



Analysis of the Proposal on enforcement of Passenger Rights

European Disability Forum Position Paper
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Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EC) No 261/2004, (EC) No 1107/2006, (EU) No 1177/2010, (EU) No 181/2011 and (EU) 2021/782 as regards enforcement of passenger rights in the Union



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Table of Contents

Table of Contents	2
Introduction.....	2
The European Disability Forum	2
Acknowledgements	3
Executive Summary	3
The Legislative Proposal	4
EDF Comments.....	5
United Nations Convention on the Rights of Persons with Disabilities (CRPD)	6
Mandatory Accompanying Person	6
Service Quality Standards	7
Common form for reimbursement and compensation requests	8
Risk-based Approach to the monitoring of compliance with passenger rights	9
Information about alternative dispute resolution by NEBs	11
Information on Cancellation and Delays	11
Information on Passenger Rights	12
Means of communication with passengers	12
Sharing information with NEBs	12
Document credits	13

Introduction

The European Disability Forum

The European Disability Forum is an independent NGO that advocates for the rights of 100 million Europeans with disabilities. EDF is a unique platform which brings together representative organisation of persons with disabilities from across Europe. EDF is run by persons with disabilities and their families. We are a strong, united voice of persons with disabilities in Europe.

Acknowledgements

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Executive Summary

EDF welcomes the proposal on enforcement of passenger rights and, in particular, **supports** the following points:

- The amendment to Article 2 of Regulation 1107/2006 to ensure that, whenever a person with a disability is required to travel accompanied, the air carrier, agent or tour operator pay the price of the extra ticket.
- The establishment of Quality Standards in all transport modes and the obligation to report (and publish) on the number and nature of PRM-related complaints.
- The establishment of a risk-based approach to enforce passenger in all transport modes.

However, EDF **regrets** that:

- The proposal does not include a deep revision of Regulation 1107/2006 (Air transport) to eradicate all cases of denied boarding and establish full liability for broken or damaged mobility equipment.
- The transparency obligations on number of PRM related complaints differ depending on the transport mode, the carrier or the infrastructure manager.
- Despite some improvements, NEBs will continue to have different tasks, resources, powers, penalties and procedures to enforce passenger rights.

The Legislative Proposal

On 29th November 2023, the European Commission published [a legislative proposal to improve the enforcement of passenger rights in all transport modes](#). To do so, the proposal would introduce targeted amendments to the following regulations:

- Regulation 261 / 2004 on air passenger rights in event of cancellation, delay and denied boarding.
- Regulation 1106/2006 on air passenger rights for passengers with disabilities or reduced mobility
- Regulation 1177/2010 on waterborne passenger rights
- Regulation 181/2011 on bus and coach passenger rights
- Regulation 2021/782 on rail passenger rights

Due to its overarching impact – with amendments in all Passenger Rights Regulations – this proposal is informally referred to as ‘Omnibus Regulation’.

The main aim of this proposal is to address the existing shortcomings in the implementation and enforcement of all passenger rights. As highlighted by different [European Commission’s Studies](#) and [EDF’s Position Papers](#), such shortcomings include:

- National Enforcement Bodies’ (NEBs) limited resources, low penalties and divergent powers.
- Transport operators and terminal managers’ lack of transparency on the number and type of complaints submitted to them.
- Barriers to submit complaints (inaccessible complaint forms, broken links, unclear information, complex procedures).
- Passengers lack of awareness on their rights under EU Legislation.

The new proposal aims at improving enforcement of passenger rights (including those applicable to persons with disabilities)¹ by:

¹ These rights include the right to non-discrimination, the right to accessibility of information and assistance at no additional cost, the right to carrier liability towards damaged and broken and the right to accessible complaint handling.

- Obliging transport operators and infrastructure managers to share relevant information with NEBs.
- Obliging carriers and terminal operators to establish service quality standards (including on the number and nature of complaints) and report on results.
- Adopting an EU-Wide standardised form for reimbursement and compensation requests
- Obliging NEBs to perform monitoring activities.
- Obliging carriers and terminal operators to improve information to passengers about their rights (particularly during booking and disruption).
- Obliging NEBs to provide information about Alternative Dispute Resolution Mechanisms (ADRs).

The new proposal also strengthens the rights of persons with disabilities and reduced mobility when traveling by air. When an air carrier requires a person with disability to travel accompanied by an assistant in order to comply with aviation safety requirements, the air carrier will allow the accompanying person to travel free of charge and, where feasible, seated next to the person with disability or reduced mobility.

EDF Comments

EDF recognizes the relevance of the proposal and welcomes the general improvements in the enforcement framework of passenger rights as well as the targeted disability-related amendments in air travel.

