

Special Report

EU passenger rights are comprehensive but passengers still need to fight for them

(pursuant to Article 287(4), second subparagraph, TFEU)



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EXECUTIVE SUMMARY

About passenger rights

I. Over the last 20 years there has been a boom in travel in all modes of transport in Europe. In response, the European Union has taken steps to ensure a minimum level of protection for passengers in the four modes of public transport: air, rail, waterborne and bus. In 2011, the Commission set 10 core EU passenger rights that are common to all modes of transport. Passenger rights are guaranteed in regulations for the four modes of public transport. The extent of coverage and specific rules differ from one regulation to another.

How we conducted our audit

II. We assessed to what extent passenger rights are effectively protected, by examining whether:

- the scope and reach of regulations effectively protected passenger rights and if they were actually obtained;
- passenger rights were effectively enforced.

III. We carried out interviews with the Commission and visited 10 Member States: the Czech Republic, Germany, Ireland, Greece, Spain, France, Italy, the Netherlands, Poland and Finland. In all Member States the audit scope included air transport while rail, waterborne and bus transport were covered only in some. We also carried out two surveys of passengers to assess the awareness and knowledge of passenger rights.

What we found

IV. The main modes of public transport are covered in the regulations, which makes the framework unique globally. However, many passengers are not sufficiently aware of their rights and frequently do not obtain them due to problems with enforcement.

V. We noted some good practices applied in other countries outside the EU which, if applied in Europe, may further enhance the quality of EU passenger rights. The 10 core rights are meant to protect all passengers travelling on all four modes of public transport. The extent of coverage of protection depends on the specific mode of transport used.

VI. Numerous provisions of the regulations can be interpreted differently. The concepts of information, assistance and conditions for re-routing are not sufficiently defined in the regulations. The amount of compensation does not maintain its purchasing value.

Furthermore, numerous limitations on the jurisdiction of the National Enforcement Bodies' and derogations provided in the regulations significantly narrow the coverage of passenger rights.

VII. To benefit from the passenger rights framework passengers need to be aware of their rights. However, the level of awareness remains relatively low. Awareness campaigns have focused on the existence of passenger rights but could have provided more practical guidance on how to proceed in case of travel disruption.

VIII. The current system of handling compensation implies a significant administrative burden on both carriers and passengers as millions of claims have to be individually submitted and handled. The procedures applied by carriers and NEBs in responding to individual claims are not transparent. Passengers on the same journey affected by a travel disruption can be treated differently.

IX. Enforcement of the regulations is the task of the NEBs. Currently their approach towards enforcing rights of individual passengers varies by mode of transport and Member State. Mostly the NEBs are reacting to complaints received from dissatisfied passengers.

X. The Commission's monitoring of the implementation of the passenger rights framework has led to clarifications of the regulations. However, the fact that the Commission does not have a mandate to ensure enforcement of passenger rights has resulted in divergent application of passenger rights.

What we recommend

XI. The Court makes a number of recommendations concerning: improving the coherence, clarity and effectiveness of the passenger rights framework; increasing passenger awareness; further empowering the NEBs and enhancing the mandate of the Commission. We also provide 10 tips to try make everyone's travel experience better.

INTRODUCTION

The concept of passenger rights

1. Over the last 20 years there has been a boom in travel in all modes of transport. In response, the European Union has taken steps to ensure a minimum level of protection for passengers in four modes of public transport: air, rail, waterborne and bus/coach¹.
2. To help EU citizens make full use of their consumer rights, in 2011, in its communication to Parliament and Council² the Commission summarises 10 core EU passenger rights that are common to all modes of transport (see **Table 1**).

Table 1 - 10 core EU passenger rights

1. Right to non-discrimination in access to transport	Protection against direct or indirect discrimination based on nationality, residence, disability or reduced mobility.
2. Right to mobility	Accessibility and assistance at no additional cost for passengers with disability and reduced mobility.
3. Right to information	Information provision before the purchase of tickets, at various stages of travel, and importantly, in case of disruption.
4. Right to renounce travelling in case of disruption	Right to withdraw from the contract and have ticket price reimbursed for long delays, cancelled travel or denied boarding.
5. Right to the fulfilment of the transport contract in case of disruption	Right to receive alternative transport service/transport as soon as possible, or to rebook for long delays, cancelled travel or denied boarding.
6. Right to assistance in case of delay or cancellation	Minimum level of care in case of long delays.
7. Right to compensation under certain circumstances	Financial compensation in case of long delays, cancelled travel and in case of involuntarily denied boarding in air travel.
8. Right to carrier liability towards passengers and their baggage	Liability and compensation for e.g. death or injury of passengers and damage to luggage.
9. Right to a quick and accessible system of complaint handling	Right to lodge a complaint with carrier if dissatisfied with service. May subsequently lodge a complaint with the competent National Enforcement Body (NEB).
10. Right to full application and effective enforcement of EU law	Right to count on the proper application of EU passenger rights by carriers. Enforcement of EU rules by NEBs should happen through effective, proportionate and dissuasive sanctions for infringements.

Source: COM(2011) 898 final.

¹ For the purpose of this report bus/coach mode is referred to as “bus”.

² COM(2011) 898 final of 19.12.2011– “A European vision for Passengers: Communication on Passenger Rights in all transport modes”.

Regulating and implementing EU passenger rights

3. Passenger rights are laid down in regulations for the four modes of public transport. Although the 10 core passenger rights are the same for all modes, different rules apply from one mode to another and the extent of passenger protection differs also. Passenger rights can be divided into those that apply to passengers on all journeys, such as the right to mobility or the right for information and those, applicable only when travel plans are interrupted, such as the rights to assistance or compensation.

Air passenger rights

4. The regulation³ concerning air passenger rights applies to passengers departing from an airport within a Member State, notwithstanding the origin of the carrier, or from an airport in a country outside of the EU to an airport in a Member State, but only if the operating carrier is an EU carrier. The passenger rights of persons with disabilities or with reduced mobility (PRMs) travelling by air are covered by a separate regulation (Regulation (EC) No 1107/2006⁴)⁵. In 2013, the Commission proposed a recast⁶ that was supposed to enhance and clarify air passenger rights while simultaneously reducing the cost of implementation of the regulation for air carriers. However, at the time of the audit the proposal had not yet been adopted.

³ Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights (OJ L 46, 17.2.2004, p. 1).

⁴ Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (OJ L 204, 26.7.2006, p. 1).

⁵ The acquis for air passenger rights comprises also Regulation (EC) No 889/2002 of the European Parliament and of the Council of 13 May 2002 amending Council Regulation (EC) No 2027/97 on air carrier liability in the event of accidents (OJ L 140, 30.5.2002, p. 1.)

⁶ COM(2013) 130 final of 13 March 2013 "Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 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 and Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air".

Rail passenger rights

5. The regulation⁷ concerning rail passenger rights applies to rail journeys and services throughout the EU provided by one or more licensed railway undertakings. In 2017, the Commission proposed a recast of the regulation⁸ to enhance and clarify rail passenger rights. The proposal for recast is still under legislative examination.

Waterborne passenger rights

6. The regulation⁹ concerning waterborne passenger rights applies to passengers travelling from a port within a Member State notwithstanding the origin of the carrier or from a port outside the EU to a port within a Member State, provided that the service is operated by an EU carrier.

Bus passenger rights

7. The regulation¹⁰ concerning bus passenger rights applies to regular bus services and to those dedicated to tourism. The boarding point must be situated in a Member State and the scheduled distance of the service must be 250 km or more. Until March 2021, Member States may derogate from most of the provisions of this regulation as most domestic services do not have to be included in its coverage.

8. All four regulations require Member States to establish National Enforcement Bodies (NEBs) to ensure compliance with their provisions. Passengers may submit complaints

⁷ Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations (OJ L 315, 3.12.2007, p. 14).

⁸ COM(2017) 548 final of 27.09.2017 "Proposal for a Regulation of the European Parliament and of the Council on rail passengers' rights and obligations (recast)".

⁹ Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 (OJ L 334, 17.12.2010, p. 1).

¹⁰ Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 (OJ L 55, 28.2.2011, p. 1).

concerning infringements of the regulations to the carrier or directly to the NEBs. The Commission has no direct role in the enforcement of passenger rights.

AUDIT SCOPE AND APPROACH

9. Although there are minimal EU financial resources allocated to passenger rights, we decided to carry out an audit as it is one of the flagship policies that the European Union delivers directly to its citizens. The Commission considers the passenger rights legislation one of its great successes in empowering consumers. Taking into account that almost 15 years have passed since the first regulation on air passenger rights came into force, we decided to analyse the current state of implementation of the passenger rights framework.

10. In this audit we assessed to what extent passenger rights are effectively protected in the European Union. To that end, we examined whether:

- the scope and reach of regulations effectively protected passenger rights and if they were actually obtained;
- passenger rights were effectively enforced.

11. We held interviews with the relevant unit of the Commission's Directorate General for Mobility and Transport, as well as with various European associations and passenger organisations.

