



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 11 December 2009

17412/09

**Interinstitutional File:
2008/0237 (COD)**

**TRANS 498
CODEC 1442**

REPORT

From : COREPER

To : Council

No. Cion prop. : 16933/08 TRANS 460 CODEC 1759

No. prev.doc.: 16981/09 TRANS 489 CODEC 1411

Subject : Proposal for a Regulation of the European Parliament and of the Council on the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws
- *Political agreement*

INTRODUCTION

1. On 4 December 2008, the Commission transmitted to the Council and the European Parliament the above mentioned proposal.

Content of the proposal

2. The proposed Regulation aims at strengthening passengers' rights in the field of transport by bus and coach. It forms part of the general policy of the European Union to ensure equal treatment of passengers, irrespective of the mode of transport they have chosen to travel with. It contains provisions on liability in the event of death or injury of passengers and loss of or damage to their luggage, automatic solutions when travel is interrupted, treatment of complaints and means of redress, passenger information and other initiatives. Furthermore, it lays down rules on information and assistance to disabled persons and persons with reduced mobility (PRMs).

Work within Council bodies

3. The examination of the proposal by the Council preparatory bodies started under the Czech Presidency on 21 January 2009. At its first meeting, the Working Party on Land Transport examined the impact assessment accompanying the Commission proposal.

The scope of the proposal was the subject of a progress report and a policy debate at the TTE Council on 11 June 2009.

4. The discussion of the above proposal has been pursued under the Swedish Presidency. Following the in-depth discussions held at various meetings of the Working Party, the Presidency has amended several provisions of the Commission proposal in order to take account of delegations' requests allowing for a broad consensus on most of its articles.

On 9 December 2009, Coreper examined the text presented by the Presidency, based on the discussions held at the Working Party on Land Transport. A broad majority of delegations could support the text put forward by the Presidency. To meet the concerns of delegations, some minor drafting adjustments were made by Coreper.

However, some delegations still have reservations on the text appearing in the footnotes in the Annex to this report.

Work within the European Parliament

5. On 23 April 2009, the European Parliament (rapporteur Mr Albertini, EPP-IT) voted on the proposal at first reading. The EP adopted 71 amendments. Following the elections for the EP last June and the consequent internal rearrangements, a new rapporteur (Mr Cancian, EPP-IT) was appointed in September 2009.

The Working Party on Land Transport examined the European Parliament amendments on two occasions. A number of them have been integrated, either literally or in substance, into the proposal as it currently stands.

OUTSTANDING ISSUES

6. **Key issues**

- a) **The scope of the proposed Regulation, Article 2 (footnotes 15 to 18, page 17 in the Annex)**

The scope of the Regulation has been a contentious issue since the initial examination of the proposal. In the Commission's initial proposal, the Regulation was to be applied in general to the carriage of passengers by bus and/or coach undertakings by means of regular services. Member States were only allowed to exempt urban, suburban and regional transport covered by public service contracts, if such contracts ensured a comparable level of passenger rights to that required in this Regulation.

As mentioned above, the scope was the subject of a ministerial debate at the TTE Council in June 2009. A majority of Ministers favoured that the scope of the regulation should be restricted to long-distance services, thus enabling Member States to regulate urban, suburban and regional services at national level. This would require the setting out of criteria defining the different elements of the journey length.

The discussions in the Working Party during the Swedish Presidency have made it clear that it seems to be impossible to define exactly what is meant by "long-distance" due to the differences with regard to the geographical characteristics of Member States. In order to create the necessary flexibility in this respect, the Presidency proposes an approach enabling each Member State to adapt the scope to its specific geographical characteristics. Consequently the draft Regulation should apply to passengers travelling with national and international regular services, but with a possibility at national level to exempt urban, suburban and regional regular services as set out in Article 2(1) and (3a). In addition, Article 2(3a) contains also a provision ensuring that certain basic rights are applied to all bus and coach services without exception (i.e. non-discriminatory conditions, compensation and assistance in the event of accidents and loss of or damage to luggage and right to transport and derogations).

Such an approach would also allow for the adoption of provisions similar to the ones in Regulation 1371/2007 on rail passengers' rights and obligations. This would reduce the risk of distortion of competition between railways and buses/coaches, taking into account that these two modes of transport, though having their own specificities, often appear as an alternative to each other.

Furthermore, in connection with the scope, Article 19a ensures that Member States having a better legislation and a more favourable system of protection for disabled persons and persons with reduced mobility for domestic regular services can preserve it in full.

However, several delegations (footnote 16, p. 17) consider that the scope should be limited only to national and international regular transport services. Only if Member States so wished, they could apply the Regulation provisions to urban/suburban and regional transport services. In a spirit of compromise, a number of Member States could support that certain minimum rights could be applied to all bus and coach services without exception, as proposed by the Presidency. However, DE, NL and UK are still opposed to it (footnote 18, p. 17).

Furthermore, MT maintains that the scope should be limited to international regular transport services and that the national segment should fall under the principle of subsidiarity.

Several delegations hold reservations or scrutiny reservations on the whole Article 2 or part of it (see footnotes 15 to 18, p. 17).

In connection with the scope, a number of delegations hold reservations on the provisions related to training (Article 18 and Annex I and II to the Annex, footnotes 24 and 36 to 39) on the ground that their implementation would entail high potential costs and that a final decision can only be taken once the discussion on the scope has been concluded.

b) Chapter II (Compensation and assistance in the event of accidents) (footnote 20, page 23 in the Annex)

The Commission proposal sets out the rules on bus and/or coach undertakings' liability for passengers and their luggage. Passengers would benefit from harmonised rules on liability of bus and/or coach undertakings. For any damage up to the amount of EUR 220 000, a bus and/or coach undertaking shall have strict liability, i.e. not having the possibility to exclude its liability by proving that the accident was not caused by its fault. For damages above EUR 220.000 the liability would be based on fault, but unlimited. Passengers suffering an accident would be entitled to advance payments in order to address economic difficulties that they or their families might face as a consequence of death or injury.

