide access in some situations, such as an emergency evacuation. They raise the point that occasional derogations should therefore be allowed. One operator also suggests that the carrier should have the right to make acceptance of a reservation for a PRM conditional upon the presence of an accompanying person.

One operator also states that cruise companies should take PRMs only where they are sure that their health and safety is not at risk. In addition, companies are normally unable to offer 'personal care' to passengers such as assistance with washing, dressing or getting in or out of bed. In each case, they must assess whether the cruise will be suitable for the PRM. The respondent stresses that cruise operators successfully carry large numbers of PRMs, many of whom are frequent passengers.

Secondly, technical constraints are also put forward. Depending on the size of the ships, it might be impossible to include PRM-adapted devices in all cabins. Moreover, the variety of forms that "reduced mobility" may take may make it impossible to meet all the needs of disabled persons. But one operator states that boats are already equipped for the needs of PRMs. One Member State also recommends taking into account that many ships are old and that it could be economically and technically impossible to adapt their cabins or spaces to the needs of disabled people.

Thirdly, many operators simply consider that no further regulation is needed. According to them, *Directive 2003/24 of the EP and Council of 14 April 2003 on safety rules and standards for passenger ships* and, at international level, the *IMO Guidelines on the Design and Operations of Passenger Ships to respond to elderly and disabled needs*

provide for sufficient protection measures for PRMs. The policy of the International Council of Cruise Lines (ICCL) on cruise ship accessibility for persons with disabilities and the *American Disabilities Act* are also mentioned as useful guidelines for the maritime sector.

In this context, operators stress the importance of good dialogue between PRMs and companies prior to each trip. Each party has a role to play: information must be provided by the company, but passengers must notify their needs in advance. One operator recommends that PRMs should inform the ship owner of the nature of their disability so that the latter can do everything to welcome them under optimum conditions. Ship owners should design ships in order to encourage optimum reception and ensure the complete safety of PRMs. However, ports also have to be equipped with the infrastructure needed for the embarkation and disembarkation of PRMs.

5.2 Can you provide the Commission with figures for and examples of denied boarding or the refusal to sell a ticket to passengers with reduced mobility?

Very few data are available on denied boarding or the refusal to sell tickets to PRMs in maritime transport. Accordingly, the perceptions of the different contributors as to the real dimension of the problem vary significantly.

Most operators assert that cases of denied boarding on account of reduced mobility are very rare, and argue that those rare cases are justified by health reasons. One operator states that security, safety and inadequate reservation can justify a denied boarding. In the worst case scenario, the boarding of an earlier or later ship more adapted to the physical constraints of the disabled passenger can normally be proposed.

In contrast, a number of PRM associations consider that cases of denied boarding do occur. Here, most PRM associations stress the inadequate assistance or the lack of information in accessible formats. They also underline the frequent refusal to let guide dogs come on board or enter facility areas, constraining blind people to stay ashore or in their cars once embarked. One Member State reports a deaf person being denied boarding because it was dangerous to let him travel independently. Another national authority raises the issue of access to ships and terminals, which are often inadequate for wheelchairs and therefore impede autonomous boarding.

Following court cases on account of denied boarding based on the refusal to allow guide dogs to embark, one Member State has obliged the operators active on its territory to change their policy in this area. As a result, guide dog owners may now be accompanied by their guide dogs throughout the passenger areas of vessels, with a number of caveats.¹¹

¹¹ At the reservation stage, guide dog owners must confirm that they will provide any drinking and eating bowls for the crossing; the general requirements for pets must be fully satisfied by guide dogs in exactly the same way as for canine pets; no more than 2 parties accompanied by a guide dog are accepted for any particular sailing; in addition to a guide dog, all visually impaired passengers, including foot passengers, must be accompanied by a competent sighted adult.

5.3. Do you consider that the assistance given by shipping companies and ports to the various kinds of persons with reduced mobility and the access to ports and ships are sufficient?

- Yes
- Sufficient in some cases
- No

Most PRMs and consumer associations believe, with Member States and national authorities, that the assistance given by shipping companies and ports to PRMs and also the access to ports and ships are partly or wholly insufficient. However, the majority of operators consider that they are constantly improving their performance.

The first category of respondents consider that assistance needs to be significantly improved. All ships and port facilities should be adapted to the needs of PRMs. Assistance should be seamless and adapted to the specific needs of each person, who should be the one to decide what kind of assistance he or she needs.

Some contributions give concrete illustrations of these principles. Assistance when boarding the ship, way-finding assistance at the port, communication of information given to other passengers, assistance with customs and security procedures, assistance to move to and within port facilities are suggested. One PRM association advocates the presence of sign-language interpreters and adequate technical assistance, as the specific needs of deaf people are mostly not taken into account. Another PRM respondent suggests flexible tickets at standard prices for passengers who need more flexibility when travelling, due to disability. Many answers underline the need to allow the transfer of all the equipment or material necessary for the independence of the disabled person, and that compensation should be given where such equipment is damaged.

