
 EUROPEAN COMMISSION  Directorate General for Energy and Transport	Stakeholders' meeting Results of the public consultation on the rights of passengers in international bus and coach transport Wednesday, 29 March 2006 BRUSSELS
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Brussels, 28 April 2006

MINUTES OF THE MEETING

Participants:

Mr Adam A. Amborski (Federacja Konsumentów, Poland), Ms Maiga Ancane (Ministry of Transport – Latvia), Mr Patrick Angehrn (Federal Office of Transport, Switzerland), Mr Paul Arents (De Lijn, Belgium), Mrs Valérie Baudouin (Union des Transports Publics UTP, France), Mr Marc Billiet (IRU – International Road Transport Union), Mr Vincent Cassar (Permanent Secretary, Ministry of Urban Development & Roads, Malta), Mr Daniel Crochemore (Bureau de l'accès aux professions et aux marchés, France), Mr Allan Edmondson (The Confederation of Passenger Transport, UK), Mr Geoff Finch (Department for Transport, UK), Mrs Rosario García González (Dirección General de Transportes por Carretera, Spain), Mr Ronan Goalen (FNTV, France), Mr Jon Holdt, Mr. Mike Hollingsworth (ACEA - Association des Constructeurs Européens d'Automobiles), Mr Erik Kiesow (Counsellor, Permanent Representation of Sweden to the European Union), Mr Rudolf Koronthaly (Second Secretary, Permanent Representation of Slovakia to the European Union), Mr Yllar Lainela (Öko Projekt MTÜ, Estonia), Ms Christiane Leonard (Bundesverband Deutscher Omnibusunternehmer, Germany), Ms Daniela Malochová (Road Transport Department, Ministry of Transport of the Czech Republic), Mr Andris Mamis (Association of Paneuropean Coach Terminals e.V.), Mr Yves Mannaerts (Institut belge CAR BUS, IRU), Ms Estefania Mirpuri and Ms Francesca Roman (guide) (ONCE National Organisation of the Blind, Spain), Ms Mariza Mishyna (Ministry of Transport – Latvia), Mrs Cristina Mortu (Transport Attaché, Permanent Representation of Romania to the European Union), Ms Nuria Rodriguez Murillo (BEUC), Ms Maria Nyman (European Disability Forum), Mr Jose Manuel Pardo (CTC, Spain), Mr Laszlo Polgar (Transport Attaché, Permanent Representation of Hungary to the European Union), Dr Wolfgang Resch (PEOPIL, UK), Mr Félix Van Roy (Mobilité et Transport, Belgium), Mr Martin Schiefelbusch (Nexus, Germany), Dr Christine Schmidt (Bundesjustizministerium, Germany), Mrs Katrin Stroeck (ADAC – Allgemeiner Deutscher Automobil Club e.V., Germany), Mrs Doris Unfried (AK Bundesarbeitskammer, Austria), Mr Jan Velleman (Eurolines), Mr Tarvi Viks (Association of Estonian International Road Carriers), Mr David Watson (The Confederation of Passenger Transport, UK), Mr Ulrich Weber (UITP, Verband Deutscher Verkehrsunternehmen e.V.)

European Commission: Mr Peter Faross, Mr Mariusz Daca, Mr Hein Bollens, Mr Christophe Dussart, Ms Malika Mallem, Mr Athanasios Katsandonis (trainee).

Introduction by Mr Peter Faross

Mr Faross outlined the reasons for conducting a public consultation on the rights of bus and coach passengers. In the White Paper “European transport policy for 2010: time to decide” the European Commission already envisaged the establishment of passengers’ rights in all modes of transport. Since then the Community has made considerable progress in the case of air transport (denied boarding, persons with reduced mobility and identity of the operating carrier). The proposal for a Regulation on international rail passengers’ rights and obligations is currently in the pipeline. The Commission also recently launched a public consultation on the rights of passengers travelling by sea. In its communication of 16 February 2005 on strengthening passenger rights within the European Union, the Commission presented a policy approach on how to extend passenger protection measures to modes of transport other than air. The Commission identified the following fields of action: rights of persons with reduced mobility, automatic and immediate solutions when journeys are interrupted, liability in the event of death or injury of passengers, handling of complaints and means of redress,

passenger information and other initiatives. In the same communication the Commission highlighted three main areas of concern with regard to international coach transport: 1) the rights of persons with reduced mobility, 2) liability issues and 3) compensation and assistance in the event of interrupted journeys. The Commission has committed itself to examine the best way of improving and safeguarding the rights of passengers on international coach services in the course of 2005 and 2006.