However, EDF believes that the proposal falls short from addressing the main concerns for passengers with disabilities. Such concerns, including recurrent cases of denied boarding and limited liability for mobility equipment when traveling by air, were voiced during our recent campaign [Equal Rights on Flights](#).

In the following paper, EDF makes an analysis of the proposed 'omnibus regulation', highlighting its positive aspects as well as its shortcomings. This position paper also includes suggestions to strengthen the existing provisions contained in the proposal, in order to make them fully effective.

United Nations Convention on the Rights of Persons with Disabilities (CRPD)

EDF approves the reference to Article 9 of the CRPD in recital (17) as the basis for establishing an obligation to provide an accompanying person free of charge, when air carrier, agents or tour operator requires the person with disabilities to travel accompanied in order to meet safety requirements. This is a positive development that brings air passenger rights in line with existing rights in rail, bus and coach and waterborne transport.

At the same time, EDF would like to recall that, in order to bring Regulation 1107/2006 fully in line with the CRPD, the proposal should have addressed the biggest barriers faced by passengers with disabilities: the recurring arbitrary cases of denied boarding and the limited liability for broken and damaged mobility equipment in air travel. As long as a deeper revision of Regulation 1107/2006 does not address this issue, EU Legislation will continue to contain gaps that allow for the discrimination of persons with disabilities.

Although accessibility 'per se' is not in scope of this regulation, EDF would like to highlight that the only way to fully implement Article 9 of the UNCRPD is by designing accessible vehicles and infrastructures that allow persons with disabilities to travel independently, spontaneously and without assistance. EDF understands that the relatively long life-span of both vehicles and infrastructures make it difficult to implement radical changes quickly, but EDF nevertheless advocates for full accessibility as a main goal.

Mandatory Accompanying Person ²

EDF warmly welcomes this provision, as it was one of the demands in the Equal Rights on Flights Campaign. This amendment will harmonise passenger rights in the different transport modes³ and bring EU legislation closer to more ambitious legal frameworks, such as the ones that exist in Canada and the United States.

Despite this positive development, a person with a disability that requires the support of a personal assistant and decides to travel by plane, will continue to assume the

² Proposed Amendment to Article 2 of Regulation 1107/2006

³ While this provision already existed in the Passenger Rights Regulations for Train (Regulation 2021/782), Bus and Coach (Regulation 181/2011) and Waterborne Transport (Regulation 1177/2010), that was not the case for air transport.

extra ticket for the personal assistant and related logistics⁴. Unfortunately, transport is one of many examples of how persons with disabilities incur higher costs to do the same things persons without disabilities do. In this respect, EDF would like to [highlight positive developments in Canada](#), where airlines cannot charge more than one ticket to persons with severe disabilities flying with an accompanying person or requiring more than one seat for themselves in national flights.

Service Quality Standards ⁵

EDF welcomes the introduction of service quality standards in all transport modes covering, among others, the type of assistance provided to persons with disabilities and persons with reduced mobility. Through these quality standards carriers and infrastructure managers will have to report on the number and types of complaints as well as:

- The number of denied transport services (and the reason)
- The number of denied boarding of assistance dogs and mobility equipment (and the reason)
- The number of cases related to the loss or damaged mobility equipment (and the outcome)
- The number of cases the carrier obliged a person with disability or reduced mobility to travel accompanied
- The implementation of disability awareness and assistance training
- The discussions with representative organisations

This measure should help address one of the main gaps in the enforcement of the passenger rights framework: the lack of transparency as for the type of assistance provided to PRM as well as the total number and nature of PRM related of complaints. Currently, we only rely on the numbers voluntarily provided by NEBs, which do not reflect the real number of discrimination cases faced by persons with disabilities (as they need to submit the complaint to the carrier or infrastructure manager in the first place, if they do so).

⁴ Taxi to the airport, seating next to each other or in the first rows, which is often offered at a higher price.

⁵ New Article 15a in Regulation 261/2004, New Article 10a in Regulation 1107/2006, New Article 24a in Regulation 1177/2010 and New Article 26a in Regulation 181/2011

However, EDF regrets that, in its current form, the proposal contains important gaps:

First, the proposal will only oblige carriers (airlines or bus companies) to publish in their website information on the number and nature of PRM complaints, while terminal operators (ports or train stations) will only be obliged to provide access to public authorities upon request.