The need to train staff in order to develop disability awareness and expertise is also mentioned. For instance, ferry staff should receive training in ways of dealing with cars on garage decks: quite often, parking places in boats do not allow wheelchair users to get out of their cars. According to one Member State, some operators have already put in place effective arrangements, such as special training for crew in disability awareness and assignment of the role of "Disability Officer" to the Customer Support Manager.¹²

The second category of respondents (i.e. operators) admit that assistance can be improved, but considers it to be sufficient.

One operator mentions that assistance is provided with luggage, boarding and disembarking, and information is given in the format needed. Another stresses that sufficient assistance is provided under existing law, especially *Directive 2003/24 of 14 April 2003 on safety rules and standards for passenger ships*. A third recalls that assistance can be improved only as far as is reasonably practical. The age and type of port facilities and ships need to be taken into account. Some respondents also underline

¹² This is in addition to the fact that some ships and ports have been adapted to the needs of PRMs so that now all public decks can be reached by lifts and can be accessed by wheelchair users; disabled washrooms are available throughout vessels, and ports operate coaches with wheelchair access, have made all their facilities accessible to wheelchair users, and have installed disabled washrooms.

that when ships are replaced or refurbished, new elements are normally included in their design and new onboard amenities are added. Current assistance standards will thus be enhanced over time.

The issue of adequate facilities in ports is raised as well. Operators consider that there is no point in adapting vessels if PRMs cannot access them because the necessary port infrastructure is not in place.

5.4. Do you think that the information provided by shipping companies and ports to persons with reduced mobility about assistance and access during all parts of the journey, and the means by which this information is provided, are sufficient?

- Yes
- Sufficient in some cases
- No

There is some degree of consensus on the need for improvements on this point.

PRM and consumer associations consider that information is not sufficient. They stress the importance of information accessible to everyone in the most suitable formats. One PRM association calls for all important information to be communicated in the format requested by each individual passenger. 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. When information is provided on tickets, it should be available, upon request, in alternative accessible formats.

These associations also underline that information should be made available not only well ahead of the journey, but also during all parts of the trip. Information should be provided in advance about accessibility on board and in ports and about assistance on departure or arrival. One consumer association states that cruise trip brochures should give details of the services offered to disabled persons in the towns where the boat stops, in order to allow a minimum autonomy of movement.

Operators agree that the information provided could be improved, especially with the development of information and communication technologies. It is an ongoing issue for companies. Again, ports have a key role to play.

Member States also consider that information is sufficient only in some cases.

5.5. Do you think that the information and the means by which it is delivered (recording, written text, website, etc.) could be improved?

- Yes
- No

Most if not all respondents consider that information and the way it is delivered can be improved.

The main issue raised is access to information through formats adapted to various disabilities. In any event, information must be clear, concise and unambiguous in order to allow informed decisions regarding trips. It should be exhaustive as well: one PRM association states that the provision of information should cover, for example, accessible internet booking, information related to departure and delays, route changes, way-finding at terminals, and information and documentation provided at ticket selling points.

In this regard, quite concrete recommendations are made, partly in connection with emergency procedures:

- Port installations and ships should be equipped with visual and audible means of communicating information;
- All printed information should be available in alternative formats such as large print and Braille and should be in plain language supplemented with pictorial content;
- During the journey, safety announcements should also be made available in written form so that a person who is deaf will have access to the information; such announcements should be included with all tickets so that deaf persons will be aware of them in the event of an emergency;
- A Braille version of the ship map should be made available at the reception area so that those who are blind or partially sighted can find out where to go in the event of an emergency;
- Systems with adapted telephones facilitating communication in sign language and writing should be installed;
- Information should be provided in various languages;
- One consumer association suggests that tickets should be issued together with relevant information for PRM passengers, such as a list of hotels situated in the places of stopovers, including phone numbers or a description of port services.

Operators argue for more widespread use of the internet especially for non-domestic travel. One recommends that new information and communication technologies should be utilised in order to improve customer services. Another stresses the need to increase the dialogue between maritime ports and companies on assistance and information for PRMs in order to improve coordination. Some operators are already committed to improving their services, based on international guidelines. For example, one company's website has a dedicated section for passengers with a disability and its “Passenger Department Procedures Manual” includes a special procedure for disabled persons. Its ships also have signs at the information desk requesting those passengers with a disability to ask a crew member if they require any assistance.

5.6. Do you agree that the additional costs of these measures should not be borne only by persons with reduced mobility themselves?