12. We carried out two surveys to assess EU citizens' awareness and knowledge of passenger rights as well as to gather their experiences as passengers:

- (a) **A statistical survey**, of 10 350 randomly chosen citizens from the 10 Member States visited during the audit (see **paragraph 12**). This survey was carried out between November 2017 and January 2018 via an online tool, using a statistically representative sample;
- (b) **An open survey**, freely accessible on our website, including the same questions plus an additional option to share travel experiences. This tool was available between December 2017 and January 2018 and 1 581 people took the opportunity to express their views on passenger rights.

13. In this report we mainly use the results from the statistical survey as it is representative of the EU population. The open survey provided real-life examples of travel disruption. Since the survey was anonymous, we have given fictitious names to the respondents.

Furthermore, based on the passengers' and our own experience, we propose our 10 tips for passengers to hopefully make their travel better (see [*Annex I*](#)).

14. We visited 10 Member States: the Czech Republic, Germany, Ireland, Greece, Spain, France, Italy, the Netherlands, Poland and Finland¹¹. We held interviews with the National Enforcement Bodies (NEBs) and main carriers in each mode of transport. As regards the modes of transport covered, air was included in all 10 Member States visited. Rail transport was covered in France, Germany, Spain, Italy, the Netherlands and Poland. Bus transport was included in the Czech Republic, Germany, Spain, Italy and Poland. Waterborne transport was included in Greece, Ireland, Italy and Finland. Overall, we interviewed 21 NEBs and 27 carriers.

OBSERVATIONS

The EU is committed to passenger rights but many challenges to implementation remain

Passenger friendly practices also exist outside the EU framework

15. To provide context to the EU efforts in passenger protection, we compared the EU's passenger rights framework with those applied in Canada, New Zealand, the USA and Brazil. We found that in most cases the EU rules are stricter and more specific as they cover, to various degrees, all 10 core passenger rights (see [*Table 1*](#)).

16. We also found that, unlike in the EU, passenger rights are not always defined in legislation for the four modes of transport. In the comparator countries, the protection of passengers is often based on voluntary agreements between carriers. In some specific areas,

¹¹ We selected those countries taking into account among other things: sufficient geographical coverage, representation of island and land locked countries as well as equal representation of NEBs that are transport mode specific and ones that are multi-modal.

such as the rules for carrying PRMs, grounded passengers and the protection of luggage; the rules elsewhere go a step further than in the EU (see **Box 1**).

Box 1 - Examples of more advantageous rights outside the EU

Canada: As regards the rights of PRMs, for domestic flights, carriers 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 Europe no EU-wide rule exists and it depends on the national legislation as to whether accompanying persons have to purchase tickets.

New Zealand: Air passengers on domestic flights are entitled to compensation of up to 10 times the cost of the ticket. The fixed EU rates of compensation are €250, €400 or €600 depending on flight distance.

USA: The compensation for delay caused by denied boarding is higher than in the EU, up to €1 158 (1 350 USD), depending on the destination and total time of delay. Another benefit provided is care during tarmac delays: situations where passengers are not allowed to get off the plane. Carriers have to offer a snack and drinking water no later than 2 hours after the plane has either left or arrived at the gate.

Source: ECA comparative analysis.

EU passenger rights are sometimes unclear

Right to information: more clarity needed

17. Passengers have the right to information before, during and in certain cases, after the journey. In the case of travel disruption (cancellations, long delays), passengers should be informed of the nature of the disruption and the likely impact upon their schedule. While bus and waterborne regulations set a deadline of 30 minutes for carriers to provide information to waiting passengers, no such deadline exists for air and rail carriers (see **Box 2**).

Box 2 - Passenger experience: information lacking

Jose: My train journey between Germany and Belgium was almost two hours late. No information was available about the duration nor the reasons for the delay. The delays were appearing incrementally on the platform screens without any explanation nor anyone in sight to provide more information. We were afraid that if we left the platform the train would arrive and we would miss it. The subsequent claim to the carrier was unsuccessful.

Source: ECA open survey.

Right to assistance is not well defined

18. The right to assistance¹² means that passengers are entitled to a minimum level of care in cases of travel disruption. The specific form of assistance depends on what the carriers are prepared to offer. Furthermore, no specific fines are provided for in EU passenger rights regulations if carriers ignore their obligation to offer assistance. The length of the delay giving passengers the right to assistance varies between modes of transport: 2-4 hours for air, 60 minutes for rail and 90 minutes for waterborne or bus. The rail and air regulations do not specify the number of nights or a ceiling for accommodation costs. Ceilings have been introduced to the waterborne and bus regulations, which also exclude any assistance in the case of extraordinary circumstances (see **Box 3**).

Box 3 - Passenger experience: Assistance dependent on passengers taking the initiative

Olavi: I experienced a three-hour delay on a ferry from Helsinki to Travemünde in 2016. Due to the delay, we could not take our planned onward journey by rail to Hamburg, but only to Lübeck, where an overnight stay was required. We booked the accommodation at our own expense via the internet. On request, we were informed on board that the ferry company would reimburse any additional costs incurred. As for assistance, we were served only a drink in the bar with the remark that this was done on a courtesy basis.

Source: ECA open survey.

¹² The regulations use the terms “care” and “assistance” interchangeably.

19. The terms “snack” “meals” or “refreshments” are widely used in the regulations but are not defined so therefore passengers do not know what to expect from carriers. Sometimes even when assistance is actually provided by carriers, the adequacy and quality may not be sufficient to cover the needs of passengers experiencing a travel disruption. It can be as little as a €3 voucher for refreshments at the airport or a bottle of water offered on a train delayed for several hours.

PRMs do not know what services they can expect

20. PRMs are a group of passengers with special needs. To be able to travel without unnecessary constraints, they need to have sufficient information about the conditions of travel and practical arrangements both on board and at the points of departure. The regulations use vague terminology regarding the timing and format of information provided to PRMs such as “in appropriate and accessible formats¹³” or “using appropriate alternative means¹⁴.” Due to problems such as these, the rights of PRMs are often not enforced (see **Box 4**).

Box 4 - Passenger experience: forgotten at the gate

Anna: I am a visually impaired person and although I booked PRM assistance in advance, in practice, I did not receive any. The information about the start of the boarding was provided only on screens and no one cared about me in the assistance area. It seems that I was literally forgotten. It was another traveller who helped me to get to the boarding gate. Once on the plane, the stewards were unaware that I was visually impaired and although I had my white cane, I did not receive any help from them. Once again, it was another traveller who helped me find a place for my luggage, find my seat and fasten the seatbelt.

Source: ECA open survey.

¹³ Article 11(5) of the Regulation (EU) No 181/2011.

¹⁴ Article 14(3) of the Regulation (EC) No 261/2004.

Passenger rights regulations leave a lot of room for interpretation

21. All stakeholders consulted shared the view that the degree of clarity of the regulations is insufficient, leading to narrow interpretations by carriers and uncertainty as to how cases should be treated by NEBs. Since the air regulation came into force, approximately 180 cases have been debated at the European Court of Justice (ECJ) in order to clarify the meanings of delay, extraordinary circumstances, technical defects, time of arrival, etc. Moreover, both carriers and NEBs provided examples where national courts gave judgements on the same topics with contradicting outcomes.

22. In order to explain the ECJ rulings to all stakeholders, the Commission has issued a number of explanatory notes and interpretive guidelines¹⁵. It also published a summary of the most relevant ECJ judgements, most recently in July 2015¹⁶. However, the NEBs and carriers stressed that a uniform implementation of the regulations has not yet been achieved as the concepts of assistance, re-routing under comparable conditions and conditions for compensation are still not applied in a uniform manner.

EU passenger rights depend on carriers and are limited by derogations

Right to fulfilment of transport contract: passengers dependent on the actions of carriers

23. In cases of long delays, cancelled departures or denied boarding, passengers must be offered the choice between reimbursement of the ticket price or alternative transport under comparable conditions. In air travel, re-routing is only applicable in the case of cancellation or denied boarding; it is not provided in cases of long delay. In other modes the right to re-routing is granted if the expected delay at arrival or departure is at least 60 minutes in rail, 90 minutes for waterborne and 120 minutes for bus. However, under the current EU regulations there is no specific fine provided for if carriers do not provide re-routing within a reasonable timeframe (see **Box 5**).

¹⁵ https://ec.europa.eu/transport/themes/passengers/air_en.

¹⁶ https://ec.europa.eu/transport/themes/passengers/air/european_case_law_en.

Box 5 - Passenger experience: waiting for hours for nothing

Istvan: My flight to Munich was cancelled due to snowfall. The notification came 4 hours before the departure. At the check-in I was told to wait for information directly from the airline as the airport personnel were not allowed to contact the airline and there was no representative of the airline present. I tried to call the airline myself for one hour but nobody answered. After waiting for over 4 hours at the airport I decided to go back home as it was already very late in the evening. The proposal to put me on a lunchtime flight the next day came only after midnight, which was almost 10 hours after the cancellation was announced.

Source: ECA open survey.

24. Re-routing should be provided under comparable conditions. However, in the current EU regulations there is no guidance as to what constitutes comparable conditions. For instance, NEBs reported several cases of very long bus journeys offered by rail and air carriers, e.g. between Paris and Madrid (1 250 km) or between Milan and Catania (1 400 km including ferry).

