



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR ENERGY AND TRANSPORT

Brussels,

COMMISSION STAFF WORKING PAPER

STRENGTHENING THE PROTECTION OF THE RIGHTS OF PASSENGERS TRAVELLING BY SEA OR INLAND WATERWAY IN THE EUROPEAN UNION

**Public consultation document of the Directorate-General for Energy and
Transport**

This document has been prepared by the Commission for consultation purposes. It does not in any way prejudice, or constitute the announcement of, any position on the part of the Commission on the issues covered.

Practical information

- ❖ The consultation is being launched in three languages (English, French and German), with an electronic and paper version of the document. If you have received the document by mail and wish to reply electronically, please go to the website indicated below or send an e-mail to the address given below.
- ❖ Interested parties are invited to send their comments, suggestions and replies to the following questionnaire to the Commission **by 30 April 2006 at the latest** using one of the following means of communication:

- Internet: http://europa.eu.int/yourvoice/index_en.htm
- E-mail: TREN-MARITIME-PASS-RIGHTS@cec.eu.int
- Fax:

*European Commission
Directorate-General for Energy and Transport
Unit A-5 Services of General Economic Interest and Users' Rights
For the attention of Ms Flor Díaz Pulido
Tel.: +32 2 298 65 40*

- Post:

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Directorate-General for Energy and Transport
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- ❖ Electronic contributions received in reply to the consultation will be published on the Internet at the abovementioned address. Publication will be regarded as acknowledgement of receipt of your contribution by the Commission. For replies sent in paper form, an acknowledgement of receipt will be sent within 15 working days of receipt.

If you do not wish your contribution to be made public, please indicate this clearly at the beginning of your reply. In that case, your reply will also not be mentioned in future documents which may refer to this consultation.

- ❖ If you are replying on behalf of an organisation, please state your name, address and official title in your reply. Any reply on behalf of an organisation which does not state the interests which it represents or the extent to which it is representative of the sector (number of members, size of organisation in relation to the sector to which its members belong) will be regarded as an individual reply and not a collective one.

At the end of the period during which contributions are accepted, after reading and analysing all the replies received the Commission will prepare a report summarising how the consultation was carried out and the main points emerging. Contributions that you do not wish to be made public will not be mentioned in this document.

PUBLIC CONSULTATION

COMMISSION STAFF WORKING PAPER

STRENGTHENING THE PROTECTION OF THE RIGHTS OF PASSENGERS TRAVELLING BY SEA OR ON INLAND WATERWAY IN THE EUROPEAN UNION

1. Introduction

The Directorate-General for Energy and Transport of the European Commission, in particular the Unit ‘Services of General Economic Interest and Users’ Rights’, intends to examine the current situation as regards the protection of passenger rights in the maritime transport sector for all types of maritime traffic (domestic traffic, including inland waterways, shipping inside and outside the Community, and tourist voyages/cruises) and the needs which are identified as a result, with particular emphasis on the rights of persons with reduced mobility (PRM).

This examination of the rights of the users of maritime transport is part of the follow-up to the Commission’s communication entitled “Strengthening passenger rights within the European Union”,¹ which announced that the Commission intended to consider whether the protection already enjoyed by air passengers should be extended to other transport users, in particular maritime transport users, with particular reference to the protection of PRM.

Against this background, the Commission believes it is necessary to launch a public debate focusing in particular on the following two considerations:

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

Given these two considerations, and taking due account of all types of maritime transport, the aim of this consultation is to enable interested parties to express from the start of the consultation period:

- 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 and information provided to travellers;
- their opinions and suggestions on how best to make any improvements that might be needed, and what general and legal means should be used to make them.

Contributions received in reply to this consultation will provide the Commission with valuable information about whether new legislative proposals in this area should be put forward.

¹ COM (2005) 46 final of 16 February 2005.

The Commission has prepared the text of this consultation in such a way as to make the issues involved easier to understand and as a basis for interested parties to submit comments. It does not in any way prejudge, or constitute the announcement of, any position on the part of the Commission on the issues covered.

2. General background

Europe is a continent with many islands. Four Member States of the European Union are islands (United Kingdom, Ireland, Malta and Cyprus) and six others (Portugal, Spain, France, Italy, Greece and Denmark) have archipelagos and large islands with big populations. Europe is also a continent where sea borders between some States are very close to each other, making it easy to use maritime transport.²

For some passengers who travel by ship, especially in the outlying and outermost regions of the European Union, there is often no alternative, similarly priced means of transport by means of which they can travel within the EU. For these passengers, any journey by coach or train or in their own car always means having to make a sea crossing first, even for journeys of less than 100 km.