However, it soon emerged from the discussions that the existing liability regimes in force in the Member States are very different as regards the basis for liability (strict unlimited liability, strict liability with force majeure exemptions and fault-based liability), which cannot be reconciled. Furthermore, legislation in the different Member States is partly built on Directive 2009/103/EC relating to insurance against civil liability in respect of the use of motor vehicles and the enforcement of the obligation to insure against such liability ("Motor Insurance Directive") and partly on national legislation. These texts are already regulating liability for bus passengers and it is essential to avoid conflicts between the present proposal and the above mentioned "Motor Insurance Directive".

Therefore, the Presidency proposes a narrower approach building on the existing system, adding at the same time some minimum elements of harmonisation. A minimum threshold per passenger and per item of luggage is proposed: 220.000 EUR per passenger in case of death or personal injury; and in case of loss of or damage to luggage, 500 EUR with regard to urban, suburban and regional services and 1.200 EUR with regard to other regular services. This would align the compensation for luggage with the corresponding provisions in the "railway Regulation"; while at the same time taking into account the specificities of urban, suburban and regional transport. As regards wheelchairs, other mobility equipment or assistive devices, Article 6(2)(b) provides for them to be compensated in full, instead of being treated like ordinary luggage. Furthermore, Article 19 also provides for full compensation when damages are caused during the provision of assistance.

Finally, Article 8 has been adapted to provide for assistance to passengers with regard to their immediate practical needs following an accident. Such a provision is not contained in the "Motor Insurance Directive" and represents a real benefit for bus passengers, while not increasing significantly the administrative burden for bus and/or coach companies.

There is a broad consensus around the proposed text. However, AT and the Commission, who favour a stand alone carrier liability regime, have a strong reservation regarding the changes introduced in the initial Commission proposal. HU has a reservation on Article 6.

c) Article 20 (Passenger rights in the event of cancellation or delay) (footnotes 28-31, pages 32-33 in the Annex)

Several delegations (footnote 27) have pointed out the need to introduce exemptions in case of “force majeure” and weather conditions, thus relieving the carrier from having to provide assistance when a service is cancelled or delayed in departure. However, the Presidency considers that such a provision would contradict the principles set out in the Council Directive 93/13/EEC of 5 April 1993¹ on unfair terms in consumer contracts, (Article 3(3) and Annex, letters (c) and (o)) since it would create an unfair balance in the relationship between the passenger and the bus company. In case of acceptance of the force majeure exemption, for example, the passenger would not be entitled to reimbursement for a prepaid ticket when the carrier decides to cancel the departure due to a snow storm.

It should be pointed out that the exemptions for weather conditions and force majeure in the draft Regulation on maritime passengers rights are only used in connection with the obligation to pay compensation due to delay in arrival and the obligation to provide accommodation, but not in connection with the right to re-routing and reimbursement.

Other delegations still hold scrutiny reservations or reservations on some specific parts of Article 20 (footnotes 28-31).

¹ OJ L 95, 21.4.1993, p.29.

8. Other reservations

All delegations maintain their general reservations at this stage. Furthermore, they also keep other reservations on specific aspects of the proposal as indicated in the footnotes of the Annex.

MT and UK also maintain their parliamentary scrutiny reservations. As indicated in the footnotes, the Commission has some reservations on several elements of the Presidency compromise proposal.

CONCLUSION

The Council is invited to resolve the outstanding issues and to agree on the text in the Annex to this report.

Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on the rights of passengers in bus and coach transport and amending
Regulation (EC) No 2006/2004 on cooperation between national authorities
responsible for the enforcement of consumer protection laws

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the Commission²,

Having regard to the opinion of the European Economic and Social Committee³,

Having regard to the opinion of the Committee of the Regions⁴,

Acting in accordance with the ordinary legislative procedure laid down in Article 294 TFEU,

Whereas:

²

³

⁴ OJ C [...], [...], p. [...]

- (1) Action by the Union in the field of bus and coach transport should aim, among other things, at ensuring a high level of protection for passengers, that is comparable with other modes of transport, wherever they travel. Moreover, full account should be taken of the requirements of consumer protection in general.
- (2) Since the bus or coach passenger is the weaker party to the transport contract, all passengers should be granted a minimum level of protection⁵.
 - (2a) EU measures to improve passengers' rights in the bus and coach transport sector should take account of the specific characteristics of this sector, which consists largely of small- and medium-sized undertakings.
 - (2aa) Taking into account the specific characteristics of special regular services and own-account transport operations, these types of transport should be left outside the scope of this Regulation. Special regular services should include carriage of disabled persons and persons with reduced mobility with services only open to them, carriage of workers between home and work, carriage to and from the educational institution for school pupils and students and carriage of soldiers and their families between their place of origin and the area of their barracks.
 - (2b) Taking into account the specific characteristics of urban, suburban and regional transport, Member States should be granted the right to exempt such regular services from the application of a significant part of this Regulation. In order to identify urban, suburban and regional regular services, Member States should take into account criteria such as distance, frequency of services, number of scheduled stops, type of buses or coaches employed, ticketing schemes, fluctuations in passenger numbers between services in peak and off-peak periods, bus codes and timetables.⁶

⁵ Scrutiny reservation: DE and UK (related to Article 2 on "scope").

⁶ Scrutiny reservation: DE, SK and UK (related to Article 2 on "scope").