25. We noted several cases, where passengers could have been re-routed immediately if carried in a different service class or by another company operating in the same mode of transport. However, carriers avoid this solution for financial reasons. This can lead to long waiting times for passengers as they must be placed on a departure operated by the original carrier in the same service class (see **Box 6**) which may only be available several days later.

Box 6 - Passenger experience: tough negotiations to get re-routed

Martina: After a cancellation of my flight, no reasonable alternative was offered to reach the destination. The next flight with the same airline was 4 days later and that too was quickly filled by passengers from my flight. The only option left was another flight 7 days later. My request to be put on a flight with another airline was not accepted. After continuous complaining, the airline proposed a flight from another airport, but costs to get to that airport (in another country) were not reimbursed.

Source: ECA open survey.

Derogations in the regulations mean many passengers are not protected

26. According to the rail regulation, the Member States may derogate until 2024 from applying the majority of passenger rights. The derogations concern mostly regional and local departures. In 2017, only five Member States¹⁷ were applying the regulation in full. This means that 90 % of train users in Europe are not benefiting from most of their EU passenger rights¹⁸. International services, if a significant part of the journey is provided outside the EU, even if operated by an EU carrier, are also currently excluded from the regulation.

27. Most provisions of the bus regulation apply to regular services with a scheduled distance of service of 250 km or longer. Different interpretations of how to measure these 250 kilometres exist. Some NEBs and carriers take the full length of a route as the basis for the measurement and passengers travelling between two points along the route are thereby covered even though their journey is shorter than 250 km. Other carriers consulted assumed that the coverage started only if the distance travelled by the ticket holder was at least 250 km.

Passengers are not well aware of their rights

Level of awareness has not changed but more people have heard about passenger rights

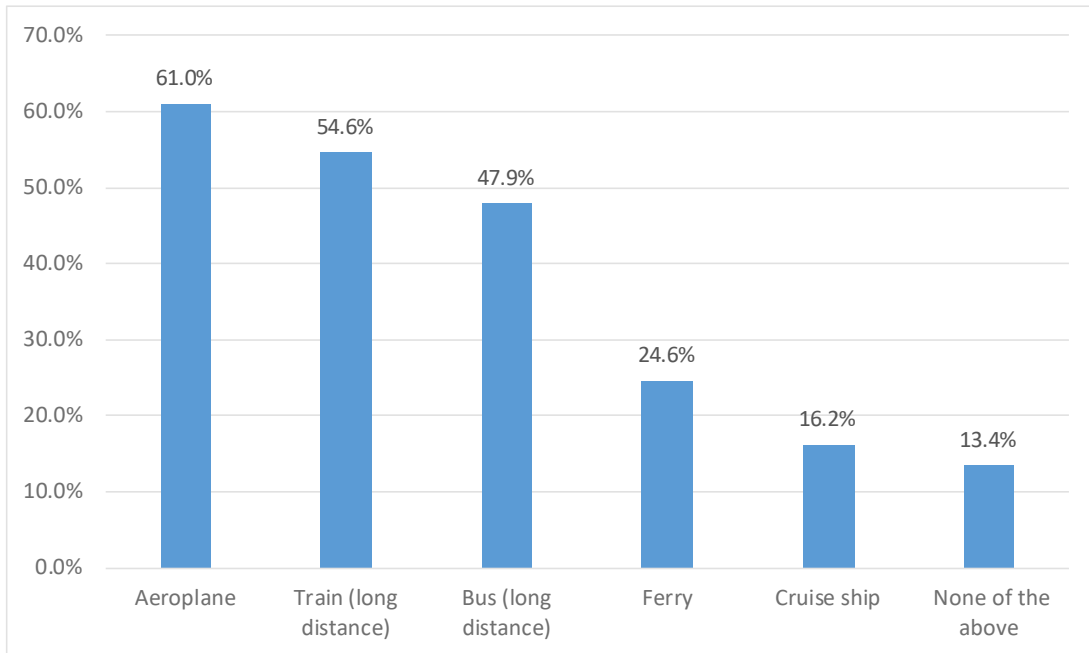
28. In our statistical survey we asked respondents whether in the last 2 years they had travelled by air, used a long distance train service, been on a ferry or a cruise ship or travelled long distance by bus. The replies show that majority of Europeans, 86 %, travel rather often, and only 13 % of respondents have had no long distance travel experience within the last 2 years. The overall share of different transport modes used is presented in **Graph 1**. The most common frequency of travelling, 34 %, is between 2 to 5 times a year;

¹⁷ Belgium, Denmark, Italy, the Netherlands and Slovenia.
https://ec.europa.eu/transport/themes/passengers/rail_en.

¹⁸ According to market analysis, regional and suburban railways in Europe account for 90 % of total railway passengers and 50 % of passenger-kilometres. Regional and suburban trains carry as many passengers as all metros in Europe and 10 times more passengers than air travel. For more see: <http://www.uitp.org/regional-and-suburban-railways-market-analysis-update>.

84 % of the respondents travel more than once a year (see the complete questionnaire in **Annex II**).

Graph 1 - Share of the modes of transport on which the respondents have travelled within last 2 years



Source: ECA statistical passenger survey.

29. Many aspects of passenger rights require active behaviour, for example requesting assistance or compensation. Thus, passengers must be aware of their rights. In order to evaluate the level of awareness among Europeans, our statistical survey included three measurements:

- (a) evaluation of the self-proclaimed awareness;
- (b) evaluation of the reach of the term “passenger rights”;
- (c) evaluation of the knowledge of passenger rights.

30. In our statistical survey 39 % of respondents considered themselves to be quite aware or entirely aware of their passenger rights. While 3.6 % considered themselves to be entirely aware, 13.5 % declared themselves as not having any awareness at all (see **Table 2** and

Box 7). A similar result was obtained in the 2014 Eurobarometer report¹⁹, where the same 39 % of the respondents considered themselves to be aware of EU passenger rights.

Table 2 - An evaluation of respondents’ self-proclaimed awareness of EU passenger rights on a scale from 1 to 4

	1 - I am entirely unaware of my rights as a passenger	2	3	4 - I am entirely aware of my rights as a passenger
n	1 396	4 954	3 626	374
%	13.5	47.9	35.0	3.6
	61.4		38.6	

Source: ECA statistical passenger survey.

Box 7 - Passenger experience: I just didn’t know!

Jürgen: My flight was cancelled a day before departure without any justification. I was automatically (without consent) issued another ticket. With the new flight I arrived at my destination 3.5 hours later. I complained to the airline but they replied that I had no right for compensation. In fact I did not know my rights, so I did not ask for €250, but for any kind of "general" compensation. This made me do a proper research and I found that I had indeed the right for compensation and that I was supposed to be informed about my other rights. I wrote again to the carrier quoting the regulation and the case law and finally I was compensated €250.

Source: ECA open survey.

Awareness does not mean knowledge

31. The statistical survey included a series of questions to test passengers’ knowledge. Respondents were given a theoretical situation of a 5-hour delay of their flight due to the airline’s staffing issues. They were provided with 15 options, out of which five came from the

¹⁹ Special Eurobarometer 420, Passenger Rights, December 2014.

air passenger rights regulation and the other 10 were fictional. On average, the respondents selected two out of the five correct options.

32. Out of the three most selected options, the first is included in the passenger rights regulation (78 % of the respondents) (see **Table 3**). The 2nd and 3rd most preferred options were: “Reimbursement of other substantiated expenses” and “A flight with a different airline to the same destination.” Although neither of the two are expressly provided for in the regulation, they are among the most common requests that passengers approach carriers with.

Table 3 - The share of options selected by respondents to what they believe they are entitled to if a flight is delayed by five hours or more due to airline’s staffing issues. Each respondent could select five options, correct answers are marked in green²⁰

	Share of the responses %
Free meals, refreshments and hotel accommodation if the delay is overnight	77.8
Reimbursement of other substantiated expenses	54.2
A flight with a different airline to the same destination	49.5
Monetary compensation of at least €250 if this results in at least three hours of delay at the arrival to your final destination	49.2
Free transport to return you to your accommodation, whatever the time of the day	45.2
Reimbursement of the full cost of the ticket	39.3
Transport to your destination by a different means (train, bus, etc.)	29.5
Re-routing to the airport closest to your original destination	26.7
Discount at duty-free shops for buying food	26.2
Access to the airport lounge	25.4
A travel-class upgrade	21.4
The right to choose any other departure date within the next two months	18.7
A free phone call	17.3
A return flight to the first point of departure	15.7
Psychological support	3.9

Source: ECA statistical passenger survey.

²⁰ Articles 7, 8 and 9 of the Regulation (EC) No 261/2004.

Passengers have difficulties to obtain their rights

Right to compensation for delay and cancellation dominates the passenger rights landscape

33. In cases of long delays, cancellations and denied boarding, passengers are entitled to financial compensation. All regulations offer compensation under certain circumstances; however, these circumstances differ significantly. Each of the four modes sets a different time limit for the right to compensation to become applicable: 3 to 4-hour delay in air (depending on the distance), 1 hour for rail, 90 minutes for waterborne and 120 minutes for bus.

