



EDF Position Paper on Air Passengers' Rights for Persons with Disabilities

European Disability Forum

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EDF position on Regulation 1107/2006 concerning the rights of persons with disabilities when travelling by air

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About the European Disability Forum (EDF)

We, the European Disability Forum (EDF), are an umbrella organisation of persons with disabilities that defends the interests of over 100 million persons with disabilities in the EU. We are a unique platform run by persons with disabilities and their families, and a strong, united voice of persons with disabilities advocating for the implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD) in the EU.

Executive summary

Nearly ten years after EU's accession to the UN CRPD and eleven years since Regulation 1107/2006 has entered into force, millions of persons with disabilities are not able to enjoy equal right to air travel, due to:

- ▶ **Denied boarding and obligatory “safety assistant”:** Despite holding a valid ticket, many persons with disabilities are still refused boarding at the gate or are forced to be accompanied. This discriminatory practice needs to end!
- ▶ **Limited liability for mobility equipment:** Airlines are currently not liable for the full value of damaged, lost, or destroyed mobility equipment or injured assistance animals resulting in a huge burden on the passenger.
- ▶ **Inaccessible and confusing assistance booking procedures:** Lack of clarity and accessibility hinder persons with disabilities in the booking and making arrangements for a smooth trip, as are costs for calling dedicated phone numbers for assistance.
- ▶ **Miscommunication between airlines and airports:** This results in bad travel experiences of persons with disabilities and waste of time and resources for assistance services.
- ▶ **Ineffective enforcement and redress:** Complaints procedures are too complex and not accessible, information is hard to find (and not accessible), National Enforcement Bodies (NEBs) often lack necessary powers and financial/human recourses to enforce the law.
- ▶ **Inadequate quality of assistance services:** Cost is often prioritised over quality, resulting in danger to health and safety of the passengers. Adequate pay, work conditions, training for assistance staff and quality of assistance equipment is necessary investment to ensure good passenger experience the least.
- ▶ **Accessibility of aircrafts, infrastructure, and information:** One of the biggest obstacles to enjoying full and equal rights as passengers for persons with disabilities is the fact that the aircrafts, the airports, related infrastructure, and information before and during journeys (airline websites, airport and on board information) are not accessible.

Introduction

Since its adoption in 2006, the Regulation on air passengers' rights for persons with disabilities has been very successful in raising awareness on passengers' rights and established the principle of assistance at airports. This is highly appreciated by persons with disabilities and their representative organisations.

However, the Regulation always left a few issues untouched that are of extremely high importance for persons with disabilities. 13 years after it was originally adopted, we see the urgent need to fill those legislative gaps that still allow for discrimination of persons with disabilities when travelling by air.

The current assessment is therefore a welcome opportunity for us to voice the concerns of passengers with disabilities and highlights the most urgent issues that should be tackled in a possible future revision of the Regulation.

Issues to be tackled

Discrimination against persons with disabilities and “Denied boarding”

“Denied boarding”

Sadly, even in 2020, persons with disabilities are still denied boarding or refused to sell a ticket because of their disability, even though they hold a valid ticket and they have indicated their need for assistance in advance to the airline. This happens mainly because of “safety reasons” but are usually not justified or explained sufficiently. But also, seemingly random decisions are taken which are not based on any facts but purely prejudice.

Example: Denied boarding for “safety reasons”

Mr Joseph Etcheveste, 55, a French wheelchair user, was denied boarding on an EasyJet flight from Biarritz (France). He was told that for “safety reasons” he would have to travel with an assistant. Mr Etcheveste decided to go to court and won the case. EasyJet was fined 60 000 Euros.

While safety is of course paramount and should always be prioritized, the assessment of the airline staff is often unclear, biased, ill-informed or prejudiced. How can check-in staff at the gate judge a person, only by looking at them, if they can safely evacuate the plane in case of emergency?

The problem stems from the formulation of the [Air Operations Regulation \(965/2012\)](#)¹ which says in part CAT.OP.MPA.155 that “SCPs [*Special Category Passengers*”, which also includes *persons with disabilities*] shall be carried under conditions that ensure the safety of the aircraft and its occupants according to procedures established by the operator.” The issue here is that the definition of the procedure is still up to the different airlines who take their freedom to interpret the notion of “safety”.