Yes

No

What system for financing these additional costs do you think would be most appropriate?

A very clear consensus can be found among respondents: the additional costs of accessibility and assistance measures should not be borne solely by PRMs.

For PRM associations, such costs should be shared among all passengers or borne by the shipping companies themselves as part of their service to customers. In this regard, one PRM association points out that disabled passengers have often to pay both for themselves and a personal assistant. Additional, discriminatory costs are sometimes also charged for guide dogs. Generally, operators also favour including accessibility and assistance costs in the basic ticket price.

A number of Member States call for the costs to be paid by operators, ship owners and port authorities. One Member State recommends that the costs incurred in terminals should be paid by port authorities, the costs of fitting new ships should be paid by ship owners, and the costs for older ships should be divided between ship owners and public funding. One local authority suggests that they should be financed by each operator through cross-subsidies based on profitable routes.

Finally, some other respondents suggest for maritime transport a system similar to *EC Regulation 1107/2006 of the 24 August 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air*. Such a system leaves it up to companies to either cover the cost themselves or to pass it on to passengers.

Dealing with complaints and means of redress

If passengers are inconvenienced during a journey (long delay, cancellation of the journey, lost or damaged luggage or car, lack of assistance, etc.), legal action to claim their rights may be too expensive, too slow or too complicated for this to be a satisfactory solution.

Exercising these rights must be made as simple as possible. The best possible protection of passenger rights will allow for fast, transparent, flexible and straightforward out-of-court procedures for settling disputes.

Question 6

6.1. Do you agree with the above statement?

Yes

No

A very large majority of respondents agree with the above statement.

However, several suggestions are made regarding the practicalities of the system to be put in place. 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.

Operators generally agree with the above statement in principle, since recourse to legal proceedings can be long and expensive for both customers and carriers. However, some respondents recall that the maritime carrier's responsibility in the event of damage to a passenger's luggage or vehicle and the compensation of passengers in the event of accidents are already governed by the *Athens Convention*. They therefore insist there is no need for further regulation. Moreover, they fear the development of a claims culture, leading to an additional burden on maritime companies.

One local authority proposes that the management of claims should remain in the hands of the entities concerned — i.e. the transport companies and ports¹³. One respondent also supports the idea of providing for out-of-court procedures on a voluntary basis rather than by regulatory means.

One consumer association proposes that maritime companies should put in place an in-house complaints mechanism which is fair, transparent and effective. Maritime

¹³ The treatment of claims could then be in two steps: a claim relating to denied boarding, trip cancellation or delays could first be put to the ticket selling office; if no agreement is reached, the person would then have to present a formal claim to the company, with the right to receive an answer within a specified time. A claim concerning negligence in the delivery of luggage or material goods or concerning the quality of service should be presented by the passenger to the ship's commander, who should then guarantee resolution of the dispute within a certain time.

companies should also sign up to an alternative dispute resolution (ADR) body, to which passengers should be referred to if they remain dissatisfied. Any ADR body must fully comply with the principles set out in the Commission recommendations for such bodies.¹⁴ In one Member State, an association has set up a national office specialised in tourism and transport whose aim is to allow tourists to defend their rights at little or no cost.

Some Member States have already established alternative systems for the resolution of disputes. In one Member State, passengers who have complaints regarding their trips can turn to the general consumer organisation, which is a state-owned authority providing free mediation services. Its decisions are not binding, but are generally respected. If a party contests the verdict, it can still go to court.

One PRM association states that there is a need for the systematic handling of complaints. It asserts the importance of consistent procedures and complaint handling across the European Union, in order to create a transparent system and to make customers more aware of their rights when travelling by maritime transport across the European Union. A common complaint handling system should therefore be set up.

A PRM respondent suggests that the system should be organised along the lines of *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*. There is also a need for effective sanctions in the event of failure to comply with the legislation.

Several respondents also favour this third solution, and recommend that the procedures for settling disputes should not exclude the possibility of going to court if the out-of-court procedure proves to be unsatisfactory. One Member State suggests that a small claims tribunal should be able to deal with complaints and provide redress.

6.2. Do you know of any voluntary means currently offered by shipping companies to settle disputes quickly? If so, can you provide information about how they work?

Yes

No

Operators are the only respondents that are aware of and provide information on voluntary means offered by shipping companies for quick, cheap and informal dispute settlement. Most if not all other respondents do not know of the existence of any such system.