34. The compensation amount varies greatly between the four modes of transport: for air it is fixed between €250 and €600 (see **Table 4**). For other modes it is linked to the price of the ticket (25 to 50 %). The amounts in the air regulation have not been adjusted for inflation since coming into force in 2004. If the compensation had kept pace with inflation, it would have increased by 25 %, the cumulative inflation rate (see **Table 4**).

Table 4 - Compensation rates as a result of a delay in air passenger rights

Distance travelled	Compensation in euro in Regulation (EC) No 261/2004	Theoretical equivalent in euro after inflation
1 500 km or less	250	313
More than 1 500 km within the EU and all other flights between 1 500 and 3 500 km	400	500
More than 3 500 km	600	751

Source: EU air passenger regulations and ECA calculations.

35. The right to be compensated for delay and cancellation is the most administratively burdensome of the 10 core passenger rights. It accounts for some 90 % of the claims submitted to carriers and NEBs. The most contentious issue between carriers and passengers lies in the causes of delays and cancellations. If the cause is considered as being extraordinary by nature, carriers are exempt from payment (except for rail, where carriers have to compensate whatever the cause of the disruption). Since information on the reasons of disruptions is not publicly available, all passengers have to challenge such statements

individually. The air NEBs interviewed estimated that approximately 60 % of the claims filed by passengers not satisfied with the airlines' replies that there were extraordinary circumstances, were reclassified by the NEBs as not to have been extraordinary. This means that carriers can compensate one passenger and not another on the same flight (see **Box 8**).

Box 8 - Passenger experience: unequal treatment

Karol: All flights from Gdansk were delayed because of bad weather. When air traffic was restored, the plane allocated to my route was eventually used to operate another flight. I filed a complaint as did other passengers from my flight. Some of us did not get any compensation while others did, although the conditions for the delay were the same.

Source: ECA open survey.

36. We requested all carriers interviewed to disclose information about the number of complaints received and their financial effect. The information we obtained was limited and did not allow us to draw conclusions on the financial burden of these obligations. This information was not available as very few carriers are willing to share this data with the Commission.

37. The Commission in its proposal for updating the air regulations (see **paragraph 4**) seeks to reduce the cost of assistance and compensation borne by carriers stemming from passenger rights. To this end, it proposed increasing the waiting times which trigger compensation from three to five hours. Additionally, it proposed to cap the allowable period of accommodation to two nights with a maximum cost of €80 per night. However, this proposal was only based on very limited data made available to the Commission by the airlines.

Passenger rights are difficult to enforce for connecting journeys

38. The specific problems of connecting journeys (i.e. travels that include several segments under one contract of carriage) are the lack of clarity concerning compensation and the organisation of supervision by the NEBs. In these situations, even if the individual segments had delays that alone would not trigger compensation, the ultimate overall delay may nevertheless exceed the threshold set in the regulations. This situation requires the

intervention of NEBs as none of the carriers concerned feel responsible for providing assistance or compensation if the disruption was not directly their fault (see **Box 9**).

39. It is not evident which NEB should handle potential complaints in such cases. The NEBs interviewed provided numerous examples of forwarding cases of connecting journeys back and forth to each other. The NEBs have taken steps to find a common approach to this problem but their position is not unanimous.

Box 9 - Passenger experience: typical problem with a connecting journey

Greta: I missed a train connection in Prague on a journey from Düsseldorf to Cracow. The through-ticket was sold by the German carrier but part of the journey was operated by a Czech carrier. Due to the delay the journey could only continue the next day. Both rail companies denied me hotel accommodation and I had to book a hotel in Prague at my own expense. Neither of the two felt responsible for the reimbursement of this cost and compensation due for the delay.

Source: ECA open survey.

Passengers wish for alternative transport

40. Of the 10 core passenger rights, we asked respondents to choose the three most important for them. The most common response was the “right to receive alternative transport in the event of long delays, cancellations or denied boarding (see **Table 1**)” with 42 % of people putting it as their first choice. This was closely followed by “right to compensation in the event of long delays, cancellations or denied boarding,” with 40 %. Almost equally important was the right to assistance. To compare, in the open survey the most appreciated right was the same but it received 65 % support (see **Table 5**).

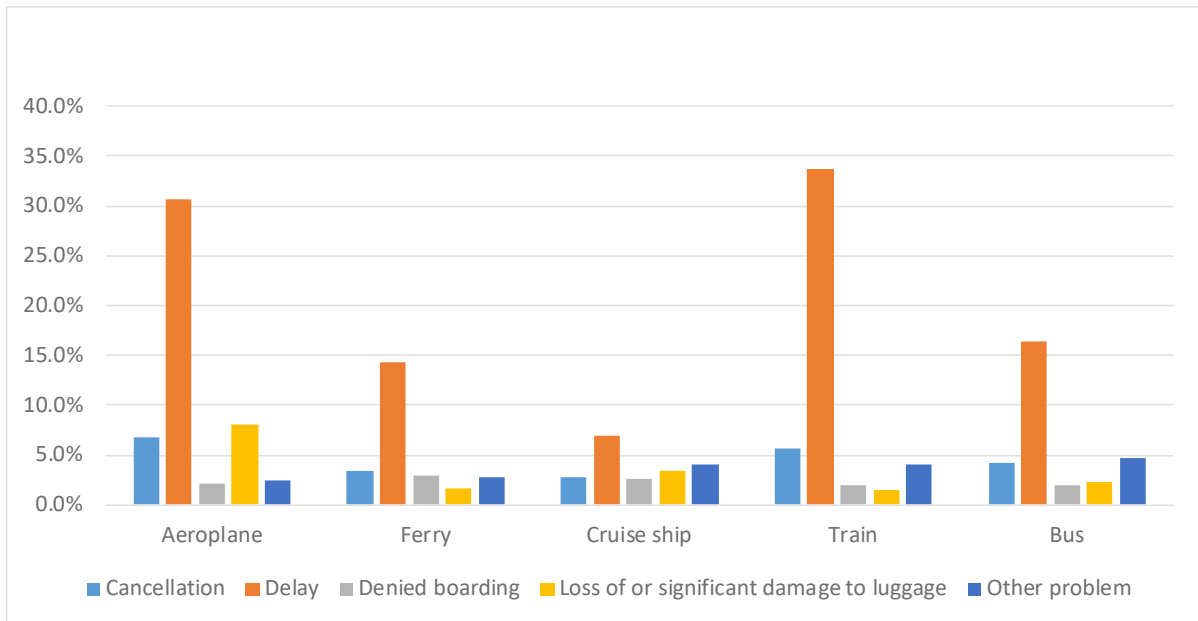
Table 5 - Which rights do passengers consider most important?

Statistical survey	% of cases
Right to receive alternative transport in the event of long delays, cancellations or denied boarding	41.7
Right to compensation in the event of long delays, cancellations or denied boarding	39.6
Right to care (food, assistance) in the event of long delays	36.1
Right to compensation in the event of damage to your luggage	35.7
Right to a refund from the carrier in the event of disruption	34.7
Right to protection against discrimination based on nationality, residence or disability when you use public transport	31.3
Right to access to information in the event of travel disruption	29.9
Right to assistance at no cost for passengers with reduced mobility	28.9
Right to lodge a complaint with a carrier if you are dissatisfied with their service	9.7
Right to proper implementation of the regulations by public authorities	7.2

Source: ECA statistical passenger survey.

50 % of travellers have experienced significant travel disruption, most often in rail and air

41. We asked in the statistical survey if within the last two years respondents have been in situations where their journeys were cancelled or delayed, they were denied boarding or their luggage had been damaged. Out of the 8 961 respondents who had travelled within the last two years, 49.5 % experienced at least one of these travel disruptions. The survey indicated that the most common travel disruption was delay, which was experienced by 34 % of train travellers and 31 % of people taking a flight. It was followed by cancellations and loss or significant damage to luggage (see **Graph 2**).

Graph 2 - Disruption types and share of experience by mode of transport

Source: ECA statistical passenger survey.

42. We also tested if the respondents who had previous travel disruption were more aware of their rights. We found that the experience of previous travel disruption is no indicator of increased knowledge of passenger rights. Sometimes the disruption can encompass nearly all possible problems (see **Box 10**).

Box 10 - Passenger experience: A train ride to forget

Hans: I was travelling on a regional train in Germany. The train stopped in a small station as a tree had fallen on the track. This happened late in the evening. All passengers had to get off. As the place was remote, mobile phone reception was very weak. There was no waiting room, no buses, no taxi, no telephone, not a single building nearby. The train driver informed us that a bus would come but it did not show up. Taxi drivers from the closest city 10 km away refused to come as they were not sure who would eventually pay for the service. The train went back to its place of origin. There was no one to help us.

Source: ECA open survey

No information about travel disruption is publicly available

43. Regulations do not oblige carriers to report incidents of travel disruption to the public, with the exception of rail carriers, who are obliged to annually publish the number and categories of received complaints, processed complaints, response time and possible improvement actions undertaken. Carriers are reluctant to disclose data on travel disruptions occurring on their routes (see **paragraph 36**). Neither is there any registry managed by the NEBs that would record delays or cancellations of individual departures or numbers of cases received per carrier or per departure.