Second, such transparency obligations are weaker for air travel (Regulation 1107/2006) than for other transport modes. In its current form, Service Quality Standards Obligations will only apply to air carriers (airlines), while nothing is said about airport managing bodies. While Regulation 1107/2006 already requires airports with more than 150.000 annual passengers to set quality standards, these do not cover the obligation to report, among others, on PRM related complaints submitted directly to them.

Third, this new obligation on Service Quality Standards also excludes Regulation 2021/782 on Rail Passenger Rights. Although Article 29 of this Regulation already requires both Railway Undertakings and Station Managers to establish similar standards, it must be noted that they do not cover PRM related complaints and data on the assistance provided to them.

To further improve this article in the respective Passenger Rights Regulations, EDF recommends applying the same Service Quality Standards to all transport modes (including rail and air), in a consistent manner (that both carriers and infrastructure managers have to publicly report on the number of PRM related complaints) and covering all the situations in which the rights of persons with disabilities can be breached (including in the provision of assistance).

Common form for reimbursement and compensation requests ⁶

EDF welcomes the introduction in all transport modes of a harmonized form for reimbursement that is accessible for persons with disabilities and reduced mobility. This can be a good tool to enforce existing rights, as complaint procedures are often complex, inaccessible and difficult to find.

⁶ New Article 16a1 in Regulation 261/2004, New Article 19a in Regulation 1177/2010 and New Article 19a in Regulation 181/2011

As stressed in [our reaction to the Commissions Draft Implementation Regulation on a Standard form for reimbursement and compensation requests under Rail Passenger Rights](#), EDF would like to remind the need to ensure legal coherence and refer to the Accessibility Requirements of Directive 2019/882 (European Accessibility Act) and that the main form is made accessible by default. This provision should not lead to the development of alternative 'accessible' solutions for persons with disabilities.

EDF would like to draw attention to the fact that such form cannot be used to claim reimbursement or compensation for a breach of PRM-related rights. This is the case because, beyond broken or damaged mobility equipment, assistive devices or assistance dogs, there is no financial compensation or reimbursement foreseen for the breach of other PRM related rights. While passengers without disabilities who are denied boarding against their will get their trip delayed or cancelled can claim their rights easily, persons with disabilities who experience bad assistance, are obliged to travel accompanied, get their wheelchair broken or get denied boarding have to start a complex process to get their rights respected. Rights that do not foresee any form of compensation. This reality often leaves the passenger affected with only one costly and time-consuming solution with unclear outcomes: judicial litigation.

Risk-based Approach to the monitoring of compliance with passenger rights ⁷

EDF welcomes this provision, which aims at introducing a more proactive approach in the work of NEBs. On the basis of a risk assessment, which will consider the level and nature of complaints to carriers and infrastructure managers, NEBs will have to develop a Compliance Monitoring Programme which will include a list of monitoring activities. EDF finds it positive that the proposal lists such activities: audits, inspections, interviews, examinations of documents. Such activities can be announced and unannounced.

Again, EDF regrets some divergences in the potential application of this article. While NEBs for Rail, Bus and Waterborne transport will have the possibility to

⁷New Article 16a in Regulation 261/2004, New Article 14a in Regulation 1107/2006, New Article 25a in Regulation 1177/2010 and New Article 28a in Regulation 181/2011 and New Article 32a in Regulation 2021/782

include the results of such monitoring activities in the Reports they are obliged to publish every two years, such provision does not exist for Air Passenger Rights (Regulation 261/2004⁸ and Regulation 1107/2006). EDF Believes that the proposed amendment in Air Passenger Regulations should be changed to allow for a similar level of transparency on the monitoring activities, sanctions and complaints carried out by NEBs.

Besides, when monitoring activities seek to verify compliance with PRM-related provisions, cooperation with organisations of persons with disabilities should be required.

In the reports to be published by NEBs, there should be a compilation of all the data (including on complaints) submitted by the carriers and infrastructure managers (not only the complaints submitted to NEBs themselves). Although carriers are obliged to publish this data, it will be useful for consumers to have a comparison table with all the available data. This is already the case in the reports that the [US Department of Transportation](#) publishes annually.

EDF would like to recall that, while this change to a more pro-active monitoring of passenger rights will bring positive benefits, the overall nature of enforcement remains unchanged. In general, passenger rights regulations allow a great discretion to Member States when it comes to enforcement. This means that NEBs currently have different tasks, resources, powers, penalties and procedures to enforce passenger rights. For example, while some NEBs are authorized to directly impose sanctions, some can only advise to do it while another authority will have to take the final decision⁹. That means that, even if an NEB finds a carrier or infrastructure manager in breach of Passenger Rights, they can only make recommendations and leave the passenger with the option to go to court to enforce them.