According to operators, most of the systems in place follow the guidelines of the *EU Package Directive (90/314)*, which obliges, in its Article 6, the organiser, retailer or local representative to make prompt efforts to find appropriate solutions in cases of passenger

¹⁴ Commission Recommendation 98/257 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes, and Commission Recommendation 2001/310 on the principles for out-of-court bodies involved in the consensual resolution of disputes.

complaints. Normally, complaints are dealt with in the first instance between the parties concerned — i.e. the passenger and the customer department of the company. If no agreement is reached, formal procedures are then initiated. Some other operators have organised procedures for dispute settlement on the basis of certification procedures in the maritime sector (ISM certification codes, ISO certifications)¹⁵.

When no agreement can be reached between the parties, the members of one operator association take the dispute to a low-cost conciliation scheme, where an independent lawyer delivers a written non-binding judgment on the basis of written submissions by both parties. The last step is an arbitration scheme operated by an official body, whose judgment is binding.

One operator also asserts that no new legislation is needed given the efficiency of the system in place: according to it, 99% of complaints are handled without recourse to law.

One Member State is currently conducting some research to assess the complaints procedure against ship operators in the context of PRM rights. In addition, it has drafted a plan on transport accessibility for PRMs, and proposes that all operators should put in place adequate complaint and redress structures.

6.3. Regulation (EC) No 261/2004 requires the Member States to ensure and supervise general compliance by air carriers with the Regulation and to designate an appropriate body to carry out the enforcement tasks. It provides, through these control bodies, for a mechanism for dealing with complaints without going to court.

Do you agree that Member States should provide for means of redress similar to those that exist for air passengers, in particular a national body for handling complaints and providing means of redress?

Yes

No

A very large majority of contributors support the idea of creating a national body for handling complaints and providing means of redress. Only operators are opposed to such a system.

Operators consider that a national body would be too bureaucratic and not cost-effective. They also believe that there is no need for regulation on this issue, since the procedures in place at company level are efficient enough. They support the option of leaving it up

¹⁵ Several operators state that they have put in place the following procedure: complaints may be addressed to the company either on board or subsequently via the customer relations department. In the latter case, the passenger has to present the complaint in writing (e-mail or letter) or inform the customer relations department by telephone, providing receipts or other documentation where possible/relevant. It is then for the company (normally the customer relations department, or occasionally its legal counsel) to investigate the complaint in cooperation with the vessel, terminal and department involved, possibly also discussing the matter with the insurer. The passenger is informed of the outcome within a reasonable time frame, normally in writing.

to operators to establish the system that is most suitable for them in order to handle complaints and provide means of redress.

For consumer associations, proper enforcement of passenger rights is crucial. While welcoming any move by the industry to raise its own standards through self-regulation on this matter, one consumer association agrees with the idea of a national body, and would be satisfied if passenger rights were ultimately protected by statutory enforcement mechanisms. One respondent argues for such bodies to incorporate passenger representation in order to ensure a focus on consumer needs throughout the European transport sector. Consumers also insist on the need for any new body to assert its independence and be given the appropriate resources to carry out its tasks. The same efficiency concern is behind the proposal of one consumer association to have national bodies supplemented by a complaint handling body at EU level¹⁶.

Several PRM associations are also in favour of a system comparable to the one established by *Regulation (EC) No 261/2004* for air carriers. However, the enforcement of such a system needs to be assessed in order to avoid potential problems or weaknesses in its functioning.

Member States also welcome a complaint handling system based on national bodies. One considers that a new or existing body should exercise a regulatory function to ensure compliance with regulations on the part of those providing services in the shipping industry. It adds that it is equally important for all passengers to have proper access to a national complaint body in order to get advice on redress when travel goes wrong. One proposal states that such a body should not be limited to complaints about denied boarding, cancellations or delays: all kind of conflicts between passengers and companies should be handled.

One suggestion is for Member States to have a choice between a centralised body and separate regional bodies, i.e. some maritime administration branches. One respondent stresses that the cost of such a body should not increase the overhead costs of sea transport operators and companies. Accordingly, it must be funded by Member States and not by operators.

6.4. If you replied “no”, what other means would you suggest for settling complaints and giving passengers means of redress while guaranteeing a satisfactory level of uniformity and transparency?

Very few suggestions have been made on this point.

One operator recommends that the internal procedures in place should be retained since they are satisfactory. Moreover, it states that homogeneity cannot be an objective in itself: situations that can give rise to redress are different, and different maritime companies have different commercial policies.

¹⁶ Such an EU body would resolve matters that national complaint mechanisms have failed to resolve, promote best practice throughout the EU, ensure resolution of complaints where no appropriate national mechanism exists, resolve differences of opinion between national complaint bodies and monitor and compare the performance and experience of national complaint bodies.

6.5. Do you think that consumer and passenger organisations have a role to play in handling complaints and providing means of redress?

Yes

No

PRM and consumer associations, Member States and local authorities are very much in favour of granting a role to consumer and passenger organisations in complaint handling. Operators are more reluctant to accept such a solution.