Passenger rights benefits are requested by only 1/3 of passengers as they do not know what to do or do not expect a satisfactory outcome

44. When travel disruption occurs most of the benefits are not available automatically. The number of people making a request is usually smaller than the number of passengers affected (see **Box 11**). We asked the carriers interviewed to provide us with the approximate number of people that take active measures. Rail and air carriers estimated that on average 1/3 of passengers contacted the carrier after having experienced travel disruption. This figure is consistent with our statistical survey, where out of the 4 437 respondents who had experienced some travel disruption, 32 % declared that they had contacted the carrier and sought compensation or other kind of assistance.

Box 11 - Passenger experience: you always need to ask

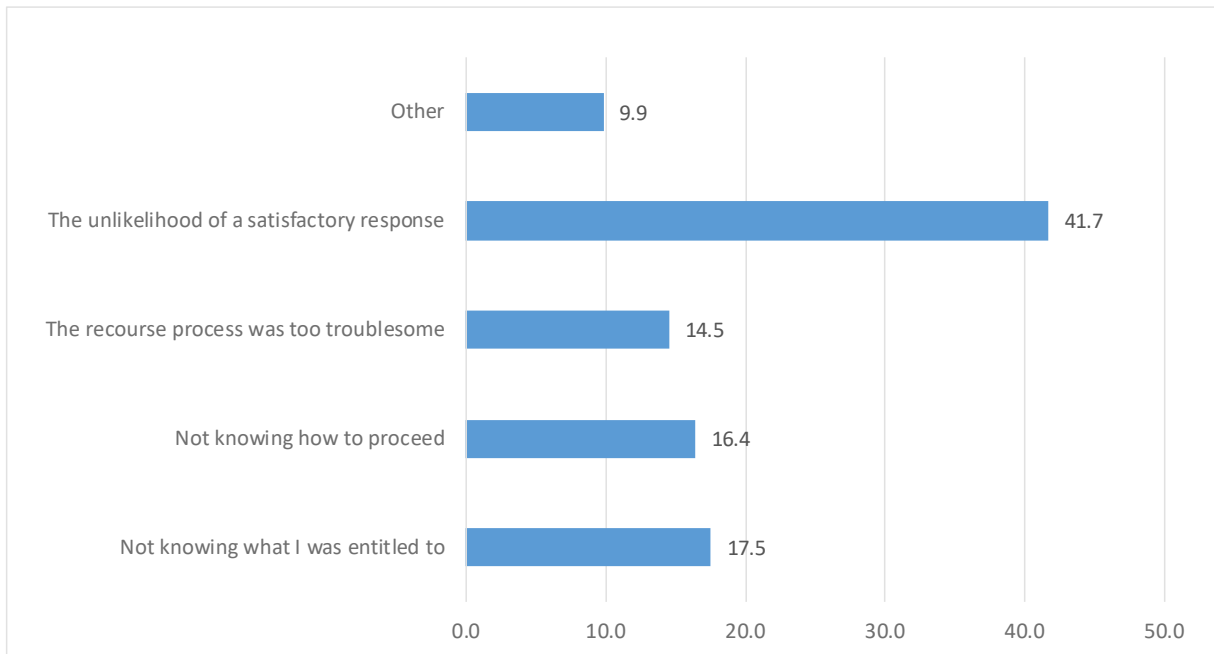
Monika: Our plane was delayed for 5 hours. At the airport, no one informed us about the reasons for the delay and expected waiting time. Passengers asked for everything themselves. After 3 hours waiting I learned from other passengers that I could get a voucher for about five pounds for the purchase of drinks or sandwiches. All shops at the airport were already closed.

Source: ECA open survey.

45. In the statistical survey, 20 % of the passengers having had travel disruption stated that they suffered quietly and took no action. When we asked why they had remained passive, the most common reason given was the unlikelihood of a satisfactory response from the

carrier. As shown in **Graph 3**, other major causes were a lack of awareness or a lack of practical knowledge on how to proceed.

Graph 3 - Share of reasons in % for not taking any action in a case of travel disruption



(n=902)

Source: ECA statistical passenger survey.

Enforcement varies and depends on the practices in each Member State

NEBs differ in their structure and enforcement practices

The structure of the NEBs is not uniform and the scope of their work depends on the mode of transport

46. All four modes of transport require the Member States to establish National Enforcement Bodies to ensure compliance with the provisions of the regulations. We found that NEBs had been setup in all visited Member States. In some cases they were established just to cover a single mode of transport, whereas in others more than one mode of transport is under their remit.

47. The NEBs for air, bus and maritime travel are responsible for all departures within their territories and arrivals of EU carriers from non-EU countries (known as territorial

enforcement). NEBs for rail cover the carriers, which are registered under their jurisdiction (known as entity-based enforcement). Problems may occur when rail carriers depart from Member States other than their own. In such a case the NEB supervising a specific carrier may not be empowered to investigate an event that took place in another Member State. However, we noted that in practice the responsibility of NEBs is not very clear to passengers and this is also true in the bus and waterborne sectors. None of the bus and ferry operators interviewed had been contacted by a NEB of another Member State.

48. Furthermore, there can be an additional distinction between international and domestic traffic and the separation of NEB functions between local governments. This is the case for bus travel in Poland and Spain. While there is a body set up at the national level for international traffic, domestic traffic is under the responsibility of regional authorities and their jurisdiction depends on the place where the carrier obtained its license.

Not all NEBs resolve the individual claims of passengers

49. According to the regulations, passengers must be notified that it is possible to submit complaints concerning infringements of the regulations to the designated NEBs. In most cases, passengers have to first refer a complaint to the carrier and only if the outcome of this procedure is unsatisfactory, can they address their complaint to the NEB. While passengers might expect the NEB to be the first avenue of appeal, in many cases the NEB does not handle individual financial complaints and passengers have to look for other solutions to obtain due compensation.

50. As a result of an ECJ judgement²¹ of March 2016, some air NEBs consider their role as purely ensuring general enforcement (Germany, Italy, Finland), while others also deal with individual complaints. This makes it very difficult to put into practice the provision from the air regulation that passengers can complain to any NEB about an alleged infringement wherever it happened²². The first NEB the passenger applied to may accept individual cases

²¹ Joined Cases C-145/15 and C-146/15.

²² Article 16 of the Regulation (EC) No 261/2004.

while the second NEB to which the complaint is transferred may deal with general enforcement cases only.

The statistics show that the air NEBs handle many more claims than NEBs in rail, waterborne or bus

51. In general there is a wide variety of practices amongst NEBs. For example, deadlines for handling complaints can range from two months (Poland) to as much as four years (Germany), while in some Member States no official deadline is fixed (Finland, France). The average length of a procedure for air NEBs ranges from 42 days (the Netherlands) to more than one year (Germany).

52. The number of sanctions imposed by NEBs and the monetary amounts involved, vary greatly among Member States as they are not fixed in EU legislation. In the air sector they may range from €50 (Poland) to €250 000 per passenger (Ireland), depending on the seriousness of the infringement. In the Netherlands, a cumulative fine for an incident reached as high as €1 million. However, out of the 10 Member States visited, only the Dutch air NEB publishes information on sanctions, together with the airline name.

53. For most air NEBs the numbers of complaints received over the last three years show an increasing trend (see ***Table 6***). The main reason for claims from passengers to NEBs is disagreement as to whether extraordinary circumstances actually caused delays (on average 45 % of all claims) followed by the same question on cancellations (19 %).

Table 6 - Statistics for the years 2015 to 2017 on complaints handled by the 10 air NEBs

Member State	Total number of complaints		
	2015	2016	2017
Czech Republic	370	672	934
Germany	2 844	3 075	3 211
Ireland	719	846	981
Greece	993	1 367	1 465
Spain	11 343	17 649	16 700
France	6 775	5 960	6 115
Italy	5 763	6 078	3 731
Netherlands	812	1 361	
Poland	5 402	5 980	7 226
Finland	1 434	1 845	2 015

Source: Available information obtained during country visits.

54. The NEBs in other modes of transport have a relatively lighter workload. While rail NEBs frequently have issues to solve, bus and ship NEBs deal with a low numbers of cases. For example, while the Polish air NEB had more than 7 000 complaints in 2017, the bus NEB handled only four.

55. We noted that the actual number of complaints from passengers to rail, bus and waterborne carriers is much higher than the number of cases reaching the NEBs. This indicates that most of the complaints are resolved at carrier level. Sometimes the industry standards are in line with or exceed the obligations of carriers arising from EU passenger rights regulations and the carriers are tending to solve issues on a voluntary basis.

Claim agencies and Alternative Dispute Resolution bodies are filling the enforcement gaps left by the NEBs

Alternative Dispute Resolution bodies bring elements of negotiation and compromise to the enforcement of passenger rights

56. Apart from the NEBs, passengers can refer to other bodies to claim their rights, namely, Alternative Dispute Resolution bodies (ADR), European Consumer Centres²³, claim agencies or consumer organisations. Passengers can also try to resolve their cases in civil courts, especially if they insist on getting compensation.