- (3) Passengers and, as a minimum, persons whom the passenger had, or would have had, a legal duty to maintain should enjoy adequate protection in the event of accidents arising out of the use of the bus or coach, taking into account Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles and the enforcement of the obligation to insure against such liability⁷.
- (3a) In choosing the national law applicable to compensation for death or personal injury as well as for loss or damage to luggage due to accidents arising out of the use of the bus or coach, Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) and Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) should be taken into account⁸.
- (4) Passengers should, in addition to compensation in accordance with applicable national law in the event of death or personal injury or loss of or damage to luggage due to accidents arising out of the use of the bus or coach, be entitled to assistance with regard to their immediate practical needs following an accident. Such assistance could include first aid, accommodation, food, clothes; **and** transports to and from the hospital and home transport.⁹
- (5) [...]
- (6) Bus and coach passenger services should benefit citizens in general. Consequently, disabled persons and persons with reduced mobility, whether caused by disability, age or any other factor, should have opportunities for using bus and coach services that are comparable to those of other citizens. Disabled persons and persons with reduced mobility have the same right as all other citizens to free movement, freedom of choice and non-discrimination.

⁷ OJ L 263, 7.10.2009, p. 11.

⁸ OJ L 199, 31.7.2007, p. 40 and OJ L 177, 4.7.2008, p. 6.

⁹ Scrutiny reservation: DK.

- (7) In the light of Article 9 of the United Nations Convention on the Rights of Persons with Disabilities and in order to give disabled persons and persons with reduced mobility opportunities for bus and coach travel comparable to those of other citizens, rules for non-discrimination and assistance during their journey should be established. Those persons should therefore be accepted for carriage and not refused transport on the grounds of their disability or lack of mobility, except for reasons which are justified on the grounds of safety rules or requirements or of the design of vehicles or infrastructure. **Within the framework of relevant legislation for the protection of workers, disabled persons and persons with reduced mobility** They should enjoy the right to assistance at terminals and on board vehicles,. In the interest of social inclusion, the persons concerned should receive the assistance without additional charge. Carriers should establish access conditions, using preferably the European Standardisation system.
- (8) In deciding on the design of new terminals, and as part of major refurbishments, terminal managing bodies should, where possible, take into account the needs of disabled persons and persons with reduced mobility. In any case, terminal managing bodies should designate points where such persons can notify their arrival and need for assistance.
- (8a) In order to respond to the need of disabled persons and persons with reduced mobility, staff should be adequately trained. With a view to facilitating the mutual recognition of national qualifications of drivers, disability awareness training could be provided as a part of the initial qualification or periodic training as referred to in Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No 3820/85 and Council Directive 91/439/EEC and repealing Council Directive 76/914/EC ¹⁰. **In order to ensure coherence between the introduction of the training requirements and the time-limits set out in these Directives, a possibility for exemption during a limited period of time should be allowed.**
- (8b) Where possible, organisations representing disabled persons or persons with reduced mobility should be consulted or involved in the organisation of the disability-related training.

¹⁰ OJ L 226, 10.9.2003, p. 4.

- (9) Rights of bus and coach passengers should include the receipt of information regarding the service before and during the journey. All essential information provided to bus and coach passengers should also be provided in alternative formats accessible to disabled persons and persons with reduced mobility.
- (10) This Regulation should not restrict the rights of carriers to seek compensation from any person, including third parties, in accordance with the applicable national law.
- (11) Inconveniences experienced by passengers due to cancellation or long delay of their journey should be reduced. To this end, passengers departing from terminals should be adequately looked after and informed. Passengers should also be able to cancel and have their tickets reimbursed or to continue their journey or be re-routed under satisfactory conditions.
- (12) Through their professional associations, carriers should cooperate in order to adopt arrangements at national or European level with the involvement of stakeholders, professional associations and associations of customers, passengers and disabled persons. These measures should be aimed at improving care for passengers, especially in the event of cancellations and long delays.
- (13) This Regulation should not affect the rights of passengers established by Directive 90/314/EEC on package travel, package holidays and package tours¹¹. In cases where a package tour is cancelled for reasons other than the bus or coach transport service being cancelled, this Regulation should not apply.
- (14) Passengers should be fully informed of their rights provided for in this Regulation, so that they can effectively exercise those rights.
- (15) Passengers should be able to exercise their rights by means of appropriate complaint procedures implemented by carriers or, as the case may be, by submission of complaints to the body or bodies designated to that end by the relevant Member State.

¹¹ OJ L 158, 23.6.1990, p. 59.

- (16) Member States should ensure and supervise general compliance by carriers with this Regulation and designate an appropriate body or bodies to carry out such enforcement tasks. The supervision should not affect the rights of passengers to seek legal redress from courts under procedures of national law.
- (16a) Taking into account the procedures established by a Member State for the submission of complaints, a complaint concerning assistance should preferably be addressed to the body or bodies designated for the enforcement of this Regulation in the Member State where ~~the carrier is established or where~~ the point of embarkation or disembarkation is situated.
- (17) Member States should lay down penalties applicable to infringements of this Regulation and ensure that these penalties are applied. The penalties should be effective, proportionate and dissuasive.
- (18) Since the objectives of this Regulation, namely to ensure an equivalent levels of protection of and assistance to passengers in bus and coach transport across all Member States, cannot sufficiently be achieved by the Member States alone and can therefore by reason of the international dimension be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (19) This Regulation should be without prejudice to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data¹².

¹² OJ L 281, 23.11.1995, p. 31.

- (20) The enforcement of this Regulation should be based on Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection law (the Regulation on consumer protection cooperation)¹³. That Regulation should therefore be amended accordingly.
- (21) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, as referred to in Article 6 TEU, bearing in mind also Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services¹⁴.