PRM associations consider that they provide great support in defending passenger rights because they help raise awareness and provide initial assistance in the event of complaints, often at low cost, and also contribute to improving standards.

One consumer association believes that extrajudicial conflict resolution promoted by consumer associations is the best way to solve conflicts: the associations protect passenger rights, but can also contribute the minimum financial investment necessary to resolve disputes. These organisations can also promote the education of consumers, inform them in advance of their rights and obligations and avoid unfounded claims by focusing on real problems. They should also be adequately represented within the alternative dispute resolution (ADR) mechanism utilised by the service provider.

It should be noted that one Member State has already put in place such a system, where a public consumer organisation and a general complaints board monitor consumer rights, give advice and handle consumer-related issues.

However, operators are not convinced that consumer and passenger organisations should play a role. Most operators argue that complaint handling and the provision of redress should be matters dealt with directly between the passenger and the operator. Some respondents consider that the involvement of consumer organisations is likely to hinder the normal speedy resolution of complaints: consumer organisations should limit their role to the publication of reports on the services offered by maritime transport companies.

6.6. Do you think that companies should publish an annual list of complaints received, broken down by the subject of the complaint and how it was resolved?

Yes

No

This question drew contrasting answers. Most PRM and consumer associations, but also local authorities, are in favour of the publication of an annual list of complaints and solutions. In contrast, most operators and a number of Member States consider this unnecessary.

Respondents who favour such a solution consider that such a list would be very valuable for consumers as it would increase transparency (allowing them to compare the performances of different service providers and choose the service best adapted to their needs) and develop competition, since the companies concerned would probably do their best to avoid complaints and would handle such cases properly. The experience in one Member state shows that the publication of key performance indicators by transport operators is a key tool in improving performance.

One Member state recommends that complaints from PRMs should be identified separately, which would help in assessing the accessibility of services. Solutions to accessibility problems could influence potential customers in the use of ferry and shipping services, with an added value to industry in the form of a possible increase in patronage.

Respondents who oppose the obligation to publish such a list argue that this should be done on a voluntary basis. Many answers indicate that, for companies, keeping records of complaints and how they were resolved is useful for ongoing self-assessment and improvement.

It was also stressed that a definition of what constitutes a complaint needs to be agreed.

Integrated ticketing systems

It should be simple for passengers to combine different modes of transport for a journey, but the conventional way in which transport is organised (mode by mode) makes it by no means easy to change from one mode of transport to another in the course of a particular journey. Passengers are all too often discouraged from combining different modes of transport for the same journey and encounter problems in obtaining information and ordering tickets if a journey involves different modes of transport.

Question 7:

What are your views about including scheduled shipping routes in integrated ticketing systems?

Most respondents welcome the principle of integrated ticketing, although a number of contributions underline the difficulty of introducing it in practice — or indeed point out that such systems already exist.

PRM associations consider that integrated ticketing is crucial, and one Member State stresses how useful this would be especially for PRMs: they would like a seamless, integrated journey, since they frequently need to use more than one form of transport to reach their destination. Booking the tickets would also be easier.

Consumer associations also believe that an integrated ticketing system is essential in order to develop alternative or integrated forms of mobility on a sustainable basis, and would help make the use of collective transport more attractive. They recommend making the use of such a ticketing system as simple as possible, taking advantage of developments in smart-card ticketing technology. Some suggest that maritime transport companies, like air companies, should make their timetables and routes available on-line via the internet: it would then be possible to create an integrated system that combines information from various entities (air, maritime, rail) to allow passengers to try out combinations of various transport modes and choose the one most convenient for them. One respondent also points out that this could also bring about cost reductions, ultimately passed on to passengers.

However, some respondents also point to the difficulty of putting this into practice, even though they agree on the principle. Some believe that it would be a costly solution, while one considers that there should not be such a system for inland waterways. One operator states that the effort and funding needed to achieve a good, practical and working solution would be considerable. All shipping companies involved must be fully included in the discussions, and external funding made available so that the financial burden on operators / companies is not increased because of the requirement to develop an integrated ticketing system.

For some contributors, there is no need for additional policy activity in this field because systems that provide integrated ticketing already exist. One respondent indicates that combined tickets covering travel by train and by ferry are available on routes where the two modes connect, and provides a comprehensive overview. For international traffic,

such tickets are governed by the COTIF Convention (*Convention relative aux transports internationaux ferroviaires*). For domestic national journeys, the contracts for carriage on the Member State’s railways usually apply. Combined tickets are also available for travel by coach and by bus. Tickets issued by Eurolines (the European Express Coach Network) for journeys that involve a sea crossing include travel by ferry. For local ferry services, ticket features depend on the local transport authority — but, in general, combined tickets covering ferries, buses, trams, and trains are available where one authority operates all modes of transport. Separate tickets are always available for passengers who want them. One Member State indicates that the shipping companies of its country provide combined tickets and organise themselves the transport to and from ferry terminals.