Mr Faross described the general situation of bus and coach passengers: there are no international agreements – apart from the United Nations Economic Commission for Europe Convention on the Contract for the International Carriage of Passengers and Luggage by Road (CVR), coach passenger rights are not yet covered by Community legislation - and passengers have to rely on national liability schemes, fair trading legislation and voluntary customer care commitments by operators. One specific characteristic of bus and coach passengers is that they are a low-income group. Another characteristic of this sector is the relatively limited access for persons with reduced mobility.

The Commission launched a public consultation in July 2005 based on the Commission Staff Paper “Rights of Passengers in International Bus and Coach Transport”, which contained a detailed questionnaire addressed to the Member States and other stakeholders. The Commission received 54 replies from governments of Member States (13), European organisations (13), national organisations (17), companies (9) and other contributors (2).

Mr Faross summarised the main conclusions emerging from the contributions received, which clearly indicated divergences between Member States on protection of bus and coach passengers. Many contributions drew the Commission’s attention to the specific and distinctive features of the bus and coach sector. The contributions received revealed a clear split between bus and coach operators and their associations and federations on the one hand and consumer associations on the other. Generally the former see no or only very limited need for regulation at EU level, whereas the latter call for extensive rights for passengers. One issue which is clearly of great interest is the case of persons with reduced mobility using this mode of transport.

The planned timetable for work on a possible proposal for legislation is as follows: the Commission intends to launch an impact assessment study, the results of which will be available by the end of 2006. At the beginning of 2007 the Commission will either decide to present a proposal or conclude that no legislative measures are required.

Need for and scope of Community legislation

The issue of the possible scope of any regulation, notably the services that should be covered, was discussed in depth. Many participants were in favour of excluding local and regional services. Some stakeholders argued that a distinction should be drawn between short-distance and regional commercially based services, while services covered by public service obligations should not be subject to EU legislation. The approach taken should be in a spirit of subsidiarity (UITP, VDV). This view was supported by other participants (Germany, UTP, De Lijn). The UK was in favour of excluding trans-border services over distances of not more than 50 km.

Stakeholders also argued that there is no need for legislation because coach passengers' rights are already governed by the Package Tours Directive. In Germany an estimated 80% of all journeys are part of package tours, although no statistics are available because small and medium-sized operators are not covered. A distinction has to be drawn between tourist and public transport services (RDA, Germany). The Swiss representative expressed interest in following the developments on passenger rights and support for regulating transborder services. Other participants were in favour of covering both international and national services. Ideally, as one participant put it, there should be a set of minimum rights plus regulations adopted locally and regionally (BEUC). It was pointed out that in some Member States (Poland) the level of protection of passengers remains low and that this is aggravated by the high number of passengers who are economically vulnerable (Federacja Konsumentów). Others pointed to the two different schemes for access, depending on the type of transport service – international services come under Regulation 11/98, whereas domestic services are covered by public service obligations. In the context of types of service, the issue of persons with reduced mobility was mentioned – persons with reduced mobility should have a basic set of rights (to access and information). Progress so far has not been satisfactory – some Member States have legislation, others do not (EDF). Other participants mentioned functional criteria on which the regulation should be based as far as the type of service to be covered is concerned (UITP, De Lijn, Nexus).

It was argued that it was not clear whether there was a need for regulation – it would be worthwhile to examine what percentage of bus and coach journeys are covered by the Package Tours Directive and to provide a survey of liability schemes applicable in Member States to assess whether they are similar. It was also argued that obligations concerning protection of passengers and quality of service may be included in the requirements imposed on operators with public service obligations (De Lijn, IRU). The situation in Germany was mentioned, where the majority of operators were small and medium-sized, regionally based enterprises employing an average of 10.5 persons. They have an excellent complaint-handling system. No red tape should be imposed on them (Germany).