It must be noted that “safety” arguments see passengers with disabilities as risk to other passengers, while safety of passengers with disabilities themselves is mostly overlooked. Information on emergency evacuation is not accessible and the evacuation procedures are not adapted to passengers with disabilities. In the case of deaf or hard of hearing persons for example, the argument that they cannot follow safety instructions by staff can be easily rebutted by making the instructions available in sign language, by adding subtitles to the videos, and by handing out written information. Safety of **all** passengers should be prioritised to added cost of accessibility, yet this is currently not the case.

Furthermore, claiming that persons with disabilities would be a “safety risk” in emergency situations is not always justified and makes generalized assumptions that all persons with disabilities are helpless and a burden to the airline. Any passenger can behave irrationally and

¹ Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012R0965>, retrieved on 3 October 2019

erratically in an emergency situation where people panic and therefore any passenger is a possible safety risk if they do not follow instructions of the staff.

“Safety” concerns are not the only reason why passengers with disabilities are denied boarding. The case below illustrates an even more unfounded reason.

Example: Denied boarding for “not being able to use the restroom”

A wheelchair user, who prefers to remain anonymous, wanted to take a flight with Qatar Airlines from Budapest to Doha for a business trip was denied boarding because of his disability. The airline staff told him that he could not travel by himself because he could not use the restroom on board independently. In verbatim, a member of staff asked him: “I must ask you Sir, are you able to pee on your own while airborne?”. He was not informed about his right to reimbursement and he was only told that he could lodge a complaint in person or online.

All these issues render the text of the Regulation effectively void because the “right to travel” that is given to persons with disabilities in Article 3 (Prevention of refusal of carriage) becomes useless if in practice a person is denied boarding.

The main problems here are that Regulation 1107 clearly allows for “safety reasons” to overrule ones’ right to transport, which should not be the case. Instead, the safety arrangement should be made sufficiently inclusive so that persons with disabilities do not have to be discriminated against. For example, inclusive aircraft design can lead to safer evacuation, providing accessible information on emergency procedures, adapted operating rules on seating of passengers with disabilities, or provision of assistive devices such as on-board wheelchairs can already provide a solution to the problem.

Furthermore, there is jurisprudence from national courts that have confirmed that “Safety reasons” are not enough to refuse boarding to a person with disability. Here are some relevant cases:

- 15 December 2015: [APF vs. EasyJet](#)², 70 000 € fine (denied boarding cases of two wheelchair users at separate incidents)
- 26 November 2016: Belgian Anti-Discrimination Centre (UNIA) negotiates [settlement in denied boarding case](#)³ following a complaint from a passenger
- 19 January 2017: [Etcheveste vs EasyJet](#)⁴, 60 000 € fine (denied boarding of a wheelchair user for „safety reasons“)

Finally, the question is also why passengers with disabilities do not have the same right to compensation when they are denied boarding for “safety reasons” as passengers have under Regulation 261/2004 if they are denied boarding against their will. In combination with the lack of

² https://www.lemonde.fr/societe/article/2013/02/05/easyjet-condamne-pour-discrimination-envers-des-handicapes_1827599_3224.html, retrieved on 3 October 2019

³ <https://www.unia.be/en/articles/airline-company-allows-audit-of-their-accessibility>, retrieved on 3 October 2019

⁴ https://www.lemonde.fr/societe/article/2017/01/19/easyjet-a-nouveau-condamnee-pour-discrimination-envers-un-passager-handicape_5065629_3224.html, retrieved on 3 October 2019

binding rules to report publicly on those cases of denied boarding for “safety reasons” this means the system is completely intransparent and there is no incentive whatsoever for airlines to reduce the practice of denied boarding since there are no consequences.

It is also interesting to see that there is no relevant case law related to Regulation 1107/2006 at the European Court of Justice and relatively little jurisprudence on national level compared to Regulation 261/2004 where passengers have a much stronger incentive to complain and go to court because it is related to a cash compensation which strengthens their rights as passengers.

Obligatory “safety assistants”

This issue is closely related to the “denied boarding” problem. If a person with disability arrives at the gate with a valid ticket but the airline deems him or her not able to travel independently, the “safety assistant” can be requested. But since this is done on such short notice right before boarding there is usually no possibility to solve this situation and the passenger is left stranded and denied boarding of the plane.

