AGENCIJA ZA OBALNI
LINIJSKI POMORSKI PROMET

Summary of provisions concerning the rights of passengers when travelling by sea and inland waterway[1]

In addition, Member States may decide not to apply the Regulation provided that the rights of passengers are adequately ensured under national law to seagoing ships of less than 300 gross tons operated in domestic transport until 17 December 2014 and for an indefinite period of time to passenger services covered by public service obligations, public service contracts or integrated services.

Regulation (EU) No 1177/2010 concerning the rights of passengers when travelling by sea and inland waterway becomes applicable on 18 December 2012.

It provides for a minimum set of rights for passengers travelling

- on passenger services where the port of embarkation is situated in a Member State,
- on passenger services operated by Union carriers from a port situated in a third country to a port situated in a Member State and
- on a cruise where the port of embarkation is situated in a Member State[2].

The Regulation does however, not apply to certain categories of waterborne transport services[3].

Regulation (EU) No 1177/2010 does not preclude passengers from claiming damages before national courts in accordance with national law in respect of individualised damages resulting from cancellation or delay of transport services.

Right to information

All passengers travelling by sea or inland waterways have the right to adequate information throughout their travel. That right includes the right to be informed on passenger rights and contact details of the national enforcement bodies, and on the conditions of access to transport for disabled persons and persons with reduced mobility.

In the event of cancellation or delay in departure, passengers have the right to be informed of the delay or cancellation by the carrier or terminal operator no later than 30 minutes after the scheduled time of departure and of the estimated departure and arrival time as soon as that information becomes available.

Right to non-discriminatory contract conditions

All persons have the right not to be discriminated directly or indirectly based on their nationality or the place of the establishment of the carrier or ticket vendor within the Union when purchasing tickets of waterborne passenger transport services and cruises.

Right to care and assistance

In case of delay of more than 90 minutes or cancellation of a passenger service or cruise, and where reasonably possible, passengers shall be offered free of charge snacks, meals or refreshments in reasonable relation to the waiting time.

Where the delay or cancellation of a departure necessitates one or more additional nights of stay for the passenger, he or she shall be offered adequate accommodation free of charge on board or ashore by the carrier and transport to and from the port terminal to the place of accommodation. Where a carrier proves that the cancellation or delay is caused by weather conditions endangering the safe operation of the ship, he is relieved of the obligation to offer free accommodation.

The passenger is not entitled to assistance by the carrier, if he or she was informed of the cancellation or delay before the purchase of the ticket or where the cancellation or delay is caused by the fault of the passenger.

Right to re-routing and reimbursement in case of cancellation or delay of departure

In case of a delay of more than 90 minutes as compared to the scheduled time of departure or cancellation of a passenger service, passengers have a right to choose between

- re-routing to the final destination at no additional cost at the earliest opportunity under comparable conditions and
- reimbursement of the ticket price combined, where relevant, with a free of charge return service at the earliest opportunity to the first point of departure set out in the transport contract.

Right to request partial compensation of the ticket price in case of delay in arrival to the final destination

Passengers may request the compensation of 25% of the ticket price from the carrier, where the delay in arrival to the final destination exceeds

- 1 hour in case of a scheduled journey of up to 4 hours;
- 2 hours in case of a scheduled journey of more than 4 hours, but not exceeding 8 hours;
- 3 hours in case of a scheduled journey of more than 8 hours, but not exceeding 24 hours; or
- 6 hours in case of a scheduled journey of more than 24 hours.

Passengers may request the compensation of 50% of the ticket price from the carrier, where the delay in arrival to the final destination exceeds

- 2 hours in case of a scheduled journey of up to 4 hours;
- 4 hours in case of a scheduled journey of more than 4 hours, but not exceeding 8 hours;
- 6 hours in case of a scheduled journey of more than 8 hours, but not exceeding 24 hours; or
- 12 hours in case of a schedule journey of more than 24 hours.

The carrier is however relieved of the obligation to pay compensation to passengers in case of delay in arrival, if he proves that the delay resulted from weather conditions endangering the safe operation of the ship or from extraordinary circumstances hindering the performance of a passenger service which could not have been reasonably avoided.