Taking account of all means of inland transport,³ about 405 million passengers currently pass through European ports each year. The list of the 15 largest ports in the EU⁴ includes the main passenger port of nearly half the EU's coastal States (these being all the larger Member States with a shoreline except Portugal and Poland), and the routes concerned are equally important in both northern and southern Europe.⁵ Given the new, ever faster and more comfortable vessels coming into service, maritime transport is likely to play an increasingly important role in carrying passengers, especially on short journeys.

The process of opening up the market for the carriage of passengers by sea began in 1986.⁶ A further step in this process was taken in 1992 when maritime transport markets were opened up within the Member States⁷ as part of the process of opening up the market for all means of transport. The most highly developed sector of this market is currently passenger aviation which has seen extremely strong growth.

The Commission is aware that the process of opening up the transport markets has also enabled competition to develop between different modes of transport. Shipping companies today therefore face competition not only from new market entrants, but also from low-cost airlines and high-speed railways, as well as from infrastructure such as the Øresund bridge between Denmark and Sweden which provides a fixed motorway link between the coasts of these two Member States.

² A few distances by way of example: Palermo (Italy) – La Valetta (Malta): 427 km; Tallinn (Estonia) – Helsinki (Finland): 89 km; Helsingør (Denmark) – Helsingborg (Sweden): 3.7 km; Dover (United Kingdom) – Calais (France): 34 km.

³ Source: Eurostat. Even taking account of the possible “double counting” of passengers (at the port of departure and at the port of arrival), the number of passengers travelling by sea in Europe is still very high.

⁴ United Kingdom, France, Sweden, Denmark, Italy, Greece, Finland, Spain, Germany.

⁵ Calais (France) to Dover (United Kingdom); Helsingborg (Sweden) to Helsingør (Denmark); Helsinki (Finland) to Tallin (Estonia); Messina (Italy) to Reggio di Calabria (Italy) and Pireaus (Greece to Paloukia-Salaminas (Greece).

⁶ Regulation No 4055/86/EEC, OJ L 378, 31.12.1986.

⁷ Regulation No 3577/92/EEC, OJ 364, 12.12.1992.

This explains why the Commission has concerns about the competitiveness of the carriage of passengers by sea. In the context of the Lisbon Strategy, the Commission would like to boost the competitiveness of this mode of transport since it requires less fuel and causes less damage to the environment than travel by road or air. Boosting competitiveness will mean improving the quality of services provided and strengthening the protection of passengers' rights to raise them to the levels currently enjoyed by users of other means of transport. Given the global competition between different transport modes, there is the likelihood, if no action is taken, that travellers will opt for the transport modes which explain their rights to them more clearly and where these rights are better protected, and that they will shun maritime transport despite the fact that it is less costly and cleaner.

2.1. Opening up of the markets and protecting passenger rights

Following the opening-up of the transport markets, the Commission has developed legislation to protect passenger rights, in particular those of air passengers, over the past few years. In its communication "Strengthening passenger rights within the European Union",⁸ when presenting two new air transport proposals, the Commission announced its intention of considering whether the level of protection afforded to air passengers should be extended to users of other transport modes, in particular maritime transport.

We do not wish to reproduce the data already given in the communication, which you are invited to read in addition to this consultation document⁹ and will therefore merely say that Community rules on passenger protection are currently limited to air transport. The Commission proposed extending this policy to the railway sector in 2004, and put forward a proposal for a Regulation setting out the rights and obligations of international rail passengers. This proposal, which is currently being considered by the legislative authorities of the European Union, covers among other things compensation and assistance in the event of the interruption of a journey, the liability of railway companies in the event of an accident and the rights of PRM.

With regard to maritime transport, Directive 2003/24 on the safety of passenger ships already provides for a series of measures concerning disabled access and the mobility of PRM. The Commission has instructed an independent consultant to carry out a study to analyse and evaluate the level of protection of passenger rights in the field of maritime transport in the EU; which due to be completed in the last quarter of 2006. In July 2005, it also launched a public consultation on the rights of international bus and coach passengers. The present consultation document is intended to launch a debate with interested parties on the need to guarantee the same rights in the maritime transport sector at EU level.

⁸ COM (2005) 46 final of 16 February 2005.