We do therefore not agree with the practice of airlines that a person with disabilities can be obliged to be accompanied by a so-called “safety assistant” against their will. This is also closely related to the issue of “denied boarding” mentioned above and leaves it up to the airline to decide who needs to be accompanied by an assistant.

While the practice is regulated and clearly defined by law in the US and Canadian, in the EU this is only based on guidelines by the European Air Safety Agency (EASA) and can therefore be used more arbitrarily against the passenger. In US and Canadian legislation, the “safety assistant” has to be either provided for by the airline directly or can travel free of charge if the airlines requires a passenger to be accompanied.

In the EU, this is not defined and therefore the organisational and financial burden is pushed on the passenger who has to purchase an additional ticket for the “safety assistant”.

Refusal to sell tickets to persons with disabilities

Finally, there are also some cases that document a problem with the denial of selling tickets to persons with disabilities. This is less common, but some issues persist with this nevertheless. While this is clearly banned in the Regulation (Article 3), airlines still refuse to accept reservations based on sometimes ludicrous excuses. At the base of this are again prejudices and often misinformation.

Example: Refusal to sell tickets because of disability

A blind couple from Greece who was planning on travelling on Aegean Airlines with their guide dog and their 16-months old son were refused booking a ticket. The airline claimed that in a case of emergency, the parents would not be able to evacuate both the dogs and the child together safely.

Article 3 of the Regulation must thus be enforced more efficiently, and passengers need to be given the tools to defend their rights better. Currently, the system of complaints and taking enforcement action is often inaccessible, confusing, hence ineffective.

Full compensation for damaged, lost, or destroyed mobility equipment, and injured assistance animal



Broken wheelchair following a flight (credits: A. Trikalioti)

Another persisting problem that needs to be covered by the Regulation is the damage, loss, and destruction of mobility equipment for persons with disabilities.

While the Montreal Convention (transposed into EU law in Regulation 2027/199 7) provides for basic compensation for luggage, this is by far not sufficient. The current limitation of 1131 SDR (ca. EUR 1100) cannot cover damages or loss of a made-to-measure wheelchair that can be EUR 10 000 or more.

In fact, one of the crucial points here is that mobility equipment such as wheelchairs, walkers, mobility scooters, crutches, or similar are not luggage. Mobility equipment is often made-to-measure and can be very costly to replace. One also must keep in mind that mobility equipment is crucial for passengers with reduced mobility or a disability to remain independent in their daily lives and cannot be replaced easily.

Even if you are offered a replacement wheelchair for the time it takes to fix your original equipment, this is very uncomfortable and often limits the passenger significantly in their mobility. If you are on holiday, the last thing you want is to be stuck at your hotel because your own wheelchair got damaged during the flight. If you are returning home and you cannot go to work because of the damaged mobility equipment this can additionally result in a loss of income that is not compensated.

While it is theoretically possible to declare a higher value item to expand the liability of the airline under the Montreal Convention (“special declaration of interest”), it is rather vague on the procedure on how to do this. For example, the Convention does not specify that this has to be free of charge. Neither does it specify the exact content and the requirements for the passengers.

As it is up to each airline to define the rules, requirements for the declaration vary between different air carriers (e.g. if documents are required to give proof of the full value of the mobility equipment) and it is not always clear whether it is free of charge or not. Making the special declaration of interest should thus not be an added administrative burden on passengers with reduced mobility or disabilities.

In line with the Commission’s proposal for the revision of the rules on air carrier liability, we therefore support the demand that the the special declaration of interest must be provided free of charge for persons with disabilities and reduced mobility. Charging persons with disabilities and reduced mobility an additional fee would constitute a breach of the provisions of Regulation 1107/2006, which specifies that there should not be any additional charges for persons with disabilities and reduced mobility. Furthermore, this is in line with the Montreal Convention which does not require payment of a supplementary sum for luggage (see Art. 22(2)).