EDF believes that a stronger enforcement system can only be achieved by establishing minimum European standards on powers, functions and mandates of NEBs. These should include the power to make binding decisions on carriers and infrastructure managers. Similar standards under EU equality legislation already

⁸ The [2013 proposal to amend Regulation 261/2004](#) includes some provisions in this respect.

⁹ [Study on the EU Regulatory Framework for Passenger Rights Part A, Evaluation of Regulation \(EC\) No 1107/2006 on the rights of persons with disabilities and with reduced mobility when travelling by air](#)

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

Information about alternative dispute resolution by NEBs ¹⁰

Alternative Dispute Resolution Bodies (ADRs) can be an additional mechanism to seek redress when passenger rights are breached. Being an out-of-court low-cost enforcement process, ADRs benefits for consumers are undeniable. However, EDF would like to express doubts as to whether ADRs, in their current form, are a good venue to seek redress when PRM rights are breached. As expressed in previous points, the fact that there is no specific financial compensation for the breach of such rights is a clear limitation. Currently, ADRs seem to act only on economic claims and contain little information on how they can support disputes related to PRM rights¹¹.

EDF would like to highlight that [equality bodies](#) are an important venue for persons with disabilities to seek redress, including in cases of discrimination in the transport field. For this reason, EDF believes that this provision should be improved so to also require NEBs to inform persons with disabilities about the equality body that provide guidance and support to their case, when relevant.

Information on Cancellation and Delays ¹²

The proposal includes targeted amendments to Regulation 1177/2010 (Waterborne) and Regulation 181/2011 (Bus and Coach) to ensure that, in the event of delay or cancellation, carriers or terminal operators to provide information on their rights, the situation as well as the estimated time of departure. Moreover, it requires to provide such information by electronic means.

Although these regulations already foresee for this information to be provided in accessible formats, EDF suggests that a clearer link is established with the Accessibility Act, requiring such information to follow its Accessibility Requirements. Such obligation should clearly cover the provision of this information by electronic means (which is not the case with the current wording)

¹⁰ New Article 16bc in Regulation 261/2004, New Article 14c in Regulation 1107/2006, New Article 25c in Regulation 1177/2010 and New Article 28c in Regulation 181/2011

¹¹ For example, there is little PRM related information in the website of European Consumers Centre Network ([Eccnet](#))

¹² Amended Article 16 In Regulation 1177/2010 and Article 20 Regulation 181/2011

Information on Passenger Rights ¹³

The proposal includes targeted amendments to Regulation 1177/2010 (Waterborne) and Regulation 2011/181 (Bus and Coach) to ensure that, when selling tickets or in the event of cancellations and delays, carriers, ticket vendors, travel agents, tour operators and terminal operators provide passengers with information on their rights as well as relevant contacts to enforce them. EDF would like to recall that this information should be provided in accessible for persons with disabilities (in line with the European Accessibility Act) by default and not only when feasible.

The current form of Regulation 1107/2006 on Air Passenger Rights for Persons with Disabilities only requires Member States to inform passengers about these rights. A similar amendment should also be introduced to this regulation so air carriers, infrastructure managers and ticket vendors proactively inform passengers about their rights under this regulation.

Means of communication with passengers ¹⁴

The proposal includes targeted amendments to Regulation 1177/2010 (Waterborne), Regulation 2011/181 (Bus and Coach) and Regulation 2021/782 (Rail) to ensure that, whenever information is provided by electronic means, passengers can keep any written correspondence, including the date and time on a durable medium. All means of communication should enable the passenger to contact carriers, infrastructure managers, ticket vendors and tour operators in a quickly and efficient manner. EDF believes that this obligation should also be extended to Regulation 1107/2006.

Sharing information with NEBs ¹⁵

EDF welcomes this provision that would oblige carriers and infrastructure managers to share information with NEBs at their request. This will improve the pool of tools that NEB have at their disposal to ensure an effective compliance with passenger rights.

¹³ Amended Article 23 in Regulation 1177/2010 and Article 22 in Regulation 181/2011

¹⁴ New Article 23a in Regulation 11077/2010, Article 25a in Regulation 181/2011 and Article 30a in Regulation 2021/782

¹⁵ New Article 16bb in Regulation 261/2004, New Article 14b in Regulation 1107/2006, New Article 25b in Regulation 1177/2010 and New Article 28b in Regulation 181/2011

Document credits

This document was prepared by Daniel Casas Ballester, Accessibility Policy Officer - daniel.casas@edf-feph.org



The European Disability Forum
Mundo Madou
Avenue des Arts 7-8
1210 Brussels, Belgium.

www.edf-feph.org

info@edf-feph.org

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