Information

Question 8

8.1. Do you think that sufficient information is provided on tickets for journeys by sea about the contractual terms of the journey, the fares, etc.?

Yes

No

This question received mixed answers.

Most consumer organisations, especially PRM respondents, think that the information provided on tickets for journeys by sea is insufficient. Most of the critics from PRM associations focus on the lack of information in an accessible format for disabled persons. Others state that the information provided is simply not sufficient, without commenting on what kind of information should be added. It was pointed out by one consumer association that a balance should be struck between need to have easily available information and the argument that tickets should only carry the essential information. Accordingly, the respondent suggests the widespread use of electronic tickets.

Many Member States consider that the information provided is sufficient. They stress that the size of tickets makes it impossible to furnish more information and that customers do not want large tickets. Passengers who desire more details can always turn to port terminals and operators or ask on vessels. One Member State recommends that transport providers should be obliged to display contractual information in a prescribed manner setting out the complaints procedure in ports and on board.

Most operators consider that the information provided is sufficient. They underline that the information given fulfils the requirements of current Member State legislation. It is also pointed out that the industry is moving towards "ticketless" operation, so there is no point including more information. However, some operators agree that the quality of information could be improved.

8.2. Do you think that a charter of passengers’ rights summarising the main rights of passengers making a journey by sea would be a good way of providing passengers with more information about their rights?

Yes

No

The majority of respondents welcome the proposal for a charter of passengers' rights.

Many respondents in all categories underline that a charter of passengers' rights would improve clarity and awareness for both passengers and ferry operators. Information given in this way appears to some respondents more accessible than information printed on tickets. Such a charter would therefore raise the attractiveness of maritime transport for consumers.

It is suggested by consumer and PRM associations that the information should be provided in accessible formats for disabled people and displayed in ships and ports in the same way as the air charter is displayed in airports. This information should be publicised widely in ports, public places and the internet. It is also strongly recommended that the charter should be accompanied by accurate and updated information on timetables.

Some respondents support the idea that the charter should be the subject of consultation and scrutiny, not only by operators and Member States but also by users' organisations.

One Member State thinks that if passengers' rights are standardised and harmonised in the EU then a charter will help to improve information.

Those opposed to a charter, mainly operator associations, often stress the variety of the ferry sector as an obstacle to the practicability of a single charter. They believe the current legal and insurance framework works well.

Quality of services

Question 9

9.1. Do you think it is necessary to draw up service quality standards for journeys by sea?

Yes

No

Do you think such quality standards should be laid down:

in the form of regulations,

on a voluntary basis

This question received mixed answers.

Consumer and PRM associations are generally in favour of quality standards whereas operators are reluctant. Member States are divided.

The supporters of quality standards believe that these would help to inform passengers in advance of what they might expect, and would encourage a better service.

Those opposed to the establishment of quality standards argue that they will depend on the type of voyage, the length of the route, the price of the ticket and the classification and size of the ships, so it is not possible to establish a set of standards common to all maritime transport.

Generally, most consumer and PRM associations support regulation to establish these standards. In contrast, operators recommend introducing them on a voluntary basis.

Many respondents from all groups think that the definition of quality standards should be left to market forces. One Member State considers that competition will force out of the market those companies that do not meet certain standards.

9.2. In your view, what indicators should be used to monitor the application of these standards?

Punctuality

Cleanliness

Whether luggage and cars are properly managed

Whether passenger facilities are in good condition

Whether enough information is provided and is easily obtainable

Whether there is proper access for persons with reduced mobility and adequate information is provided to them

Safety

Others (please specify):

Most respondents consider the above list appropriate, including some of those which consider that no standards should be officially set.

However, inclusion of the following new standards is also suggested:

- Booking facilities;
- Access to ports and city centres;
- Quality of terminal facilities;
- Level of communication with passengers ashore and afloat;
- Data on user satisfaction;
- Data on complaint handling procedures;
- Refunds for non-compliance with quality standards;
- Data on the number of long delays and cancellations;
- Possibility to access information in an adequate format for disabled passengers;
- Special aids and assistance for PRMs;
- Provision of staff training in disability issues.

One Member State suggests establishing a special body to analyse these indicators.

One operator association points out that some issues are regulated either at national level (for instance, information and accessibility for PRMs) or via certification procedures (for instance regarding safety issues). Any standard should comply with the requirements of current legislation.

9.3. Should companies inform the public about how they meet these quality standards through reports based on these indicators?

- Yes
 No

The consumer associations are unanimously in favour of the publication of reports. They state that this will help promote good and responsible performance towards passengers by operators. It is stressed that they should be made available in formats suitable for disabled people.