Testimony: Damaged wheelchair

“I was traveling by air from Frankfurt to Athens. I am a wheelchair user. When we arrived in Athens a passenger informed me that the wheel of my wheelchair was broken and totally ruined. When I got out of the plane, I realized that the back of my wheelchair was also broken and I had no idea in which circumstances that happened or what other damages exist in it, the staff claimed that the damage happened in Frankfurt. It seemed like it had fallen from somewhere high. There were smaller damages to 2 other wheelchairs that were in the same flight. I made an application for the damage to the airline but I asked for someone who is in charge because my wheelchair was totally damaged. Because I couldn’t go to work for a long period until I get a new wheelchair, the staff proposed me to give me a wheelchair or rent one for that period, but I am too petite and no wheelchair was suitable for me. The supervisor came after hours and only when I got mad and start shouting. He admitted that my wheelchair was totally damaged. The airline paid my new wheelchair but this story lasted 2 months” (Antonia, Greece)

These cases are not a one-off. The United States Department of Transport (US DOT) collected data on this issue and their [study](#)⁵ showed that in the month of December 2018 alone, 701 wheelchairs and scooters were mishandled or damaged by the 12 largest US airlines. It is expected that numbers in the EU are similar, if not higher because in the US study only counts the largest airlines. Unfortunately, there is no data publicly available in the EU.

Current EU passenger rights law in other modes of transport either sets no financial limit to liability for loss or damage to mobility equipment or other specific equipment used by persons with

⁵ United States Department of Transport, Air Travel Consumer Reports for 2019, <https://www.transportation.gov/airconsumer/air-travel-consumer-reports-2019>, retrieved on 3 October 2019

disabilities ([Regulation \(EC\) No 1371/2007](#)) or ensures compensation at replacement or repair value ([Regulation \(EU\) No 1177/2010](#); [Regulation \(EU\) No 181/2011](#)). We believe EU law should be consistent for all modes of transport ensuring air passengers with disabilities the same protection.

The fact that the damage of mobility equipment is particular to the situation of persons with disabilities also makes it more suitable to cover this issue under Regulation 1107/2007 rather than leaving it up to the Montreal Convention alone to regulate it. Taking the opportunity of revision, Regulation 1107/2006 should also set liability for harm caused to assistance animals such as assistance dogs by airports or air carriers.

Transparent and simplified booking of assistance

Booking procedures for PRM assistance are often complicated, inaccessible, and add an extra burden on passengers. Airlines and airports often complain that passengers do not pre-notify their need for assistance. Making the procedure easy to find, simple and fully accessible is necessary for many persons with disabilities to be able to book assistance in advance.

Testimony: Difficulties to book assistance

“With Brussels airlines if you need assistance you must call the medical service. And you cannot check in online in advance. You need to go to the counter. I do not understand either why can someone not book the assistance online when you buy your ticket? I have the same problem with TAROM. There you have to call them, too. And indeed, when you call these kind of lines you stay a while on the line.” (Loredana, Belgium)

In some cases, airlines only allow the booking of assistance via a phone number which is first of all not accessible to everyone (persons who are deaf or hard of hearing, have a speech impairment, etc.) and often comes with additional costs. Also, websites are often not accessible for blind and visually impaired persons so they rely on the phone number and are thus charged a discriminatory additional fee because of their disability. Inaccessible websites and phone booking make it impossible for deafblind passengers to pre-notify about their assistance needs.

If the booking of assistance is possible and even if the website of the airline is accessible, the booking procedure is often still complicated and “hidden” somewhere on the website. It takes several clicks and searching to find the booking field which is not user-friendly.

The same is true for the information on assistance or other PRM-related information: if you use an electric wheelchair, what batteries are you allowed to take on board? If you need medical oxygen during the flight, can the airline provide it? And if yes, how much does it cost? A report by the [European Federation of Allergy and Airway Diseases Patients' Organisations \(EFA\)](#)⁶ on the

⁶ European Federation of Allergy and Airway Diseases Patients' Organisations (EFA), “Enabling Air Travel with Oxygen in Europe”, http://www.efanet.org/images/2015/20151118_EFA_Booklet_Enabling_Air_Travel_with_Oxygen_Updated_2015_FIN_AL.pdf, retrieved on 3 October 2019

provision of medical oxygen has shown that the information is very hard to find and the pricing varies enormously – it could make the difference for a passenger to choose a certain airline over another even if the ticket price is higher.

It is therefore crucial that this information is presented by every airline in a simple, clear, easy-to-find, and accessible manner so that persons with disabilities can take an informed decision about booking their flights.