57. ADRs offer a simple, fast and low-cost out-of-court solution to disputes between consumers and traders. According to the EU Directive²⁴, ADRs should be available for all types of domestic and cross-border disputes and Member States should make ADRs easily accessible. Although there are ADR bodies dealing with general consumer complaints in all Member States, carriers are mostly engaged with the ADRs for their respective transport modes. ADR opinions are not always binding on the carrier.

58. While the ADR procedure is usually free of charge for passengers, carriers may have to pay for each procedure handled, notwithstanding its results. As the costs of each procedure can be much higher than the amount of compensation due, some carriers interviewed prefer to pay-out the requested compensation to avoid ADR proceedings.

59. Some NEBs expressed the opinion that the ADR procedure was incompatible with the principle of passenger rights as the aim of the ADRs is to mediate a mutually acceptable solution, which can mean some passengers agreeing to less compensation than they were entitled to.

²³ ECCs give advice to consumers on their consumer rights and – through their network ("ECC-Net"), can facilitate a solution with the trader. ECC-Net handles more than 100 000 contacts per year, one third of which concern transport.

²⁴ Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (OJ L 165, 18.6.2013, p. 63).

Passenger rights have led to the creation of a new industry of claim agencies

60. Claim agencies offer the management of claims for compensation for disrupted travel on behalf of passengers. Some airlines stated that the share of cases facilitated by claim agencies could be up to 50 % (see **Box 12**).

Box 12 - Passenger experience: Involving an agency can make the carrier react

Dolores: My flight from Madrid to London was delayed for more than six hours due to technical problems of the aircraft. I submitted a claim to the carrier but initially got no response. After several reminders, the carrier refused to pay the compensation. Only after I hired a claim agency was the case settled in my favour.

Source: ECA open survey.

61. Some claims agencies request significant handling fees (up to 50 % of the compensation due). There have been cases where the agencies have requested compensation from carriers without the passengers concerned being aware of this action. At least one NEB (Greece) and some airlines have taken steps to reduce claims from agencies by requesting complainants to include bank account details of the lead passenger. This prevents any direct payments to the claim agencies. In Greece, the introduction of this rule reduced claims facilitated by the agencies by more than 50 %.

The Commission is enabling the exchange of experiences between NEBs but has no mandate to ensure uniform enforcement of passenger rights

The Commission can only monitor the implementation of passenger rights

62. We found that the Commission's mandate does not extend to ensuring that the enforcement in Member States is pursued in a uniform manner. Therefore, the role of the Commission is to monitor the implementation of the passenger rights framework, initiating infringement procedures as necessary. Furthermore, it offers a platform for NEBs to exchange information and organises meetings of NEBs for specific modes of transport. It also replies to queries sent by NEBs concerning interpretation of the regulations.

63. According to the EU regulations, NEBs are not obliged to report on their activities directly to the Commission. Therefore the Commission has limited knowledge about the practices applied by the NEBs in general and the number of cases they deal with. The Commission gathers information about passenger rights implementation from the queries it receives and via exchanges with NEBs.

The Commission has taken steps to increase passenger awareness but with little impact

64. The Commission has taken a role in enhancing passenger awareness and has initiated campaigns informing passengers of their rights. Posters were displayed at all airports at which we did walk-through tests. However, in the waterborne, bus and rail terminals, information about passenger rights had little or no visibility.

65. An awareness-raising campaign for air and rail was undertaken by the Commission between 2010 to 2012. It was followed up by another campaign between 2013 to 2015 which was extended to cover maritime and bus travel. In 2016, the Commission launched their first on-line information campaign on social media. Its main objective was to raise awareness, increase visits to the passenger rights section in the Your Europe portal and downloads of the passenger rights app. Results so far show that the portal received nearly 400 000 visits and over 40 million people were reached during the campaign. By mid-2018, the app has been downloaded 240 000 times.

66. Neither the app nor the Your Europe website provide practical guidelines for passengers on how to act during travel disruption, contact the carriers or make a claim. The information provided to passengers through these means is necessary and usually correct but it lacks the detail that passengers need when faced with travel disruption.

CONCLUSIONS AND RECOMMENDATIONS

67. The EU's commitment to passenger rights is indisputable as the main modes of public transport are covered in the regulations to an extent we did not find in the countries we examined for comparison. However, passengers are not sufficiently aware of their rights and frequently do not obtain them due to problems with enforcement.

The EU is committed to passenger rights but many challenges to implementation remain

68. EU passenger rights provide a comprehensive framework for the benefit of passengers. However, we noted some good practices applied in other countries outside the EU which, if applied in Europe, may further enhance the quality of EU passenger rights (see **paragraphs 15 and 16**).

69. Passenger rights are sometimes unclear and limited due to derogations in the regulations. The rights to assistance, compensation, information and re-routing are not the same in the regulations for the different modes of transport (see **paragraphs 17 to 27**).

Recommendation 1 on improving coherence of the EU passenger rights framework

In order to ensure the best possible protection of passengers in all modes of transport, the Commission should by the end of 2020 carry out an analysis of the differences between the current passenger rights regulations, focusing on the 10 core passenger rights, to determine best practices. For this purpose it should also take account of current international practice.

70. Passenger rights are difficult to obtain as many provisions of the regulations can be interpreted differently by passengers, carriers and National Enforcement Bodies (NEBs) and indeed national courts. The concepts of information, assistance, care and conditions for re-routing are not sufficiently defined in the regulations. Furthermore, numerous limitations on the jurisdiction of the NEBs and derogations provided in the regulations significantly narrow the coverage of passenger rights (see **paragraphs 38 to 45**).

Recommendation 2 on improving clarity within the passenger rights framework

In order to better protect passengers during travel disruption the Commission should by the end of 2020 issue further guidelines or equivalent guidance defining:

- (a) minimum standards on information to be provided to passengers experiencing travel disruption;
- (b) carriers' obligations to provide re-routing; including the use of alternative carriers.

71. To benefit from the passenger rights framework in cases of disruption, passengers need to take action. To do that, they must be aware of their rights. Despite efforts made by the

Commission, the level of awareness remains relatively low. Awareness campaigns have focused on the existence of passenger rights but could have provided more practical guidance on how to proceed in case of travel disruption.

72. There is no registry of frequency or reasons for travel disruption per mode of transport or carrier at the European level. The NEBs do not usually verify nor publish any information concerning routes or carriers most affected by disruptions (see **paragraphs 28 to 32**).

Recommendation 3 on increasing passenger awareness

In order to increase awareness about passenger rights, the Commission should by the end of 2019:

- (a) take actions to promote and coordinate the launching of awareness campaigns by NEBs while fostering the participation of carriers and other stakeholders in order to ensure a wider reach of these campaigns;
- (b) prepare a guide for passengers on how to enforce their rights in practice. It could include references to case law and a model claim form to be presented to the carriers and the NEBs;
- (c) propose that the NEBs report on the frequency, causes and routes most affected by travel disruption within their area of competence.

73. The current system of handling compensation involves millions of claims being individually submitted and handled. However, the procedures applied by carriers and NEBs in reaction to individual claims are not transparent. Passengers affected by the same travel disruption can be treated differently without being aware of it, as the reasons for disruptions are not made public. The amount of compensation does not maintain its purchasing value (see **paragraphs 33 to 37**).

Recommendation 4 on improving the effectiveness of the passenger rights framework

In order to improve the effectiveness of the passenger rights framework and to solve the remaining challenges to enforcement, the Commission should by the end of 2021 address the following issues when reflecting on its proposals to amend the existing regulations. The issues should include:

- (a) setting minimum standards for assistance and care. Minimum thresholds should depend on the length of the disruption and the mode of transport used. For example, the minimum air

passenger allocation for care could be 10 % of the medium rate of compensation (currently €400). For other modes of transport, the rate could be limited to 50 % of the air allocation;

- (b) reducing the number of derogations that limit the application of the regulation;
- (c) obliging the carriers to publish a note to passengers within 48 hours of the occurrence of the travel disruption of its causes and specifically, whether it was due to extraordinary circumstances;
- (d) obliging the carriers to execute automatic (without a specific request) compensation payments to passengers who have provided the necessary information at the time of purchasing the ticket;
- (e) introducing a mechanism to maintain the purchasing value of compensation rates.

Enforcement varies and depends on the practices in each Member State

74. Enforcement of the regulations is key to making the whole framework successful. Passengers need effective NEBs. Currently the NEBs' approach towards enforcing the rights of individual passengers varies by mode of transport and Member State.

75. The most common activity of the NEBs is that of reacting to the complaints received from dissatisfied passengers. However, not all NEBs can handle individual compensation claims. The powers of the NEBs to sanction carriers varies from not applying any fines to fining significant amounts (see ***paragraphs 46 to 55***).

76. The Commission does not have a mandate to ensure the full enforcement of passenger rights regulations. Its role as monitor of the implementation of the passenger rights framework has led to clarifications of the regulations but has not resulted in the universal application of passenger rights throughout Europe and in the four modes of public transport (see ***paragraphs 62 to 66***).