Member States are split. One Member State recommends that these reports should be drawn up by independent bodies. Another Member State believes the reports should be published on a voluntary basis but points out that this should not be over-prescriptive, so as not to discourage the emergence of small-scale operators.

Those opposed to reports, mostly operators and some Member States, consider that there should be no obligation to publish them.

The role of ports

Question 10:

The proposal for a regulation on the rights of passengers with reduced mobility travelling by air currently being discussed by the EU’s legislative bodies gives airport authorities a major role in providing services for passengers with reduced mobility. Do you think that ports should provide the same kind of services for passengers with reduced mobility travelling by sea?

Yes

No

Views on this issue vary significantly, although a consensus emerges around the idea that ports clearly have a role to play in providing specific services to PRMs.

Many answers underline that standards in many ports are currently not adequate. Any initiative by EU institutions to standardise PRM-related facilities is welcome. Different management is necessary for PRMs, since their limited autonomy makes it difficult for them to physically get to the assistance services (desk etc.) they need.

One Member State considers that the obligation to adapt ports to PRM needs is the responsibility of port authorities, since they are responsible for running the ferry terminals. According to one respondent, port authorities must in all cases adapt their port installations, sanitary services, waiting rooms, lunch counters etc. in order to provide and guarantee a good service to passengers waiting to board.

Some experience has already been gained in some Member States¹⁷. One port authority states that, for scheduled RO/RO ferries, the port infrastructure can deal with PRMs thanks to vehicular RO/RO ramps and elevated passenger walkways linking directly to the vessel. However, the situation is different for tourist voyages (cruises): it is very unlikely that access will always be available for PRMs given the range of different sizes of cruise ships, which moreover may show up at the port only once during the season.

A number of respondents express reservations regarding a regulation similar to that for disabled passengers travelling by air.

They agree on the principle that ports should have a key role in assisting those people, as airports do. Ports should also arrange to adjust their infrastructure to allow PRMs access.

However, these respondents argue that port situations vary depending on the traffic and on the proportion of passengers arriving by foot. They also stress the different characteristics and variety of ports throughout Europe, which implies that the scale of ports should be taken into account. Some ferry ports (especially those serving domestic services) are nothing more than jetties or ramps with little shore-side infrastructure. Provisions valid for the air transport system cannot be transferred wholesale to ports. One Member State considers that port authorities should limit themselves to providing

¹⁷ Cf. for instance Annex II.

the basic infrastructure required and ensuring that operators have put in place the required facilities.

Package holidays

Question 11:

For the purposes of the questions in this consultation paper, should the same principles, measures and compensation apply to tourist voyages (cruises)?

Yes

No

The question received mixed answers.

Most respondents agree that the same principles should be applied to tourist voyages. More specifically, one respondent supports the idea that they should apply regardless of the type of maritime transport used, the aim of the trip or the nationality of the passenger, as long as the maritime transport is within the EU or is provided by a European transport operator.

However, many answers recall the specificities of the cruise sector in comparison to the ferry sector, notably as regards tours on inland waterways, canals and rivers, which differ from trans-Atlantic and inter-continental cruising.

A large proportion of respondents also point out that tourist voyages are already regulated at European level by *Directive 90/314/CE on Package Travel, Package Holidays and Package Tours*. Some therefore declare that further regulation is not needed. Others simply stress that if a new EU regulatory text is to be adopted, it should be coherent with the existing one. One consumer association states that these principles should apply to the cruise industry only if they do not affect the implementation of the standards governing the liability of operators offering tourist packages as set out in Directive 90/314/CE.

Discussion forum

Question 12:

Do you think a forum should be set up for shipping companies and consumer organisations, including persons with reduced mobility, to define more clearly the problems of passengers travelling by sea and possible ways of dealing with them?

Yes

No

Most if not all contributions agree on the principle that there should be an exchange between shipping companies and consumer organisations, including those representing PRMs.

Consumer and PRM associations view such a forum very positively: they consider that it will allow proper debate.

In their view, there is clearly a strong case for mechanisms to allow meaningful consultation between operators and consumers; this should be included as a requirement in all legislation that seeks to protect passengers’ rights. Such arrangements must receive adequate funding: the nature of collective transport requires some sort of public funding of these arrangements, at European level as well. Some suggest that this forum should be established before any possible legislative measure. They consider that a forum would increase dialogue at Community level and help in assessing the need for possible legislative intervention by getting information on operating difficulties.

Some PRM associations see the forum as an important step towards the adoption of a Regulation. It is stressed that it should be set up for a very limited period of time and with a clear mandate so that future regulation is proposed after one year at the latest.