Finally, to avoid miscommunication between passengers requesting assistance and assistance staff, passengers should receive confirmation of their booked assistance with their preferred mode of communication (e.g. email or SMS) as is the practice for booking flight tickets.

Better communication between airlines, airports, and booking agents

Currently, the Regulation does not mention anything about the booking procedures and the communication between the different parties involved. Since booking is usually done via a travel agent or the airline, but assistance is provided by the airport and often sub-contracted to a third party, this often creates problems. The passenger, for whom the information flow is not clear, is at the receiving end of all the problems resulting from miscommunication.

It happens regularly in practice that assistance does not arrive to pick the PRM passenger up from the plane or is late, putting pressure on airline staff and creating an uncomfortable situation for the passengers. In other cases assistance arrives late for transfer flights, leaving the passenger stranded at the airport because they missed their connection.

Example: Missed flight because of assistance delay

Two persons with disabilities who had booked assistance for a flight with Air One from Rome to Algher, missed their flights because assistance was late. They had arrived at the check-in well in time and had notified their assistance needs beforehand. However, the assisting personnel arrived so late that they both missed their flight and had to wait for seven hours in order to catch the following flight.

It also happens that the assistance provider at the arrival airport is not well informed about the type of disability and expects for example a wheelchair user, while it is actually a visually impaired person arriving. A frequent problem resulting from this is also that passengers who request assistance are obliged to sit in a wheelchair, no matter what their disability is. A visually impaired person may need help to find the way to the gate but they do not need to sit in a wheelchair – this patronizing behaviour is absolutely unacceptable and not necessary. It also is inefficient management of resources for already-strained assistance services and can result in, for example, not having enough wheelchairs to assist passengers who actually need this type of assistance.

Clarification is needed to improve this communication between airlines, airports, service providers, and other contractors to avoid misunderstanding especially concerning the booking of PRM

assistance. The regulation must also put more emphasis on responsibilities of travel agents and their training in understanding the needs of passengers; correctly coding and providing data via an airline they are flying with.

All EU registered airlines should follow the [ECAC DOC 30](#)⁷ descriptions, listing what type of information must be published with regards to PRM passenger e.g. safety requirements, transportation of mobility equipment, how to book assistance. More importantly – all EU airlines should use unified description of service codes (already in ECAC DOC 30) and unified codes (existing again in ECAC DOC 30) to avoid that some airlines are inventing their own codes that are not understandable at other airports.

Choice of seating and other operational procedures

While the choice of seating is partly regulated under the Air Operations Regulation (965/2012) cited above, it only broadly states that persons with disabilities should not be seated next to an emergency exit or anywhere where they could “ (1) *impede crew members in their duties;* (2) *obstruct access to emergency equipment;* or (3) *impede the emergency evacuation of the aircraft.*”

Again, the rest is not regulated and left up to the airlines to define in their operational rules, which can differ. It restricts the right to choose their seats in what seems like a random way. Sometimes, PRMs are not allowed to sit in the window seat. Sometimes they are obliged to sit in the window seat. Information about those procedures are usually not publicly available, which increases the confusion.

PRMs are sometimes not allowed to make the personal choice to be seated by the aisle, for example, if they need to use the restroom frequently or if they prefer to stretch their legs. Information on these rules need to be clear and passengers should have a choice on where to sit according to their personal preference.

Finally, another problem with the incoherent operational procedures of the different airlines is the boarding and disembarking of PRMs. In some airlines, PRMs board first. In some, PRMs board last. Sometimes even the same airlines seem to practice different procedures. Again, this causes confusion and often discomfort. Regulation 1107/2006 should state clear rules that favour the comfort, preferences, and rights of PRMs.

Testimony: Discriminatory boarding procedures

“We as wheelchair users were boarded first and disembarked last. Our flight was delayed so we were on the plane for almost 4 hours. I needed to go to the toilet, and I asked the assistants to disembark me before the other passengers and only when my mother threatened that I would wet myself they helped me to get off. We should be the last on the plane and the first off!” Peggy, Ireland

⁷ European Civil Aviation Conference Policy Document No.30, 12th Edition May 2018, https://www.ecac-ceac.org/about?p_p_id=101&p_p_lifecycle=0&p_p_state=maximized&p_p_mode=view&_101_struts_action=%2FAsset_publisher%2Fview_content&_101_assetEntryId=526990&_101_type=document , retrieved on 3 October 2019

Another problem related to the seating is that often groups of PRM passengers are not allowed to sit next to each other and there is a maximum limit of PRM passengers set per flight. This is also a discriminatory practice and free choice of seating should be the standard.