Recommendation 5 on further empowering the NEBs and enhancing the mandate of the Commission

In order to empower the NEBs and to develop their supportive role vis a vis passengers while ensuring proper enforcement of passenger rights, the Commission should by the end of 2021 address the following issues when reflecting on its proposals to amend the existing regulations. The issues should include:

- (a) providing the NEBs with further tools for the enforcement of passenger rights, such as:
 - (i) applying the principle of territorial enforcement;
 - (ii) monitoring the carriers' policies on assistance, care, information and re-routing;
 - (iii) handling compensation claims submitted by individual passengers;
 - (iv) sanctioning carriers for a failure to provide assistance, care and information.
- (b) enabling the Commission to obtain the necessary information from the NEBs in order to have a comprehensive view of the state of enforcement and giving it a mandate to perform quality control of the enforcement practices of the NEBs.

This Report was adopted by Chamber II, headed by Mrs Iliana IVANOVA, Member of the Court of Auditors, in Luxembourg at its meeting of 3 October 2018.

For the Court of Auditors

Klaus-Heiner LEHNE
President

Our 10 tips which may make your travel experience better

The audit provided us with a chance to learn from many carriers, public authorities and ordinary passengers. Preparing this report took us to 10 countries, and we used all four modes of transport in doing so. Based on this experience, we offer 10 tips which can make your travel experience better if your journey is disrupted.

1. **Personalise your travel as much as possible** – when purchasing a ticket, identify yourself to the carrier, e.g. provide your contact details. Being informed about disruptions only works when carriers have your contact details. Also, if you need claim for compensation, a personalised ticket is the best way of demonstrating that you were actually on board and affected by disruption.
2. **Take a photo of your luggage** – when your journey involves checking in luggage, it is a good idea to have a photo of your suitcase and its contents. This will save time when filing a claim and will provide some proof of the value of lost items.
3. **Don't arrive late at the check-in desk** – it is important to remember that passenger rights only apply if you check in on time. If you miss your departure because the check-in desk was already closed when you arrived, you are not eligible for assistance.
4. **Request information at the points of departure** – you have a right to be updated if your departure is delayed, or if anything else goes wrong with your journey. If the carrier's representative is not present or does not provide meaningful information, make a note of it and include this observation in the claim you make to the carrier.
5. **Always request assistance** – if you experience a long delay or cancellation on any mode of transport, you have a right to assistance. This means access to water and a snack or a meal. If the carrier's representatives do not provide such amenities on their own initiative, request them. If you are refused, make a note of it and include this observation in the claim you make to the carrier.

6. **Keep all receipts** – if assistance is not provided at the point of departure (airport, bus or train station, harbour) or you are departing from a remote location (a bus stop) you can ask the carrier to compensate your additional costs. Carriers usually request proof of payment for drinks and snacks, and may refuse if the number of items is not in line with the length of delay, or if the costs are unreasonably high. Similar principles apply if you have to find your own accommodation to wait for another departure the following day.
7. **Request proof of delay or cancellation** – in all four modes of transport, passengers are entitled to compensation for long delays and cancellations. Although the rate of compensation and the minimum waiting times are different between the modes, the obligation to prove that you were affected is the same for all. If your ticket did not have your name on it, obtain proof at the station or on board that you were affected by the specific delay or cancellation.
8. **Do not make your own arrangements without hearing first a proposal from the carrier** – with travel disruption you usually want to continue travelling immediately using another carrier or by another means of transport. We recommend not to act rashly: buying a new ticket, without receiving alternative options proposed by the carrier, is tantamount to unilaterally cancelling your contract of carriage. This ends any obligation of the original carrier to offer you assistance or compensation.
9. **Request for compensation** – if you can demonstrate that you have been affected by a delayed or cancelled departure, and that the duration of the delay was above the threshold set out in the regulation, submit a compensation request to the carrier. Always refer to the specific departure and the Regulation applicable. If you do not receive a reply from the carrier or you are not satisfied with it, refer the case to the National Enforcement Body of the country of departure. The other organisations that can help you are Alternative Dispute Bodies (ADRs) and claim agencies. Bear in mind that you may be charged for these services.
10. **Request compensation for additional expenditure** – in some cases your loss due to a delay or cancellation is much greater than the amount due to you under EU passenger-rights compensation rules. In such cases, you can make a claim to the carriers pursuant

to international conventions. You should be prepared to demonstrate the exact amount of your losses, and the extra expenditure incurred due to the travel disruption.

ANNEX II**Questionnaire of the ECA statistical survey**

Fields marked with * are mandatory.

1. * If you were traveling by air, ferry, long distance by coach or train, or on a cruise , would you feel confident about what you could expect of the carriers in the event that your journey were disrupted? Please rate your level of confidence below:

Options	Respondents
1 - I would not feel at all confident	855
2	3 310
3	5 178
4 - I would feel entirely confident	1 007
Total	10 350

2. * Please indicate the modes of transport on which you have travelled over the past two 2 years:

[More than one answer allowed, except for last option]

Options	Respondents
Aeroplane [go to 2.1]	6 314
Ferry [go to 2.1]	2 546
Cruise ship [go to 2.1]	1 678
Train (long distance) [go to 2.1]	5 652
Coach (long distance) [go to 2.1]	4 958
None of the above [go to 3]	1 389

2.1 * Please indicate how often your travel, including all modes of transport (not urban/local)

Options	Respondents
More than once a week	1 167
Between 1 and 4 times a month	1 670
Between 6 and 12 times a year	1 631
Between 2 and 5 times a year	3 047
Once a year or less	1 446
Total	8 961

2.2 * Select your main reason for travelling

Options	Respondents
Work	1 809
Leisure	6 583
Other	569
Total	8 961

2.3 * Have any of your journeys over the past two years been affected by one or more of the following?

Please answer for each mode of transport used. [if tick any of the following then go to 2.2]

	Cancellation	Significant delay at departure/by the time of arrival (more than one hour)	Denied boarding	Loss of or significant damage to luggage	Other problem	No problem occurred
Aeroplane	432	1 937	129	512	158	3 745
Ferry	86	365	75	40	69	1 980
Cruise ship	47	115	44	57	69	1 387
Train (long distance)	318	1 908	110	86	232	3 298
Coach (long distance)	212	813	101	110	229	3 662

2.4 * In cases where your travel was cancelled or delayed, you were denied boarding, your luggage was damaged etc., did you take any of the following action? (You may tick more than one box)

Options	Respondents
I made my own onward travel arrangements [go to 3]	1 099
I contacted the company and sought compensation (whether successful or not) [go to 3]	1 419
I selected a third party (e.g. a lawyer or specialised company) to submit a claim for me [go to 3]	197
I submitted a complaint to a governmental body (e.g. national aviation agency) [go to 3]	238
I accepted the assistance/alternatives provided by the carrier [go to 3]	1 335
I was inconvenienced and not provided with assistance but took no action [go to 2.3]	902
Other	237

2.5 * What prevented you from taking action? (Please tick just one box)

Options	Respondents
Not knowing what I was entitled to	158
Not knowing how to proceed	148
The recourse process was too troublesome	131
The unlikelihood of a satisfactory response	376
Other	89
Total	902

3. * If you arrived at an airport and were informed that your flight had been delayed by five hours due to the airline's staffing issues, to which of the following services do you believe you would be entitled? Please tick **five boxes.**

Options	Respondents
Discount at duty-free shops for buying food	2 713
A return flight to the first point of departure	1 622
Free transport to return you to your accommodation, whatever the time of the day	4 681
Free meals, refreshments and hotel accommodation if the delay is overnight	8 051
Re-routing to the airport closest to your original destination	2 764
Monetary compensation of at least €250 if this results in at least three hours of delay at the arrival to your final destination	5 093
A travel-class upgrade	2 215
A flight with a different airline to the same destination	5 120
The right to choose any other departure date within the next two months	1 937
Reimbursement of other substantiated expenses (e.g. missed train or connection; cost of hotel at destination)	5 613
Transport to your destination by a different means (train, bus, etc.)	3 051
Reimbursement of the full cost of the ticket	4 063
Psychological support	404
A free phone call	1 792
Access to the airport lounge	2 631

4. * Please state whether, in your view, the following statements are true or false (based on your awareness of the current rules):

	TRUE	FALSE	I do not know
If I buy a ticket with a low-cost company, I will not have monetary compensation in the event that my flight is cancelled	2 499	5 041	2 810
I am entitled to refreshments if my train is delayed by more than one hour	2 750	4 301	3 299
When I book a journey the travel company must inform me about my rights and of the contact	7 040	1 189	2 121

details of the redress body before I commence my journey			
If my coach journey is cancelled the company concerned is only obliged to compensate me with a voucher for future travel	3 601	3 083	3 666
If I send a complaint to a rail company because I believe my passenger rights have been violated, it must reply within one month	6 478	759	3 113

5. * Please select from the following list the three rights you regard as most important [tick up to 3 boxes]

Options	Respondents
Right to protection against discrimination based on nationality, residence or disability when you use public transport	3 235
Right to assistance at no cost for passengers with reduced mobility	2 990
Right to access to information in the event of travel disruption	3 096
Right to a refund from the carrier in the event of disruption	3 595
Right to receive alternative transport in the event of long delays, cancellations or denied boarding	4 321
Right to care (food, assistance) in the event of long delays	3 732
Right to compensation in the event of long delays, cancellations or denied boarding	4 095
Right to compensation in the event of damage to your luggage	3 691
Right to lodge a complaint with a carrier if you are dissatisfied with their service	1 001
Right to proper implementation of the regulations by public authorities	744

6. * Had you ever read, heard or seen any information about passenger rights before you filled in this survey?