HAVE ADOPTED THIS REGULATION:

¹³ OJ L 364, 9.12.2004, p.1

¹⁴ OJ L 180, 19.7.2000, p. 22 and OJ L 373, 21.12.2004, p. 37.

Chapter I

General provisions

Article 1

Subject matter

This Regulation establishes rules for bus and coach transport as regards the following:

- (1) non-discrimination between passengers with regard to transport conditions offered by carriers;
- (2) rights of passengers in the event of accidents arising out of the use of the bus or coach resulting in death or personal injury or loss of or damage to luggage;
- (3) non-discrimination and mandatory assistance for disabled persons and persons with reduced mobility;
- (4) rights of passengers in cases of cancellation or delay;
- (5) minimum information to be provided to passengers;
- (6) handling of complaints;
- (7) general rules on enforcement.

Article 2^{15 16}

Scope

1. This Regulation shall apply to passengers travelling with regular services:
 - (a) where the point of embarkation of the passenger is situated in the territory of a Member State; or
 - (b) where the point of embarkation of the passenger is situated outside the territory of a Member State and the point of disembarkation of the passenger is situated in the territory of a Member State.
2. This Regulation shall not apply to special regular services and own-account transport operations.
3. In addition this Regulation shall apply to occasional services where the initial point of embarkation **or the final point of disembarkation** of the passenger is situated in the territory of a Member State, except for Chapters III to VI.¹⁷
- 3a. Member States may exempt urban, suburban and regional regular services, including cross-border services of such a nature, from the application of this Regulation. This shall not apply to Articles 4(2), 6, 8, 10 **and 11(1)**.¹⁸

¹⁵ Scrutiny reservation: FI.

¹⁶ CZ, DE, DK, EE, EL, ES, IE, LT, NL, PT, RO, SI, SK and UK: the scope of this Regulation should be limited to national and international regular transport services, in line with the provisions applicable to other modes of transport. MT consider that the scope should be limited to international regular transport services, the national segment falling under the principle of subsidiarity.

¹⁷ DK and SK have a strong reservation on this paragraph.

¹⁸ Scrutiny reservation by SK on this paragraph. DE, NL and UK request the deletion of the second sentence.

- 3aa. With the exception of the provisions set out in paragraph 3a, a Member State may, on a transparent and non-discriminatory basis, grant an exemption for a period no longer than five years, which may be renewed twice, from the application of the provisions of this Regulation to domestic regular services.
- 3b. For a maximum period of five years, a Member State may, on a transparent and non-discriminatory basis, grant an exemption, which may be renewed ~~twice~~, from the application of the provisions of this Regulation to particular regular services because a significant part of the regular service, including at least one scheduled stop, is operated outside the Union.
- 3c. Member States shall inform the Commission of exemptions of different types of services granted pursuant to paragraphs 3a, 3aa and 3b. The Commission shall take appropriate action if such an exemption is deemed not to be in accordance with the provisions of this Article. No later than on [...] ¹⁹, the Commission shall submit to the European Parliament and the Council a report on exemptions granted pursuant to paragraphs 3a, 3aa and 3b.
4. [...]
5. Nothing in this Regulation shall be understood to constitute technical requirements imposing obligations on carriers or terminal managing bodies to modify or replace buses or coaches or infrastructure or equipment at bus stops and terminals.

¹⁹ Five years after the date of application of this Regulation as in Regulation (EC) No1371/2007 on rail passengers' rights and obligations.

Article 3
Definitions

For the purposes of this Regulation the following definitions shall apply:

- (1) 'regular services' means services which provides for the carriage of passengers by bus or coach at specified intervals along specified routes, passengers being picked up and set down at predetermined stopping points ;
- (1a) 'special regular services' means regular services, by whomsoever organised, which provide for the carriage by bus or coach of specified categories of passengers to the exclusion of other passengers;
- (1b) 'own-account transport operations' means operations carried out by bus or coach for non-commercial and non-profit-making purposes by a natural or legal person, whereby:
 - the transport activity is only an ancillary activity for that natural or legal person, and
 - the vehicles used are the property of that natural or legal person or have been obtained by that person on deferred terms or have been the subject of a long-term leasing contract and are driven by a member of the staff of the natural or legal person or by the natural person himself or by personnel employed by, or put at the disposal of, the undertaking under a contractual obligation;
- (2) 'occasional services' means services which do not fall within the definition of regular services and the main characteristic of which is the carriage by bus or coach of groups of passengers constituted on the initiative of the customer or the carrier himself;
- (3) [...]
- (4) 'transport contract' means a contract of carriage between a carrier and a passenger for the provision of one or more regular or occasional services;
- (5) 'ticket' means a valid document or other evidence of a transport contract;

- (5a) 'carrier' means a person, other than a tour operator or ticket vendor, offering transport by regular or occasional services to the general public;
- (5b) 'performing carrier' means a person other than the carrier, who actually performs the whole or a part of the carriage;
- (6) 'ticket vendor' means any intermediary concluding transport contracts on behalf of a carrier;
- (6a) 'travel agent' means any intermediary acting on behalf of a passenger for the conclusion of transport contracts;
- (7) 'tour operator' means an organiser or retailer, other than the carrier, within the meaning of Article 2(2) and (3) of Directive 90/314/EEC;
- (8) 'disabled person or person with reduced mobility' means any person whose mobility when using transport is reduced as a result of any physical disability (sensory or locomotory, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or as a result of age, and whose situation needs appropriate attention and adaptation to his particular needs of the services made available to all passengers;
- (8a) 'access conditions' means relevant standards, guidelines and information on the accessibility of buses and/or of designated terminals including their facilities for disabled persons or persons with reduced mobility;
- (9) 'reservation' means a booking of a seat on board a bus or coach at a specific departure of a regular service;
- (9a) 'terminal' means a manned terminal where according to the specified route a regular service is scheduled to stop for the embarkation or disembarkation of passengers, equipped with facilities such as a check-in counter, waiting room or ticket office;

- (9b) 'bus stop' means any point other than a terminal where according to the planned route a regular service is scheduled to stop for the embarkation and disembarkation of passengers;
- (10) 'terminal managing body' means an organisational entity in a Member State responsible for the management of a designated terminal;
- (11) 'cancellation' means the non-operation of a regular service which was previously scheduled;
- (12) 'delay' means a difference between the time the regular service was scheduled to depart in accordance with the published timetable and the time of its actual departure.

Article 4

Transport contract and non-discriminatory contract conditions

1. Carriers shall provide passengers with one or more tickets, unless other documents give entitlement to transport. A ticket may be issued in an electronic format.
2. Without prejudice to social tariffs, the contract conditions and tariffs applied by carriers shall be offered to the general public without any direct or indirect discrimination based on the nationality of the final customer or on the place of establishment of the carriers, or ticket vendors within the Union.

Article 4a

Other performing parties

1. If the performance of the obligations under this Regulation has been entrusted to a performing carrier, ticket vendor or any other person, the carrier, travel agent, tour operator or terminal managing body, who has entrusted such obligations, shall nevertheless be liable for the acts and omissions of that performing party.

2. In addition, the party to whom the performance of an obligation has been entrusted by the carrier, travel agent, tour operator or terminal managing body shall be subject to the provisions of this Regulation with regard to the obligation entrusted.

Article 5

Exclusion of waiver

1. Obligations to passengers pursuant to this Regulation shall not be limited or waived, inter alia by a derogation or restrictive clause in the transport contract.
2. Carriers may offer contract conditions that are more favourable for the passenger than the conditions laid down in this Regulation.

Chapter II²⁰

Compensation and assistance in the event of accidents

Article 6

Death or personal injury to passengers and loss of or damage to luggage

1. Passengers shall, in accordance with applicable national law, be entitled to compensation for death or personal injury as well as to loss of or damage to luggage due to accidents arising out of the use of the bus or coach. In case of death of a passenger, this right shall as a minimum apply to persons whom the passenger had, or would have had, a legal duty to maintain.
2. The amount of compensation shall be calculated in accordance with national applicable law. Any maximum limit provided by national law to the compensation for death and personal injury or loss of or damage to luggage shall on each distinct occasion not be less than:
 - (a) 220.000 EUR per passenger;
 - (b) **with regard to urban, suburban and regional regular or occasional services 500 EUR per item of luggage and with regard to all other regular or occasional services 1.200 EUR per item of luggage.** In the event of damage to wheelchairs, other mobility equipment or assistive devices the amount of compensation shall always be equal to the cost of replacement or repair of the equipment lost or damaged.

Article 7

[...]

²⁰ Reservation by HU. Strong reservation by AT and the Commission on the change of the concept of this Chapter II.

Article 8

Immediate practical needs of passengers

In the event of an accident arising out of the use of the bus or coach, the carrier shall provide reasonable assistance with regard to the passengers' immediate practical needs following the accident. Any assistance shall not constitute recognition of liability.

Article 9

[...]

Chapter III

Rights of disabled persons and persons with reduced mobility

Article 10

Right to transport

1. Carriers, travel agents and tour operators shall not refuse to accept a reservation from, to issue or otherwise provide a ticket to or to embark a person, on the grounds of disability or of reduced mobility as such.
2. Reservations and tickets shall be offered to disabled persons and persons with reduced mobility at no additional cost.

Article 11

Derogations and special conditions

1. Notwithstanding the provisions of Article 10(1), carriers, travel agents and tour operators may refuse to accept a reservation from, to issue or otherwise provide a ticket to or to embark a person, on the grounds of disability or of reduced mobility:
 - (a) in order to meet applicable safety requirements established by international, Union or national law, or in order to meet safety requirements established by competent authorities;
 - (b) where the design of the vehicle or the infrastructure, including bus stops and terminals, makes it physically impossible to embark, disembark or carry the disabled person or person with reduced mobility in a safe and operationally feasible manner.

- 1a) In the event of refusal to accept a reservation or to issue or otherwise provide a ticket on the grounds referred to in paragraph 1, carriers, travel agents and tour operators shall make reasonable efforts to ~~propose to~~ **inform** the person concerned **about** an acceptable alternative service operated by the carrier.

2. If a disabled person or a person with reduced mobility who holds a reservation or has a ticket and has complied with the requirements of Article 16(1a) is anyway denied embarkation on the grounds of his/her disability or reduced mobility, that person and any accompanying person pursuant to paragraph 3 shall be offered the choice between:
 - (a) the right to reimbursement, and where relevant a return service free of charge to the first point of departure, as set out in the transport contract, at earliest opportunity; and
 - (b) except where not feasible, continuation or re-routing by reasonable alternative transport services to the place of destination set out in the transport contract.

The right to reimbursement of the money paid for the ticket as such shall not be affected by the failure of notification in accordance with Article 16(1a).

3. Under the same conditions as referred to in paragraph 1(a), a carrier, travel agent or tour operator may require that disabled persons or persons with reduced mobility be accompanied by another person who is capable of providing the assistance required by that person, if this is strictly necessary. Such an accompanying person shall be carried free of charge and, where feasible, seated next to the disabled person or person with reduced mobility.

4. When a carrier, travel agent or tour operator exercises the derogation provided for in paragraph 1, he shall immediately inform the disabled person or person with reduced mobility of the reasons, and upon request inform the person in question in writing within five working days of the request.

Article 12

Accessibility and information

1. In cooperation with representative organisations of disabled persons and persons with reduced mobility, carriers and terminal managing bodies shall, where appropriate through their organisations, establish, or have in place, non-discriminatory access conditions for the transport of disabled persons and persons with reduced mobility.
2. The access conditions provided for in paragraph 1 shall be made publicly available by carriers and terminal managing bodies physically or on the Internet in the same languages as those in which information is generally made available to all passengers.
3. [...]
4. Tour operators shall make available the access conditions provided for in paragraph 1 which apply to journeys included in package travel, package holidays and package tours which they organise, sell or offer for sale.
- 4a. The information on access conditions referred to in paragraphs 2 and 4 shall be physically distributed at the request of the passenger.
5. Carriers, travel agents and tour operators shall ensure that all relevant general information concerning the journey and the conditions of carriage is available in appropriate and accessible formats for disabled persons and persons with reduced mobility including, where applicable, online booking and information. The information shall be physically distributed at the request of the passenger.

Article 13

[...]

Article 14

Designation of terminals

Member States shall designate bus and coach terminals where assistance for disabled persons and persons with reduced mobility shall be provided. Member States shall inform the Commission thereof. The Commission shall make available a list of the designated bus and coach terminals on the Internet.

2. [...]

Article 15

Right to assistance at designated terminals and on board buses and coaches

1. Subject to the access conditions referred to in Article 12(1), **carriers and** terminal managing bodies shall **free of charge, within their respective areas of competence**, at terminals designated by a Member State ~~free of charge~~ provide assistance as specified in part (a) of Annex I to disabled persons and persons with reduced mobility.²¹
2. Subject to the access conditions referred to in Article 12(1), carriers shall on board buses and coaches free of charge provide assistance specified in part (b) of Annex I to disabled persons and persons with reduced mobility²².

Article 16

Conditions under which assistance is provided

1. Carriers and terminal managing bodies shall cooperate in order to provide assistance to disabled persons and persons with reduced mobility on condition that:

²¹ DE asks for the reinstatement of the last part of the sentence of paragraph 2: ", provided that the person concerned fulfils the conditions set out in Article 16".

²² DE asks for the reinstatement of the last part of the sentence, starting from : " , provided that the person concerned fulfils the conditions set out in Article 16".

- (a) the person's need for such assistance is notified to carriers, terminal managing bodies, travel agents or tour operators at the latest two working days²³ before the assistance is needed.
 - (b) the persons concerned present themselves at the designated point:
 - at the time stipulated in advance by the carrier which shall be no more than 60 minutes before the published departure time;
 - if no time is stipulated no later than 30 minutes before the published departure time.
- 1a. In addition, disabled persons or persons with reduced mobility shall notify the carrier, travel agent or tour operator at the time of reservation or advance purchase of the ticket of their specific needs of seating, provided that the need is known at that time.
 2. Carriers, terminal managing bodies, travel agents and tour operators shall take all measures necessary to facilitate the receipt of notifications of the need for assistance made by disabled persons or persons with reduced mobility. This obligation shall apply at all designated terminals and their points of sale including sale by telephone and via the Internet.
 3. If no notification is made in accordance with paragraph 1, carriers, terminal managing bodies, travel agents and tour operators shall make every reasonable effort to ensure that the assistance is provided in such a way that the disabled person or person with reduced mobility is able to embark the departing service, to change to the corresponding service or to disembark from the arriving service for which he has purchased a ticket.
 4. [...]

²³ ES and IT consider that 24 hours seems a reasonable period to ensure assistance.

5. The terminal managing body shall designate a point inside or outside the terminal at which disabled persons or persons with reduced mobility can announce their arrival and request assistance. The point shall be clearly signposted and shall offer basic information about the terminal and assistance provided, in accessible formats.

Article 17

Transmission of information to a third party

If travel agents or tour operators receive a notification referred to in Article 16(1) they shall, within their normal office hours, transfer the information to the carrier or terminal managing body as soon as possible.

2. [...].

*Article 18*²⁴

Training

1. Carriers and, where appropriate, terminal managing bodies shall establish disability-related training procedures, including instructions, and ensure that:
 - (a) their personnel, other than drivers, including those employed by any other performing party, providing direct assistance to disabled persons and persons with reduced mobility are trained or instructed as described in Annex II, part a) and b);
 - (b) their personnel, including drivers, who deals directly with the travelling public or with issues related to the travelling public, are trained or instructed as described in Annex II, part a).
2. **A Member State may for a maximum period of two years from the date of application referred to in Article 33(2) grant an exemption from the application of Article 18(1)(b) with regard to training of drivers.**

²⁴ CZ, DE and DK have a reservation linked to the high potential costs of training.

*Article 19*²⁵

Compensation in respect of wheelchairs and mobility equipment

1. Carriers and terminal managing bodies shall be liable where they have caused loss of or damage to wheelchairs, other mobility equipment or assistive devices, resulting from the provision of assistance²⁶. The loss or damage shall be compensated by the carrier or terminal managing body liable for that loss or damage.
2. This compensation shall be equal to the cost of replacement or repair of the equipment lost or damaged.
3. Where necessary, every effort shall be undertaken to rapidly provide temporary replacement equipment or devices. The wheelchairs, other mobility equipment or assistive devices shall where possible have technical and functional features similar to the ones of the equipment or devices lost or damaged.

*Article 19a*²⁷

Exemptions

1. **Without prejudice to Article 2(3a)**, Member States may exempt domestic regular services from the application of all or some of the provisions of this Chapter, provided that they can ensure that the level of protection of disabled persons and persons with reduced mobility under their national rules is at least the same as under this Regulation.
2. Member States shall inform the Commission of exemptions granted pursuant to paragraph 1. The Commission shall take appropriate action if such an exemption is deemed not to be in accordance with the provisions of this Article. No later than on [...], the Commission shall submit to the European Parliament and the Council a report on exemptions granted pursuant to paragraph 1.

²⁵ DE reservation: delete Article 19.

²⁶ IT and the Commission consider this provision too restrictive and request the deletion of "resulting from their provision of assistance".

²⁷ Scrutiny reservation: UK.

Chapter IV

Passenger Rights

in the event of cancellation or delay

Article 20^{28 29}

Continuation, re-routing and reimbursement

1. Where a carrier reasonably expects a regular service to be cancelled or delayed in departure from a terminal for more than two hours, the passenger shall immediately be offered the choice between³⁰:
 - (a) continuation or re-routing to the final destination, under comparable conditions, as set out in the transport contract, at the earliest opportunity;
 - (b) reimbursement of the ticket price, and, where relevant, a return service by bus or coach free of charge to the first point of departure, as set out in the transport contract, at the earliest opportunity.

2. Where a regular service is cancelled or delayed in departure from a bus stop for more than two hours, a passenger shall have the right to such continuation or re-routing or reimbursement of the ticket price from the carrier.

²⁸ BG, DK, ES, IE, PL, PT, RO and SK pointed out the necessity to take into account the cases of "force majeure". FI, supported by HU, expresses concern regarding delays in arrival, which are not covered. Moreover, they consider that the passenger should be entitled to reimbursement also in case of "force majeure".

²⁹ The Commission expresses a reservation on the deletion of the right to compensation amounting to 100% of the ticket price in addition to the reimbursement pursuant to paragraph 1 (b).

³⁰ UK and DE express concern on the introductory part of this article because they consider it unrealistic and request to replace the word "immediately be offered" by "have the".

3. The payment of reimbursement provided for in paragraph 1(b) and 2 shall be made within ~~seven~~ **fourteen** days after the offer has been made or request has been received³¹. The payment shall cover the full cost of the ticket at the price at which it was purchased, for the part or parts of the journey not made, and for the part or parts already made if the journey no longer serves any purpose in relation to the passenger's original travel plan. In case of travel passes or season tickets the payment shall be equal to its proportional part of the full cost of the pass or ticket. The reimbursement shall be paid in money, unless the passenger accepts another form of reimbursement.

Article 21
Information

1. In the event of cancellation or delay in departure of a regular service, passengers departing from terminals shall be informed by the carrier or, where appropriate, the terminal managing body, of the situation as soon as possible and in any event no later than 30 minutes after a scheduled departure, and of the estimated departure time as soon as this information is available.
2. If passengers miss an according to the timetable connecting service due to a cancellation or delay, the carrier or, where appropriate, the terminal managing body, shall make reasonable efforts to inform the passengers concerned of alternative connections.
3. The carrier or, where appropriate, the terminal managing body, shall ensure that disabled persons and persons with reduced mobility receive the information required under paragraphs 1 and 2 in accessible formats.

³¹ AT and DE and consider that a longer period is needed.

Article 21a³²

Assistance

For a journey of a scheduled duration of more than three hours the carrier shall in case of cancellation or delay in departure from a terminal of more than two hours, offer the passenger free of charge:

- (a) snacks, meals or refreshments in reasonable relation to the waiting time or delay, if they are available on the bus or in the terminal, or can reasonably be supplied;
- (b) assistance to find a hotel room or other accommodation as well as assistance to arrange transport between the terminal and the place of accommodation in cases where a stay of one or more nights becomes necessary.

In applying this Article the carrier shall pay particular attention to the needs of disabled persons and persons with reduced mobility and any accompanying persons.

Article 22

Further claims

Nothing in this Chapter shall preclude passengers from seeking damages in accordance with national law in respect of loss resulting from cancellation or delay of regular services before national courts.

Article 23

[...]

³² Reservation: SK.
EI and the Commission have a substantial reservation and consider the assistance foreseen in this text below the level provided in other modes of transport. EI proposes to delete the restriction that the schedule duration of the trip should be more than three hours.

Chapter V

Information for passengers and handling of complaints

Article 24

Right to travel information

Carriers and terminal managing bodies shall, within their respective areas of competence, provide passengers with adequate information throughout their travel. Where feasible this information shall be provided in accessible formats upon request.

2. [...]

Article 25

Information on passenger rights

1. Carriers and terminal managing bodies shall, within their respective areas of competence, ensure that passengers are provided with appropriate and comprehensible information regarding their rights under this Regulation at the latest on departure. The information shall be provided at terminals and where applicable, on the Internet. At the request of a disabled person or person with reduced mobility the information shall be provided in an accessible format. This information shall include contact details of the enforcement body designated by the Member State pursuant to Article 27(1).
2. In order to comply with this information requirement, carriers and terminal managing bodies may use a summary of the provisions of this Regulation prepared by the Commission in all the official languages of the European Union and made available to them.

Article 26

Complaints

Carriers shall set up or have in place a complaint handling mechanism for rights and obligations with regard to Articles 4, 8 and 10 to 25 of this Regulation.

Article 26a

Submission of complaints

If a passenger covered by this Regulation wants to make a complaint to the carrier with regard to Articles 4, 8 and 10 to 25, he shall submit it within three months from the date on which the regular service was performed or when a regular service should have been performed. Within one month of receiving the complaint, the carrier shall give notice to the passenger that his complaint has been substantiated, rejected or is still being considered. The time taken to provide the final reply shall not be longer than three months from the receipt of a complaint.

Chapter VI

Enforcement

Article 27

National enforcement bodies

1. Each Member State shall designate a new or existing body or bodies responsible for the enforcement of this Regulation as regards regular services from points situated on its territory and regular services from a third country to such points. Each body shall take the measures necessary to ensure compliance with this Regulation.

Each body shall, in its organisation, funding decisions, legal structure and decision-making, be independent of carriers, tour operators and terminal managing bodies.

2. Member States shall inform the Commission of the body or bodies designated in accordance with this Article.
3. Any passenger may submit a complaint, in accordance with national law, to the appropriate body designated under paragraph 1, or to any other appropriate body designated by a Member State, about an alleged infringement of this Regulation.

A Member State may decide:

- a) that the passenger as a first step shall submit a complaint covered by Article 4, 8 and 10 to 25 of this Regulation to the carrier; and/or
- b) that the national enforcement body or any other appropriate body designated by the Member State shall act as an appeal body for complaints not resolved under Article 26a.

4. [...].

Article 28

Report on enforcement

On 1 June every two years from the date of the application of this Regulation, the enforcement bodies designated pursuant to Article 27(1) shall publish a report on their activity in the previous two calendar years, containing inter alia a description of actions taken in order to implement the provisions of this Regulation, ~~details of sanctions applied~~ and statistics on complaints and sanctions applied.

2. [...]

Article 29

Cooperation between enforcement bodies

National enforcement bodies as referred to in Article 27(1) shall, whenever appropriate, exchange information on their work and decision-making principles and practices. The Commission shall support them in this task.

Article 30

Penalties

Member States shall lay down rules on penalties applicable to infringements of the provisions of this Regulation and shall take all the measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify those rules and measures to the Commission by 24 months after the publication of the Regulation and shall notify it without delay of any subsequent amendment affecting them.

Chapter VII

Final provisions

Article 31

Report

The Commission shall report to the European Parliament and the Council at the latest three years after the date of application of this Regulation, on the operation and effects of this Regulation. The report shall be accompanied, where necessary, by legislative proposals implementing in further detail the provisions of this Regulation, or amending it.

Article 32

Amendment to Regulation (EC) No 2006/2004

In the Annex to Regulation (EC) No 2006/2004 the following point is added:

"18. Regulation of the European Parliament and of the Council of ... on the rights of passengers in bus and coach transport and amending Regulation EC No 2006/2004 of the European Parliament and of the Council³³".

³³ OJ L [...], [...], p. [...]

Article 33

Entry into force

1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.
2. It shall apply two years after publication.³⁴

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament

The President

For the Council

The President

³⁴ LV asks for a longer period.

Assistance provided to disabled persons and persons with reduced mobility³⁵

a) Assistance at designated terminals

Assistance and arrangements necessary to enable disabled persons and persons with reduced mobility to:

- communicate their arrival at the terminal and their request for assistance at designated points;
- move from the designated point to the check-in counter, waiting room and embarkation area.
- embark the vehicle, with the provision of lifts, wheelchairs or other assistance needed, as appropriate;
- load their luggage;
- retrieve their luggage;
- disembark from the vehicle;
- carry a recognised assistance dog on board a bus or coach;
- proceed to the seat;

³⁵ Scrutiny reservation: EE and UK.
PT, supported by DK and EE, considers that this annex should only be finalised once the discussion on the scope of this Regulation has been clearly concluded.

b) Assistance on board

Assistance and arrangements necessary to enable disabled persons and persons with reduced mobility to:

- be provided with essential information on a journey in accessible formats **subject to request made by the passenger**;
- embark/disembark during pauses in a journey, if there are personnel other than the driver on board.

Disability-related training^{36 37 38}

a) Disability-awareness training

Training of staff that deal directly with the travelling public includes:

- awareness of and appropriate responses to passengers with physical, sensory (hearing and visual), hidden or learning disabilities, including how to distinguish between the different abilities of individuals whose mobility, orientation, or communication may be reduced;
- barriers faced by disabled persons and persons with reduced mobility, including attitudinal, environmental/physical and organisational barriers;
- recognised assistance dogs, including the role and the needs of an assistance dog;
- dealing with unexpected occurrences;
- interpersonal skills and methods of communication with deaf and hearing impaired people, visually impaired people, speech impaired people and people with a learning disability;
- how to handle wheelchairs and other mobility aids carefully so as to avoid damage (to all staff who are responsible for luggage handling if any).

³⁶ Scrutiny reservation: DE and EE.

PT, supported by DK and EE, considers that this annex should only be finalised once the discussion on the scope of this Regulation has been clearly concluded.

³⁷ SK considers that these provisions should be valid only for long distance transport. Moreover, the implementation of these provisions seems to be highly difficult.

³⁸ CZ and DE raise concerns about the high potential costs of training.

b) Disability-assistance training

Training of staff directly assisting disabled persons and persons with reduced mobility includes:

- how to help wheelchair users make transfers into and out of a wheelchair;
- skills for providing assistance to disabled persons and persons with reduced mobility travelling with a recognised assistance dog, including the role and the needs of those dogs;
- techniques for escorting blind and partially-sighted passengers and for the handling and carriage of recognised assistance dogs;
- an understanding of the types of equipment which can assist disabled persons and persons with reduced mobility and a knowledge of how to handle such an equipment;
- the use of embarkation and disembarkation assistance equipment used and knowledge of the appropriate embarkation and disembarkation assistance procedures that safeguard the safety and dignity of disabled persons and persons with reduced mobility;
- understanding of the need for reliable and professional assistance. Also awareness of the potential of certain disabled passengers to experience feelings of vulnerability during travel because of their dependence on the assistance provided.
- a knowledge of first aid.