Better redress and enforcement of rights

As mentioned above, one of the issues is that it is difficult for passengers with disabilities to seek redress under the Regulation. The complaints procedures are difficult to find, complicated, intransparent, often not accessible and unreasonably lengthy, and do not always lead to a solution of the problem. Or, the problem has already occurred and there is no compensation for the damage suffered, both financially and emotionally.

The designated National Enforcement Bodies (NEBs) only treat the complaints that refer to the scope of the Regulation. That means if a passenger addresses them with a case of “denied boarding”, the NEBs can only refer to Article 3 and it is technically not a breach of the Regulation because airlines can always refer to “safety reasons” to avoid responsibility.

Another complication is that the complaint forms, if they exist, are often not accessible. We have already for a long time advocated for a standardised, accessible, and simple complaint form that passengers can use more easily. The Commission has started an initiative but this was never followed-up. Complaints should be possible to make in more than one format (paper, braille, online forms, in person, etc.) and channel of communication (telephone, website, face-to-face) as well as different languages, including sign languages.

Information on passenger rights and how complaint procedures work should also be accessible, easy to find and easy to understand. For example, easy to read format of this information is necessary for persons with intellectual disabilities to know what their rights are and how to defend them.

In discussions with NEB representatives, we often hear how strained their resources are. For example, there is one staff member working on too many different files, therefore dedicating only 1 or 2 days of work per month to PRM rights. NEBs are often also not adequately equipped with resources to follow-up sufficiently on complaints and to enforce the Regulation. Regular audits of airports and airlines should be the standard, for example. Therefore, the Regulation should also oblige Member States to make sure that NEBs have enough staff and other resources to sufficiently address issues under the Regulation.

Finally, it is a big problem that NEBs have varying competences from one Member State to another. While they are all tasked with implementing the same Regulation, they have different enforcement powers in each Member States. Some can follow up on individual complaints, other can also investigate more “systemic” breaches of the Regulation. Some can impose sanctions on airlines and airports, others can only give opinions or advice.

Therefore, it is important that all NEBs gain the necessary powers to also investigate individual cases and intervene with binding decisions to serve the passengers and help them obtain their rights. It is recommended to have minimum standards on the powers, functions and mandate of

NEBs. Similar standards under EU equality legislation already exists (e.g. standards for equality bodies), which can serve as inspiration for standards for NEBs under Regulation 1107/2006

Finally, it would be useful to collect data and publish those statistics on EU level to improve transparency. Currently, Member States are not obliged to publish complaints related to Regulation 1107/2006 which makes it difficult to gauge the actual level of implementation and efficiency of the Regulation. In some countries, like the [UK for example](#)⁸, the NEBs have the competence to collect data and it is published regularly.

Better quality of assistance

- Choice of assistance provider

The Regulation should mention that when an airport procures third party PRM assistance provider it should be allowed to choose provider **not** solely based on the lowest price. Quality should be the decisive factor in the choice of the assistance provider. Clear and harmonized quality standards are vital for this.

During these 11 years it has been clearly proven that the ratio of quality and cost should be at least 50/50 if not 70/30 for the benefit of quality. It is easy to single out these airports where the cost is leading and we, passengers, clearly feel that in assistance level and quality.

Quality of assistance is of course linked to adequate disability-awareness and RPM assistance training, adequate pay and good working conditions for PRM assistance staff. These are all important criteria that should be considered when procuring services by airports.

- Decent quality and choice of assistive equipment

Taking an example from US legislation ([US DOT rule title 14 CFR Part 382](#)⁹), Regulation 1107/2006 should incorporate requirements for equipment PRM assistance provider and/or airports use, especially in relation to safety aspects. [ECAC DOC 30](#) already has descriptions of equipment such as airport wheelchairs and boarding chairs. But many airports do not follow them as they go for cheapest solutions which frequently are even dangerous in operations. One example are stair climbers instead of Ambulifts as boarding aids, which are still in use. It is an unacceptable duplicity to allow denial of boarding of persons with disabilities based on (prejudice-based) 'safety' concerns, while not showing equal level of concern for the safety of these passengers during assistance.

