

Shipping & Transport - European Union

New regulation governing seaborne passengers' rights in Europe

Contributed by **AKD**

August 04 2010

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In July 2010 the European Parliament decided to vote in favour of a new regulation covering the rights of passengers travelling by sea and inland waterways in Europe. Once the new regulation enters into force, it could have a significant impact on the liability of waterborne passenger service operators, since passengers will enjoy similar compensation rights to those travelling by other modes of transport – for example, air and rail.

Background

Moves to liberalise the market for the carriage of passengers by sea were first set in motion by the European Union in 1986 and picked up pace in 1992, when maritime transport markets were opened up between member states. In the words of the regulators: "Passengers need a common set of principles that apply to all modes of transport, so that they can be more readily aware of their rights if something goes wrong with their trip, by whatever form of transport."

New regulation

The new regulation seeks to establish the rights of domestic and international passengers using maritime transport in order to improve the attractiveness of – and confidence in – such means of transport, as well as to achieve "a level playing field for carriers from different member states".

The regulation establishes rules regarding:

- non-discrimination between passengers with regard to transport conditions offered;
- non-discrimination and mandatory assistance for disabled persons and those with reduced mobility;
- obligations owed by the carrier to passengers in the event of cancellation or delay;
- the minimum amount of information to be provided to passengers;
- complaints handling; and
- the enforcement of passenger rights.

The regulation covers both domestic and international maritime services.

New rights

New rights conveyed under the regulation include:

- a guaranteed reimbursement or re-routing in the event of cancellation or a delayed departure of more than 90 minutes;
- adequate assistance (eg, snacks, meals, refreshments and, where necessary, accommodation up to a value of €80 per night for up to three nights) in the event of cancellation or a delayed departure of more than 90 minutes;
- compensation of between 25% and 50% of the ticket price in the event of a delayed arrival or journey cancellation;
- non-discriminatory treatment and free specific assistance for disabled persons and persons with reduced mobility both at port terminals and on board, as well as financial compensation for loss of, or damage to, mobility equipment;

- rules on minimum information for all passengers before and during their journey, as well as general information about their rights in terminals and on board;
- establishment by carriers and terminal operators of a complaint-handling mechanism available to passengers; and
- establishment of independent national bodies for enforcement of the regulation through, where appropriate, the imposition of penalties.

Adoption of the regulation

Following approval of the new regulation by the European Parliament, the European Council will now have to confirm the agreement reached by Parliament in order for the regulation to be formally adopted. The regulation will enter into force two years after its adoption.

Comment

It seems likely that member state governments will have to adjust national laws in accordance with the new regulation. Given the significantly higher numbers of passengers typically carried in single units by ships and some other waterborne craft compared to those conveyed by air or rail conveyances, the sums at stake are potentially much larger for maritime transport operators in the event of, for example, a cruise ship being delayed or even a cruise being cancelled. The new rules on the provision of proper facilities for disabled or reduced-mobility passengers will almost certainly require new investment by ship operators.

The approval of the regulation by the European Parliament does not come as a surprise, given the European Union's stated intention to create a level playing field for all passenger transportation services in member states – even those on water – and the likely knock-on effect resulting in lengthy consultations between maritime transport providers and their insurers and legal advisers in the lead-up to implementation.

For further information on this topic please contact [Carlijn Kortmann](#) at AKD by telephone (+31 88 253 50 00), fax (+31 88 253 54 00) or email (ckortmann@akd.nl).

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