Many operators agree on the principle even though they underline that there is already considerable dialogue at national level between shipping companies and consumer organisations, including PRM associations. They also stress that dialogue with the ferry sector remains essential.

Only one Member State denies the need for such a forum, because it has already implemented such a structure nationally: a trade association bringing together operators in the shipping industry has set up a special committee on passenger issues. Some national guidance has also been produced to assist the industry in understanding how the design of large passenger ships and passenger infrastructure could meet the needs of disabled people.

Annex I

List of Member States and other stakeholders that submitted contributions

Member States

Ireland – Department of Transport

Ireland – Department of Transport – Maritime Safety Department

Latvia – Permanent Representation

Malta – Ministry of Competitiveness and Communications

Poland - Ministry of Transport and Construction

Spain – Permanent Representation

Sweden - Regeringskanliet Justitiedepartementet

The United Kingdom - Disabled Persons Transport Advisory Committee

The United Kingdom - Department of Transport

Other States

A State from outside the European Union - The Royal Ministry of Justice and Police

A State from outside the European Union – Consumer Ombudsman

European organisations

- **Institutions**

ECMT - European Conference of Ministers of Transport

- **Consumers**

BEUC – The European Consumers' Organisation

European Passengers’ Federation

- **Operators**

ECC – European Cruise Council

ECSA – European Community Shipowners' Associations

ECTAA – Group of National Travel Agents' and Tour Operators' Associations within the EU

European Barge Union

UITP - Union Internationale des Transports Publics

- **PRM associations**

European Blind Union

European Disability Forum

Local Authorities / Ports

Clyde Shipping Services Advisory Committee - UK

Department of Communications, marine and natural resources. 5 fishery harbours:
Howth, Castletownbere, Dunmore East, Rossaveel, Killybeggs - Ireland

Lerwick Port Authority – UK

Local Government and Transport Committee of the Scottish Parliament - UK

Orkney Islands Council – UK

Região Autónoma dos Açores – Portugal

Operators

Armateurs de France – France

Color Line Marine AS - A State from outside the European Union

Federation of Norwegian Coastal Shipping - A State from outside the European Union

Irish Ferries - Ireland

Northlink Orkney & Shetland Ferries Ltd – UK

Orkney Ferries Ltd - UK

Silja Line - Finland

Stena Line – UK

Transtejo – Transportes Tejo SA - Portugal

Turk Phoenix Group - UK

Consumers

- **Associations**

Consumer Council – A State from outside the European Union

Federconsumatori - Italy

KEPKA – Consumers’ Protection Centre - Greece

- **Individuals**

Olav Luyckx – A State from outside the European Union

Jan van der Schans - UK

PRM Associations

Comite Espanol de Representates con Discapacidad – Spain

Confederación Estatal de Personas Sordas – Spain

Irish Hard of Hearing Association - Ireland

Norwegian Nautical Proficiency Association – A State from outside the European Union

Spanish National Organisation of the Blind – Spain

Annex I I

Some examples of legislation regarding maritime transport and PRM in the Member States

Ireland

- Statutory Instrument no. 716 of 2004 entitled European Communities (Passenger Ships) regulations 2004, transposes this Directive (2003/24) into Irish law;
- The Disability Act 2005 requires the Department of Transport to publish a plan by July 2006 to address disabled access in the Maritime Sector. Port Authorities are required to make public findings fully accessible by 2015.

Portugal

- Decree-Law n.º349/86;
- Decree-Law n.º 210/2005 that modifies Decree-Law n.º 180/2003; Decree-Law 123/97;
- Civil Code, Republic Constitution, Consumers Defence Law, Travel Agencies Law.

United Kingdom

- Merchant Shipping Act 1995;
- Carriage of Passengers and their Luggage by Sea (United Kingdom Carriers) Order 1998;
- Unfair Contract Terms Act 1977;
- Disability Discrimination Act 1995 - Disability Discrimination Act 2005;
- Merchant Shipping (Passenger Ships on Domestic Voyages) (Amendment) (No. 2) Regulations 2004;

- Marine Guidance Note 31 (M) 1997: “Recommendation on the Design and Operation of Passenger Ships to Respond to Elderly and Disabled Persons’ Needs”;
- Marine Guidance Note 1789 (M) 2004 on Directive 2003/24/EC about Safety Requirements for PRMs on Domestic Passenger Ships;
- Marine Guidance Note 295 (M) 2005: Designing and Operating Smaller Passenger Vessels: Guidance on Meeting the Needs of PRMs.

Contacts:

Flor DIAZ PULIDO, Telephone: (32 2) 299 12 90,
flor.diaz-pulido@ec.europa.eu

Christophe DUSSART, Telephone:(32-2) 2965221,
christophe.dussart@ec.europa.eu