Another example are "wheelchairs" such as the ones used in Brussels or Amsterdam Airport. These rather resemble a wooden chair with small wheels and are neither comfortable nor safe (see image below). Passengers have fallen off them and they are a clear health and safety hazard.

⁸ UK Civil Aviation Authority, Passenger Complaints Data, <https://www.caa.co.uk/Data-and-analysis/Data-for-passengers/Complaints-and-enforcement/Passenger-complaints-data/>

⁹ US Department of Transport, Rule Title 14, CFR Part 382, <https://www.transportation.gov/airconsumer/disability> , retrieved on 9 October 2019

Ideally, persons with disabilities should be allowed to stay in their own wheelchair until they reach the gate and start boarding. If this is not possible, the wheelchairs provided at the airport should provide for sufficient support so that any person with disability can use them safely. Even we have approached the airports in question directly and repeatedly the unsuitable wheelchairs are still in service. Therefore, it is important to regulate this by law.



Unsafe and uncomfortable wheelchairs as Brussels Airport

“Recognized assistance dogs” needs clarification

The term “recognized assistance dogs” needs to be revised and clarified in the Regulation. Currently, this leads to a lot of misunderstanding and in some cases even denied boarding of persons with disabilities that are accompanied by assistance animals.

First of all, there is currently no European Standard defining what a recognized assistance dog is and how it has to be trained. The Regulation relies on national certificates but those may not always be comparable. A European Standard is under development but the outcome is still unclear. Also, it addresses only dogs and no other animals. In air travel, which is essentially global, there are also other animals that can provide assistance, especially coming from the US.

Furthermore, another issue has been arising in the past years. Some passengers try to pass off their pets as “emotional support animals” which causes frustration with recognized assistance animal users. On the one hand, a genuine and well-trained emotional support animal should also be certified and recognized as any other assistance animal. On the other hand, this must be carefully assessed to avoid fraud.

Accessibility of aircrafts, infrastructure, and information

While not directly under the scope of Regulation 1107/2006, we have identified this issue as one of the biggest obstacles for persons with disabilities to enjoy their full and equal rights as passengers. It is necessary and important to have the right to travel guaranteed in this Regulation but if the door of the aircraft hold is too small for a wheelchair to be loaded, your right is in fact worthless.

The same is true if the airport building does not have accessible toilets or if the trains and buses going to the airport are not accessible either – your right to travel in theory does not translate into

independent travel in reality. Accessibility of information, be it on the website of the airline or the airport, at the airport itself where flight delays are announced only via loudspeaker for example, or on board of the plane where safety announcements are not given in alternative formats such as sign language, easy to read, or braille, are also a problem.

We consider therefore that accessibility of the aircrafts, related infrastructure, and information is essential also to the implementation of Regulation 1107/2006 and should therefore be addressed either directly in this Regulation or in separate legislation to make the right to travel reality for everyone. The most urgent accessibility issues in relation to air travel are summarized here below:

1. Accessibility of aircrafts:
 - Sufficiently large doors to board for passengers as well as of the hold to load any kind of mobility equipment
 - Possibility to stay seated in the passengers' own wheelchair during travel
 - Accessible boarding mechanisms
 - Availability of on-board wheelchairs to reach the toilets on all aircrafts (see recommendations in the US)
 - Accessible on-board entertainment systems and screens

2. Accessibility of airports and related infrastructure
 - Tactile guiding systems throughout the airport for orientation
 - Accessible lifts and horizontal circulation in general
 - Accessible toilets as a standard everywhere
 - "Changing places" toilets with possibilities to wash and get changed for adults and children
 - Quiet resting areas with possibilities to lie down
 - Accessible security checks, e-gates, and other [self-service terminals and equipment](#)¹⁰
 - Accessible shops and catering facilities
 - Alternative routes with less sensory stimulation (not through duty-free shops, etc.)
 - Shorter walking distances and possibilities to rest
 - Clear signage and wayfinding
 - "Dog toilets" and rest stations for service animals
 - Accessible onward transportation such as local, regional, national, and international bus and coach services, railway stations and trains, parking spaces, etc.