⁹ This communication is available at the following website:

http://europa.eu.int/comm/transport/air/rights/doc/com_2005_046_en.pdf

2.2. Protecting the rights of persons with reduced mobility travelling by sea

As far as access for persons with reduced mobility to the different means of transport is concerned, the Commission has always taken great pains to ensure that the needs of these citizens are not overlooked during the process of opening up the transport markets. The special attention paid to persons with reduced mobility is part of the framework established by the Commission communication “Equal opportunities for people with disabilities: a European action plan”.¹⁰

Council Directive 2003/24 amending Council Directive 98/18 on safety rules and standards for passengers ships¹¹ already defines persons with reduced mobility as far as maritime transport is concerned and lays down guidelines concerning the safety requirements applicable to these persons. However, it is limited to safety aspects. Looking beyond safety and considering the measures adopted for air transport and proposed for the railways, the Commission believes that other aspects of protecting the rights of persons with reduced mobility also merit consideration with a view to possible further action. In particular we would mention:

- access to ports and means of maritime transport, as well as to other modes of transport from ports (accessibility);
- the right not to be denied permission to travel by sea on the grounds of reduced mobility (discrimination);
- the right to receive all necessary information and assistance throughout a journey at no extra cost;
- the need to determine how to quantify any additional costs, who should bear them and who is best placed in the sector to ensure the proper provision of assistance (port management authorities, shipping companies, an independent manager, etc.);
- being able to rely on a standard legal framework which ensures equal protection of rights throughout Europe.

¹⁰ COM (2003) 650 final of 30.10.2003.

¹¹ OJ L 123, 17.5.2003, p.18. Article 1 amending Article 2 of Directive 98/18/EC defines persons with reduced mobility as anyone who has a particular difficulty when using public transport, including elderly persons, disabled persons, persons with sensory impediments and wheelchair users, pregnant women and persons accompanying small children.

Questionnaire

N.B: For the purposes of this questionnaire, the expression “maritime transport” means the carriage of passengers by sea and inland waterway between any two Member States, between a Member State and a third country or within a single Member State.

I.- 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.

Comments:

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.

Comments:

2.2. If you think that this common level of protection of passenger rights should not apply to any of the five types of transport mentioned above, please indicate the trip(s) which should be excluded:

- Travel between Member States;
- Travel within a Member State;
- International travel;
- Short and long-haul travel;
- Passengers travelling on package trips.

Comments:

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"/>

Comments:

WHAT RIGHTS SHOULD BE PROTECTED?

II. AUTOMATIC AND IMMEDIATE MEASURES IF A JOURNEY IS INTERRUPTED

The Commission has been informed about specific cases of denied boarding of ships, e.g. the refusal to allow passengers with bicycles or motorcycles to board while allowing passengers in cars to do so. It has also heard of cases similar to denied boarding, such as the non-availability of reserved cabins at the time of boarding, as a result of which the passengers are able to make the journey in question, but not on the terms shown on their tickets.

The Commission has also been informed that maritime transport companies often operate vessels with departures and arrivals up to more than an hour behind the published schedule. Sometimes, these delays may result from the cancellation of a planned departure. It seems that passengers receive no information about the reasons for such delays and cancellations either before or after boarding and, generally speaking, companies fail to provide compensation in the event of long delays or cancellation.

If boarding is denied, a journey by sea is cancelled or there is a long delay, the rights of passengers travelling by sea could, for example, be adequately protected by providing financial compensation along the lines of what has already been agreed in the air transport sector and is being proposed in the rail transport sector.

Passengers would directly benefit from such measures, which would also help to improve service quality by discouraging denied boarding, long delays and cancellation without warning.

Question 4

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

- 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?**

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

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

Comments:

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

Comments:

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)?

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?

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

Comments:

III.- PASSENGERS WITH REDUCED MOBILITY

Passengers with reduced mobility (PRM) should never find themselves in the position of being refused to be carried or to be 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.

Comments:

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?

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

- Yes
- Sufficient in some cases
- No

Comments:

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

Comments:

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

Comments:

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?

IV. 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

Comments:

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

Comments:

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

Comments:

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?

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

Comments:

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

Comments:

V.- OTHER ISSUES

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.

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

Information

- 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

Comments:

- 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

Comments:

Quality of services

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

Yes

No

Comments:

Do you think such quality standards should be laid down:

- in the form of regulations,
- on a voluntary basis

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 it is easily obtainable
- Whether there is proper access for persons with reduced mobility and adequate information is provided to them
- Safety
- Others (please specify):

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

- Yes
- No

Comments:

The role of ports

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

Comments:

Package holidays

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

Comments:

Discussion forum

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

Comments: