

## The future of passenger rights: the proposal of passengers and the railways

The European Union now has a full set of legislation covering the rights of passengers in four transport modes:

- **Regulation (EC) 261/2004** establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, completed by **Regulation (EC) 1107/2006** concerning the rights of disabled persons and persons with reduced mobility when travelling by air;
- **Regulation 1371/2007** on rail passengers' rights
- **Regulation 1177/2010** concerning the rights of passengers when travelling by sea and inland waterway (entry into force: 18/12/2012)
- **Regulation 181/2011** concerning the rights of passengers in bus and coach transport (entry into force: 01/03/2013)

The European Passenger Forum (EPF), the European Disability Forum (EDF) and the Community of European Railways and Infrastructure Companies (CER) welcome the completion of a legislative package granting passengers a set of rights whatever mode of transport they choose. However, they note that the current legislative framework does not ensure comparable rights across transport modes.

Our associations recognise that the specific characteristics of each transport mode need to be taken into account as each mode may operate in different conditions. However, non-comparable rules may lead to passengers' confusion and go against the general objective of reaching a level playing field across transport modes. In this respect, the current fragmented set of requirements prevents 'seamless transport' – an accessible door to door service that encompasses all transport modes, including taxis – for disabled passengers and Passengers with Reduced Mobility, therefore undermining their right to freedom of movement.

Furthermore, each regulation requires Member States to set up a National Enforcement Body (NEB) in charge of enforcing the regulation. The experience of railways in Member States where EU legislation has been in force for several years shows two main shortcomings:

- NEBs sometimes interpret key elements of the regulation in different ways, and therefore do not always give consistent answers when handling customers' claims.
- NEBs' rules may sometimes conflict with the natural behaviour of customers when addressing claims to railways.

As a consequence, both railways and passengers may have to deal with different procedures when submitting a complaint to their NEB, creating confusion in customers' (and railways') minds.

On complaint handling, the diverging rules and procedures create confusion among passengers. Passengers should be able to make use of Alternative Dispute Resolution (ADR) arrangements to avoid long and costly legal actions that deter many passengers from issuing a complaint. Examples of successful ADRs already exist<sup>1</sup> and have proved to be a good way to solve conflicts between passengers and carriers. In this respect, it has to be ensured that these procedures are accessible to persons with disabilities.

The European legislation defines rights for all passengers, including elderly people, disabled persons and persons with reduced mobility. To respond to the specific needs of all passengers, it is essential that carriers meet regularly to exchange best practices – for instance, on accessibility for disabled persons and persons with reduced mobility. Besides, disability awareness training organized in cooperation with Disabled People's

<sup>1</sup> For instance, the SNCF Ombudsman in France, the Conciliation Body for Public Transport in Germany (Schlichtungsstelle für den öffentlichen Personenverkehr) and Trenitalia's Ufficio Conciliazioni in Italy

Organisations is critical to overcome attitudinal barriers to disabled passengers; misconceptions about disabilities frequently lead to discriminatory practices.

Access conditions for disabled persons and persons with reduced mobility to transport as a whole need to be further improved. In this respect railway undertakings continuously look for ways in which to improve their services. This includes an ongoing dialogue with national federations of disabled persons and persons with reduced mobility. Some positive developments have taken place to provide assistance for disabled passengers and Passengers with reduced mobility in booking and using services. As mentioned in the Steer Davies Gleave report<sup>2</sup>, some railway undertakings even provide a better service than the Regulation requires – for example, by requiring less than 48 hours advance notification of need for assistance.

When looking at the future of passenger rights, the European Passengers' Federation (EPF), the European Disability Forum (EDF) and the Community of European Railways and Infrastructure Companies (CER) ask the European Commission to be actively involved, at an early stage, in the development of future implementation rules, to ensure that best practices developed by key stakeholders are taken into account.

**Therefore, EPF, EDF and CER call on the European Commission, the European Parliament and the Member States to address the following priorities:**

- **Comparable rights across modes:** within any given category of services, airlines, railway operators, shipping and bus and coach companies should compete on a level playing field with comparable rules, while taking into account the specificities of each mode.
- **Alternative dispute resolutions (ADRs):** ADRs are a suitable tool to solve conflicts between consumers and industry while avoiding long and costly judiciary procedures.
- **Customer-oriented NEB procedures:** there must be a comparable system of NEBs for all modes and for each Member State to ensure customer-oriented procedures. The “licensed-based” approach should be encouraged wherever this is in line with natural customer behaviour, e.g. taking into account the tendency of passengers to claim compensation for delays to the company from whom they bought their tickets. If recourse is needed, they will reasonably want to address the corresponding NEB. Furthermore, enhanced cooperation between NEBs for all transport modes would also be a positive tool in the implementation of passenger rights in each mode, in a more integrated approach.
- **Guidelines / exchange of best practices for PRM accessibility:** Exchange of best practices and staff training among transport modes and Member States could usefully be undertaken in cooperation with disabled people's organisations to effectively implement European regulation.

Finally, dialogue between stakeholders is key for a smooth implementation of passenger rights. The European Passengers' Federation (EPF), the European Disability Forum (EDF) and the Community of European Railways and Infrastructure Companies (CER), who started this process in 2002, invite all other stakeholders to exchange experiences and share common interpretations on the implementation of EU legislation for a better mutual understanding.

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<sup>2</sup> The study by Steer Davies Gleave (SDG), commissioned by the European Commission to undertake research on the implementation of the Rail PRR, was published on 13 November 2012.