Summary

As far as the need for regulation is concerned, basically two views were expressed: 1) there is a need for Community action or 2) it is doubtful whether there is a need – the sector is already covered by the Package Tours Directive and most services are already covered by EU rules. Mr Faross pointed out that the Package Tours Directive takes a horizontal approach and applies to other modes of transport, which are also covered by other passenger rights measures in any case.

With regard to the scope of regulation, the following views were voiced: only international bus and coach services should be regulated and a clear distinction should be drawn between long-distance and regional or local services, some of which were already covered by public service obligations while others were not.

Mr Faross asked participants to provide any statistics they had on long-distance services falling outside the Package Tours Directive.

Liability of operators in the event of death or injury of passengers

In his introductory statement Mr Faross said that there are no specific provisions at EU level governing contracts of carriage of passengers and their luggage. Coach passengers are not protected in an effective way by any international agreement on carrier liability in case of

death or injury. The United Nations Economic Commission for Europe Convention on the Contract for the International Carriage of Passengers and Luggage by Road (CVR) of 1 March 1973 has been ratified only by the Czech Republic, Slovakia and Latvia. Under these circumstances, passengers face a set of different national rules on liability and most are unaware where and how they can enforce their rights before a court. Out-of-court dispute settlement mechanisms are subject only to soft Community law (Commission recommendations 98/257/EC and 2001/310/EC).

There was broad support for the principle of harmonisation of liability schemes in the event of death or injury of passengers (BAK, CPT UK, IRU). However, views diverged on whether, and to what extent, liability should apply to luggage and mobility equipment (EDF, ONCE, CPT). A number of participants supported the idea of liability for loss of or damage to luggage (FNTV, Federacja Konsumentów). In the case of mobility equipment, staff training could reduce incidents affecting PRM. One view voiced was that a proper balance must be struck between the liability of the bus company and the liability of passengers (De Lijn). Generally there was support for unlimited liability (BEUC, IRU); however, it was pointed out that there could be problems with obtaining insurance cover for some companies. After the 9/11 attacks insurance premiums rose sharply. In some cases insurance cover on more favourable terms was provided by the State but this facility was denied to bus and coach companies (IRU). The example of Germany was quoted where the same liability scheme applies to rail and road transport (UITP). It was mentioned that a national approach is not appropriate, because operators from other Member States may not be covered (APC).

Summary

Broad support was expressed for harmonisation of liability schemes in the event of death or injury of passengers. Only one stakeholder argued for limited liability because of the specific nature of the sector. More were in favour of drawing a distinction between liability for corporal, financial or luggage damage. The Commission will look into the consequences of liability. The proportionality criterion was invoked in the context of harmonisation of liability schemes. As far as consequential damage is concerned, Mr Faross reminded the participants that unlimited consequential damage, as provided for in a proposal for a regulation on rail passengers' rights, had been rejected by the Council and the European Parliament. Mr Faross invited participants to submit further comments on how to shape a meaningful system that provides adequate protection for passengers without at the same time placing an unnecessary burden on companies.

Cancellation, delays and denied boarding

Introducing the topic Mr Faross said that passengers should be entitled to reliable services in terms of continuity and availability. When these requirements are not met, appropriate on-site assistance should be considered. Denied boarding does not seem to be a frequent problem for coach passengers, but it could be for persons with reduced mobility.

Denied boarding is, to some extent, still a problem in bus and coach transport, as reflected by a number of complaints received by the Consumers' Federation in Poland. Support was voiced for equal treatment of delays and cancellations as the consequences could be the same. Examples were given of alternative solutions for PRM where transport cannot be provided (De Lijn drivers are under an obligation to look into alternative solutions, e.g. on-call services

or taxis). In local transport boarding may be denied in certain circumstances. However, local and regional services operate with a higher frequency and discussions should be held between operators and the authorities that impose public service obligations. Some participants asked for statistics on denied boarding and feared that this phenomenon might appear in the future (BEUC). Some said that in the event of overbooking there should be an obligation to provide a replacement vehicle. Some participants believed that the issue of denied boarding was not relevant to this sector (IRU, Denmark), which was not comparable with air transport: in air transport overbooking is generalised, whereas coach operators often refund tickets in case of no-show (Denmark). Others pointed to the many voluntary schemes and comprehensive approach to consumers (Stuttgart – voluntary schemes) (UITP). Others pointed out that insurance policies were already available to cover cancellation (IRU). However, one participant said that good practice should not be confused with normal practice; there should be minimum regulation to establish good practice (Nexus).

As far as the amount of compensation is concerned, two proposals were made: mixed compensation based on a fixed amount (depending on the length of delay) and the ticket price (BEUC) or compensation in proportion to the ticket price (UITP). Some said that it might be difficult for passengers to prove a cancellation (Mr Faross explained that in air transport the burden of proof lies with the airline). A balance must be struck between compensation and safety considerations (BAK). It was confirmed that in air transport overbooking is part of a business strategy, so some minimum standards for assistance were needed (Mr Bollens).

Mr Faross asked participants whether assistance is more important than compensation. The view was voiced that passengers need both compensation and assistance; this should not include minor delays and, in exceptional circumstances, longer delays (due to road problems or weather conditions) and some delays may be expected (border checks) (BEUC). Denied boarding is indeed a problem for persons with reduced mobility, for whom hotel accommodation should be available (EDF).

It was argued that this sector is vulnerable to delays beyond the control of operators (CPT, FNTV). It was suggested that flexible solutions would have to be envisaged. Others believed that the situation would improve if compensation schemes providing a deterrent were established (BEUC). Some stakeholders maintained that compensation for delays should not be mandatory for local and regional services. Others feared that compensation for delays could undermine road safety by encouraging drivers to disregard other rules (CTC). Compensation was accepted if the operator was at fault, but most delays are beyond his control. Delays can be assessed if a vehicle is running to a timetable but it has to be determined whether the delay is caused by the operator or by other factors (border controls, road checks, etc.); delays caused by controls should be excluded from the liability of the operator (IRU).

Summary

Denied boarding is not a general problem, based on a commercial model, as in air transport. Very few remarks were made on the issue of cancellations. The issue of delays is quite complex – it could be linked to a timetable or no timetable. It is also linked to distance (local/long-distance). In the case of long-distance services participants requested the Commission to take into consideration specific sectoral factors (border controls, road traffic, safety factors, etc.). The idea of compensation in case of delay was generally accepted but on condition that it is proportionate and that the operator is at

fault. It must also be stressed that there are no internationally accepted rules on when an operator is at fault. The provisions on denied boarding should depend on the scope of any regulation. In the case of delays, the Commission was asked to act carefully and to recognise sectoral considerations.

Persons with reduced mobility

Mr Faross proposed three items for discussion: 1) accessibility of means of transport, 2) assistance and 3) the principle of non-discrimination. He reminded the participants that at EU level Directive 2001/85/EC already provides detailed technical requirements allowing easy access for persons with reduced mobility to urban buses. The question of access of persons with reduced mobility had also been investigated in COST study 349 on “Accessibility of Coaches and Long-Distance Buses for People with Reduced Mobility” and the UNIACCESS project “Design of Universal Accessibility Systems for Public Transport”.

In connection with persons with reduced mobility, the following issues were raised: the need for accessible buses and assistance; non-discrimination, which should also include training for staff; the environment, which should be adaptable to passengers’ needs; and liability for lost or damaged mobility equipment (EDF, ONCE). Others called for an anti-discrimination clause – although not all buses will be accessible, there are a number of alternative options, e.g. special buses or buses on demand. Persons with reduced mobility should notify the transport companies that they intend to travel in order to allow them to provide special buses (De Lijn). As far as assistance is concerned, there should be no extra costs to travellers; adaptation of infrastructure could be a problem, but some steps should be taken (i.e. colours of buses) (ONCE). One participant made the point that coaches might be made more accessible, but occasional services remained a problem: even if coaches were sufficiently adapted (with a ramp, etc.) a tourist location might not be accessible (FNTV). EDF suggested gradual adaptation of new vehicles; notice should be given in the interest of PRM but the period required should not be too long, so that it would not put PRM off travelling at will. The UITP considered that economic solutions have to be found, including quality for all passengers, existing infrastructure should be adapted gradually and some alternative solutions are better than local transport services. Budget restrictions rule out making infrastructure 100% accessible. The UTP pointed to the problem of infrastructure managed by a public body and not by operators; underground infrastructure cannot be adapted to the needs of PRM, but there should be services available on demand during the same hours as bus services. Placing an obligation on tourist services should be carefully considered as this is a niche in which some specialised companies already provide a comprehensive service in Germany (BDO). The APC mentioned specially equipped buses and specialist services. PRM would like to be treated as normal passengers. Training for drivers and staff is needed – the new directive on training should include a module on dealing with PRM. The CPT pointed to the potential problems if a driver were to harm a passenger or hurt himself while providing assistance. Wheelchair access to WCs is a problem. The IRU discussed the outcome of COST study 349 and expressed concern that on some journeys, where the driver is alone, an excessive burden would be placed on him (responsibility for the vehicle plus passenger care and assistance). That would require additional staff which would push up the costs to be borne by users. Since the cost of redesign of the vehicle is extremely high there is also some reluctance on the part of manufacturers to rearrange designs. The EDF said that PRM made up 10% of the population. Any adaptation would also be beneficial for elderly people. Appropriate education and equipment would limit injuries. Inaccessible infrastructure does not prevent operators from buying specially adapted buses. De Lijn informed participants that a study on urban