Rights of disabled passengers and passengers with reduced mobility: besides the general passenger rights, disabled persons and persons with reduced mobility have the following rights when travelling by waterborne transport so as to provide them with a right to transport on an equal footing with other passengers:

(a) right to access to transport for disabled persons and persons with reduced mobility without any discrimination

Carriers, travel agents and tour operators may not refuse to accept a reservation, to provide a ticket or to embark persons on the grounds of their disability or reduced mobility.

Where it is not possible to carry a disabled person or a person with reduced mobility on board a ship for safety reasons or due to the impossibility of embarkation resulting from the design of the ship or port infrastructure and equipment, carriers, travel agents and tour operators have to make all reasonable efforts to propose the person concerned an acceptable alternative transport. Disabled persons and persons with reduced mobility who hold a reservation, who have notified the carrier of their specific needs but are still denied boarding may choose between reimbursement and re-routing, the latter being conditional on the fulfilment of safety requirements.

Carriers, travel agents or tour operators may not ask disabled persons or persons with reduced mobility to pay a higher cost for reservations or tickets. Tickets and reservations shall be offered to the disabled persons or persons with reduced mobility under the same conditions as to other passengers.

The carriers and terminal operators shall have in place non-discriminatory access conditions for the transport of disabled persons, persons with reduced mobility and accompanying persons.

(b) right to special assistance

Disabled persons and persons with reduced mobility have the right to free of charge assistance by carriers and terminal operators in ports and on board ships, including with embarkation and disembarkation.

Disabled persons and persons with reduced mobility have to notify the carrier at the time of reservation or advance purchase of the ticket of their specific needs regarding accommodation, seating, required services or their need to bring medical equipment. For any other assistance the disabled persons and persons with reduced mobility need to notify the carrier or terminal operator at least 48 hours in advance and have to present themselves at an agreed time ahead of the published embarkation time at a designated point.

(c) right to compensation for loss of or damage to mobility equipment

Where a carrier or terminal operator has caused loss or damaged of mobility equipment or other specific equipment used by a disabled person or a person with reduced mobility due to his neglect or fault, he has to pay the disabled person or the person with reduced mobility a compensation corresponding to the replacement value of the equipment concerned or, where it is possible to repair that equipment, the costs relating to repairs.

Right to submit complaints to the carriers and national enforcement bodies (NEBs)

Passengers may submit complaints to the carriers and terminal operators within two months from the date on which the service was performed or when it should have been performed.

The carrier or terminal operator has to have a complaint handling system in place. Within that framework he has to notify the passenger within 1 month of receipt of the complaint whether he considers the complaint to be substantiated, rejected or still considered. The carrier or terminal operator has to provide the passenger with a final reply within 2 months of receipt of the complaint.

Passengers may submit complaints about alleged infringements of Regulation (EU) No 1177/2010 to national enforcement bodies.

Enforcement of passenger rights by NEBs and comparable mechanisms

Within Member States the designated national enforcement bodies shall enforce the rights and obligations set out in Regulation (EU) No 1177/2010 as regards passenger services and cruises from ports situated on the territory of that Member State and passenger services from a third country to such ports.

Where a Member State has decided to exempt passenger transport services covered by public service contracts or integrated services from the scope of application of the Regulation, it will need to ensure that a comparable mechanism of enforcement of passenger rights has been put in place.

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1 Summary drafted in accordance with Article 23(2) of Regulation (EU) No 1177/2010. This summary has no legal value.

2 Cruise passengers have no right to re-routing and reimbursement in case of cancelled or delayed departures and no right to compensation of the ticket price in case of delay in arrival.

3 Ships certified to carry up to 12 passengers, ships which have a crew responsible for the operation of the ship composed of not more than three persons, passenger services of less than 500 metres one way, excursion and sightseeing tours other than cruises and ships not propelled by mechanical means as well as original and individual replicas of historical passenger ships designed before 1965, built predominantly with the original materials certified to carry up to 36 passengers, are excluded. In addition, Member States may decide not to apply the Regulation provided that the rights of passengers are adequately ensured under national law to seagoing ships of less than 300 gross tons operated in domestic transport until 17 December 2014 and for an indefinite period of time to passenger services covered by public service obligations, public service contracts or integrated services.