3. Accessibility of information
 - Accessible flight status information
 - On-board safety instructions and announcements in accessible formats including sign language, easy to read and braille
 - Fully [accessible websites](#)¹¹ with accessible booking mechanisms and communication via different channels

¹⁰ See also European Standard EN 301 549 on accessibility of ICT products and services, https://www.etsi.org/deliver/etsi_en/301500_301599/301549/03.01.01_60/en_301549v030101p.pdf

¹¹ See also W3C Web Content Accessibility Guidelines 2.1 (WCAG), <https://www.w3.org/TR/WCAG21/>

Cooperation with Disabled Persons' Organisations (DPOs)

Even though it is already recommended to consult with passengers' representative organisations as part of the Airport Users' Committee mentioned in Articles 5, 8, and 9 of Regulation 1107/2006, we see that meaningful consultation is not always the reality.

In some cases, DPOs are not even aware that such a Committee exists or should exist. In some cases, the organisations that participate in the meetings are not representative (e.g. only represent a selected type or types of disabilities) or are rather consultants or individuals than organisations representing a large stakeholder base. Expertise is of course important but it is even more important that the voices of all persons with disabilities in their diversity are listened to and adequately included to give feedback on the functioning of the airport and the implementation of the Regulation.

Since the Airport Users' Committee is not obligatory under the Regulation, the situation remains unclear for the users on how to provide input.

Therefore, airports, airlines, assistance providers and NEBs should meaningfully consult and cooperate with [national and European networks representing persons with disabilities](#) when developing, updating and implementing policies and measures affecting persons with disabilities.

EDF Recommendations

- ▶ **“Denied boarding”**: In order to ensure that “denied boarding” becomes history and the gap in the Regulation is closed, we demand that the right to transport is guaranteed without exceptions.
- ▶ **Equal right to compensation**: A cash compensation should be granted to a passenger with disabilities who was denied boarding against their will as it is the case for passengers without disabilities under Regulation 261/2004.
- ▶ **Public database on cases of “denied boarding”**: All cases of “denied boarding” and the stated reasons should be recorded in a publicly available and accessible database. This will empower passengers with disabilities to seek redress and facilitate the work of the enforcement bodies.
- ▶ **“Safety reasons”**: The term must be clarified to avoid misuse without restricting the freedom of the passenger. Inclusive aircraft design, providing accessible information on emergency procedures, adapted operating rules on seating of passengers with disabilities, or provision of assistive devices such as on-board wheelchairs can be a solution.
- ▶ **“Safety assistant”**: The concept is discriminatory in itself and should therefore be abolished. But in case a person with disability is asked to be supported by a safety assistant for reasons that are clearly defined and regulated by law, this safety assistant must be either provided or at least paid for by the airline.
- ▶ **Mobility equipment**: Make it obligatory for airlines to publish data; train luggage handling staff; raise the liability limit of airlines to the full value of the damaged, lost or destroyed mobility and other equipment used by persons with disabilities as is the case for EU passenger rights law for rail, bus and coach, and waterway transport, rather than sticking to the limits of the Montreal Convention.

- ▶ **Booking of assistance and information:** Booking of assistance as part of regular ticket booking procedure; booking must be possible free of charge via different communication channels; airlines and airport websites must be accessible; passengers should get written confirmation of their booked assistance to avoid miscommunication at the airport.
- ▶ **Communication between airlines and airports:** better use of IATA codes and free-text field.
- ▶ **Enforcement and Redress:** Easy and accessible complaint procedures, accessible and easy to find information on passenger rights and complaints procedures; National Enforcement Bodies must have powers to make binding decisions and resources to investigate individual cases and conduct regular audits; data on passenger complaints should be public
- ▶ **Better quality of assistance services:** Quality should be the primary criterion for procurement; decent equipment should be obligatory.
- ▶ **Accessibility aircrafts, infrastructure, and information:** Even though this is not strictly speaking under the scope of the Regulation, these issues urgently need addressing as a pre-requisite for PRMs to enjoy their rights as passengers.
- ▶ **Cooperation with organisations of persons with disabilities (DPOs):** Airports, airlines, assistance providers and NEBs should meaningfully consult and cooperate with [national and European networks representing persons with disabilities](#) when developing, updating and implementing policies and measures affecting persons with disabilities.

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