transport benchmarking, including benchmarks on accessibility of buses, would be available by the end of the year. Drivers are under an obligation to explain what alternatives are available and to propose solutions (bus on demand or taxi). A training programme is also under way in De Lijn.

Summary

Mr Faross summed up the discussion as follows: stakeholders asked to draw a distinction between existing buses and new ones; new buses should remain in the realm of proportionality – not 100% accessible from the beginning. The question was what would be a reasonable approach to phasing in new buses (time-scale and percentages) in the light of the interplay of supply and demand on the market. Pragmatic choices based on knowledge have to be made. Infrastructure is as important as vehicles; however, there are different addresses – operators and infrastructure managers. The question of prepared assistance was discussed – the operator needs to be given advance notice; failing that, the operator is under an obligation to make best efforts. Unprepared assistance requires trained personnel. Assistance is needed both for boarding and on board. Many problems can be avoided by appropriate training, but this is not an immediate solution. Assistance on board (either by the driver alone or with aid) should depend on distance and time. The question of cost was also raised – who should bear the cost of assistance to PRM, the travelling public or the business? All the comments had one theme in common: the disabled persons should not bear the extra cost. As far as discrimination is concerned, passengers with reduced mobility want to be treated like other passengers. The problem is becoming more and more pressing with ageing of the population (increasing numbers of elderly passengers). Finally, Mr Faross asked if there was any need for the European Commission to contact bus and coach manufacturers.

Quality standards and information obligations

Mr Faross explained the reasons for examining the issue of quality standards. Passengers should be given the possibility to make well-informed choices of coach services on the basis of their quality performance. Appropriate indicators should be developed. Should the quality standards be mandatory (and, if so, which specific indicators) and how should they be monitored? Mr Faross asked participants whether quality standards are an issue that should be covered.

The UITP believed that the local and regional standards should be left as they are. Most of the standards should be left to the operators and competition. The APC said that this could be achieved by setting just some standards and not by means of legislation. On the question of whether there were any other security issues not covered by legislation, one participant mentioned the fitting of seat belts in new models. Whole type approval will not make the legislation visible on the market for a very long time. Also the long life of the vehicle fleet should not be forgotten (IRU). The BEUC said that minimum quality standards should be developed, ideally adapted to technological progress, and that these standards should be controlled. Publication of performance by bus and coach operators is important so that consumers can make a well-informed choice. De Lijn pointed to the problem of the permissible blood alcohol content across the EU. The CTP pointed to the problem of measuring performance.

At this stage Mr Faross noted the following diverging opinions: 1) quality standards should be left to commercial solutions (competition and subsidiarity), 2) the minimum basic standards should be regulated and 3) harmonised standards should be set in a competitive environment. Performance standards need to be monitored.

Information obligations

Mr Faross proposed discussing the following aspects of information obligations: a) contractual arrangements and b) what happens if something goes wrong?

The lack of interoperability of services and information on prices was noted; this should be addressed (De Lijn). Different types of information were required (ticketing, trans-European timetable and integrated ticketing). It was stressed that the costs of software for integrated ticketing systems could be prohibitive at this stage for small and medium-sized operators (IRU). In many countries internet platforms integrate services. A whole travel chain in Germany is covered. There is no need for legislation as services are improving more and more. It is difficult to include all conditions of carriage on the tickets. There is no need for legislation. A ticket serves as proof that the fare has been paid (UITP). De Lijn reported that in Belgium work on integrated ticketing was in progress and the cost was not prohibitive; it was believed that without information and integrated ticketing passengers might be lost. The CPT objected to question 35 concerning identification of the carrier in the case of package tours as this could undermine the flexibility of the sector. Mr Faross explained that this question was inserted to reflect air safety considerations, but the difference between air transport and coach and bus services is understandable. It was mentioned that since 80% of coach operators are small and medium-sized enterprises it would not be easy to set up computerised systems. But it would make the sector more attractive (FNTV).

Summary

Mr Faross noted that three issues had been discussed: 1) information for persons with reduced mobility, 2) information on contractual terms and 3) information systems as such (improvement/establishment of computerised system for integrated ticketing and intermodality) – it was noted that the sector is made up of a large number of small and medium-sized enterprises and that it was costly to set up a common system. Experience with computerised systems for rail would have to be examined.

Complaint handling and self-regulation

Mr Faross invited the stakeholders to discuss the best ways of handling complaints in the EU: a one-stop shop set up for the purpose or an appropriate extrajudicial dispute resolution procedure to handle complaints in this area.

The BEUC advocated placing an obligation on companies to set up a transparent, fair complaint-handling system and to inform passengers about its existence. Customers should be able to complain in their own country or at any station. These systems currently vary considerably from country to country (mediation/arbitration). An arbitration system would be more effective than mediation, which is not an appropriate means to counter-balance the economic weight of operators (all it can do is to attempt to bring the two sides closer, often with no result). Two-step complaint-handling was suggested: first file the complaint with the operator's complaint-handling system, then with an independent body (arbitration). The UITP

was in favour of complaint management at the level of the operator and indicated a pilot programme in Bavaria based on unbureaucratic bodies. The DBO and VDV had set up an ombudsman's office. Most complaints were resolved at the first level (between the operator and the customer). Experience shows that only a few exceptional cases have been referred to the second level. All decisions taken at the second level, although not mandatory, had resolved the cases to the customers' satisfaction. Ticket fraud and validity are the most common issues. CPT UK thought that passengers should be encouraged to file their complaints with operators. If the operator cannot resolve them, they can go to arbitration in the UK (only two cases to date). Other participants supported the idea that it should be left to each Member State to establish the procedures since it was very difficult to have a harmonised system. Nexus supported a two-tier system: operator level plus an appeal body. The FNTV believed that a one-stop shop was not feasible; it should be up to Member States. A four-week limit for replying to a complaint is feasible. De Lijn thought that complaints would be reduced significantly or avoided if correct information were available (at the moment 80% are unjustified). Addressing complaints to the right body would also significantly reduce the time taken. A four-week response time was not contested. Federacja Konsumentów suggested that the existing network of enforcement bodies could be used to file a complaint with the passenger's own national body. The RDA recalled that responsibility remained with the package tour organiser. The ADAC wondered how many passengers knew about arbitration procedures. Mr Faross mentioned the European Consumer Association and confirmed that the Commission might launch an awareness-raising campaign. The BEUC underlined that information was important and suggested indicating on the ticket where complaints could be lodged.

The Commission was asked to assess the needs, demands and legal implications before preparing a regulation. The whole branch, not only prices, needs to be considered, especially in the light of competition from rail and low-cost airlines.

Summary

Mr Faross concluded that most complaint-handling systems comprise two steps. The importance of sufficient information for passengers had been stressed. Broad support had been expressed for non-Brussels-based solutions. Four weeks for answering complaints seems realistic to the stakeholders. For complaint-handling, four weeks for the operator's answer could be the first step. The follow-up in the second step needs to be studied by the Commission.

Conclusions

Mr Faross thanked the participants for their contributions. He underlined that the Commission departments are pursuing an open-door, transparency policy in their legislative work. The Commission will consider the consequences of action and non-action in this field through an impact assessment study. As far as timing is concerned, 2006 will be spent on work and reflection on Community action in this area. Mr Faross invited stakeholders to submit all relevant information, comments and views to the Commission so that any proposal made could be based on a thorough knowledge of the sector.