[More than one answer allowed, except for first option]

Options	Respondents
No, I had never read, heard or seen any information about passenger rights before I filled in this survey	5 497
Yes, in information provided by carriers	1 926
Yes, in information provided by public bodies (e.g. government, the EU)	1 123
Yes, as a result of personal experience of disrupted travel	1 143
Yes, in information provided by consumer bodies	1 090
Yes, other	965

7. * Overall, how much would you say you are aware of your rights as a passenger when travelling?

I am entirely unaware of my rights as a passenger 1 2 3 4 I am entirely aware of my rights as a passenger

Option	Respondents
1 I am entirely unaware of my rights as a passenger	1 396
2	4 954
3	3 626
4 - I am entirely aware of my rights as a passenger	374
Total	10 350

Socio-Demographic variables

8. * Please indicate your gender

Options	Respondents
Female	5 177
Male	5 173
Total	10 350

9. * Please type your age

Options	Respondents
18-24	1 379
25-34	2 117
35-44	2 385
45-54	2 306
55-65	2 163
Total	10 350

10. * What is the highest level of education you have successfully completed?

Options	Respondents
Primary education or lower	265
Lower secondary	1 378
Upper Secondary	4 533
Bachelor's degree or equivalent tertiary education	2 696
Master's degree or above	1 478
Total	10 350

11. * Do you have reduced mobility?

Options	Respondents
Yes	787
No	9 563
Total	10 350

12. * Please indicate your country of residence

Options	Respondents
The Czech Republic	1 030
France	1 044
Finland	1 000
Germany	1 075
Greece	1 006
Ireland	1 000
Italy	1 060
The Netherlands	1 060
Poland	1 065
Spain	1 010
Total	10 350

REPLIES OF THE COMMISSION TO THE SPECIAL REPORT OF THE EUROPEAN COURT OF AUDITORS

“EU PASSENGER RIGHTS ARE COMPREHENSIVE BUT PASSENGERS STILL NEED TO FIGHT FOR THEM”

EXECUTIVE SUMMARY

I. Passenger Rights legislation adopted by the European Union has successfully contributed to minimising the negative impact of travel disruption on users of collective transport and to improving service quality for passengers. The Commission is committed to ensuring a high level of protection for passengers and is of the opinion that further development and consolidation of these rights should take place.

IV. The Commission acknowledges that more efforts are still needed to reach all passengers so that they are aware about their rights and how they can enforce them successfully.

V. The Commission considers that good practices related to passenger rights as experienced in some third countries could be examined carefully with a view to appraising their potential relevance in the EU.

VI. The Commission has proposed already amendments to the air and rail passenger rights regulations, also regarding National Enforcement Bodies.

The Commission gives constantly guidance on the interpretation of the regulations. It is supported by the National Enforcement Bodies, the Europe Direct Contact Centre (EDCC), and the national consumer centres.

VII. Informing passengers of their rights is the primary duty of the carriers. The Commission has taken action through regular information campaigns to disseminate practical information on how passengers should act in case of travel disruption.

IX. The Commission agrees that enforcement of the regulations has to be addressed as a priority. The legislation in force provides that it is for the Member States to set up their NEBs and to lay down effective, proportionate and dissuasive sanctions for infringements of the passenger rights regulations.

X. The Commission considers that its current role is to monitor the implementation process and to ensure the proper implementation of the existing passenger rights framework. The Commission does not have a mandate to coordinate the implementation of the passenger rights framework at the Member States level. Also it would benefit from further information about the state of implementation of the passenger rights framework.

XI. The Commission accepts the recommendations of the ECA.

The Commission appreciates especially the inclusion of 10 tips for passengers into the report and will follow up on them in its own future actions as appropriate.

INTRODUCTION

Common Commission reply to paragraphs 3 to 8:

Passenger Rights legislation adopted by the European Union has successfully contributed to minimising the negative impact of travel disruption on users of collective transport and to improving service quality for passengers. The Commission is committed to ensuring a high level of protection for passengers and is of the opinion that further development and consolidation of these rights should take place.

AUDIT SCOPE AND APPROACH

The Commission considers the statistical survey as well as the 10 tips in annex to the report as very relevant contributions. It will follow up on them in its own future actions as appropriate.

OBSERVATIONS

Box 1 - Examples of more advantageous rights outside the EU

Second alinea: The standardised compensation foreseen in EU legislation is not directly related to the ticket price but to the inconvenience for passengers consisting in a certain loss of time. The time loss is the same for all passengers, regardless of the ticket price.

Third alinea: In its proposal to amend the air passengers rights (COM(2013)130 final), the Commission already proposed to include such rights and goes even further than in the USA: The proposal clearly sets out the rights of passengers when their aircraft is delayed on the tarmac, in particular a right to care after one hour and to disembark after five hours (in line with the right to reimbursement).

17. As regards air, the Commission has already proposed a deadline of 30 minutes, see (2013)130 final.

As regards rail, the COM proposal (COM(2017)548 final) does not make such a proposal, because according to the rules in place: the passenger has to be informed “as soon as such information is available”.

Box 2 - Passenger experience: information lacking

The Commission considers in such a case that the carrier or station manager is required to provide information about late departure and late arrival of a train at the station of departure, and of the estimated departure and arrival time, depending on the data available. This information has to be updated as soon as possible, if needed, so that passengers can make use of the waiting time and do not have always to wait at the track.

18. Under EU passenger rights regulations for all modes, Member States are obliged to introduce effective, proportionate and dissuasive penalties for infringements of the rights of passengers. The ceilings related to accommodation in the waterborne and bus Regulations are to be explained following the 2010 eruptions of the Eyjafjallajökull volcano in Iceland which coincided with the adoption of the Regulations on waterborne and bus transport.

Box 3 - Passenger experience: Assistance dependent on passengers taking the initiative

The passengers have only rights to accommodation in case of a delay in departure, not if the delay happens on arrival only. In the latter case the passengers have only a right to compensation, but may be able to claim further damages under national law. It seems that the passenger booked two separate tickets, one for the ferry, one for the train. If there was no agreement between the two carriers, the passenger would not be protected against missed connections. The Commission has already commissioned a study on the subject of passenger rights for the specific case of multimodal journeys.

Box 4 - Passenger experience: forgotten at the gate

The Commission considers that such a case would constitute an infringement of Regulation (EC) No 1107/2006, if the air carrier or its agent or the tour operator had been notified at least 48 hours before the published time of departure of the flight.

21. The Commission considers that this situation is linked to the wide range of factual variations at play in individual cases.

The need for national courts to interpret EU legislation is a normal feature of the EU legal order as is the possibility to refer cases to the CJEU for legally binding interpretations.

The Commission also assists users through its guidance, such as Interpretative Guidelines, Information Notices, meetings and exchanges with the NEBs and by proposals to clarify the rules (see for air COM(2013)130 final and for rail COM (2017)548 final).

22. The Commission maintains specific mailboxes which are reviewed on a daily basis to answer any questions NEBs may have and assists them in interpreting the regulations. Wikis are being set up to enhance this communication further between COM and NEBs, and between NEBs.

23. According to the current regulations carriers must provide re-routing within a reasonable timeframe: it has to be provided "at the earliest opportunity"¹, The Commission considers it more useful to re-route passengers quickly than to prescribe a specific timeframe which may not be adapted to the specific circumstances.

See also Commission reply to paragraph 18.

Box 5 - Passenger experience: waiting for hours for nothing

To remedy such situations, the Commission considers that the air carrier should always inform passengers as soon as possible. Indeed, the Commission has proposed (see (COM(2013)130 final), that "passengers shall be informed by the operating air carrier of the situation as soon as possible and in any event no later than 30 minutes after the scheduled departure time, and of the estimated departure time as soon as this information is available, provided the air carrier has received the passenger's contact details in accordance with paragraphs 6 and 7 in case the ticket was acquired via an intermediary."

Common Commission reply to paragraphs 24, 25 and Box 6:

The Commission is aware of these problems and has proposed that passengers have a right to be re-routed via another air carrier "where the operating air carrier cannot transport the passenger on its own services and in time to arrive at the final destination within 12 hours of the scheduled arrival time." The Commission proposed also that "If an operating air carrier offers a passenger a flight to or from an airport alternative to that for which the reservation was made, the operating air carrier shall bear the cost of transferring the passenger from that alternative airport to that for which the reservation was made, or, with regard to the destination airport, to another neighbouring destination agreed with the passenger.

The Interpretative Guidelines for air passenger rights and for rail passenger rights provide guidance as to what constitutes comparable conditions. For maritime, the question has been discussed in a meeting with NEBs.

26. These exemptions are in the current legislation; domestic journeys without a cross- border dimension can still be regulated on a Member State level, also international journeys which are carried out mainly on the territory of third countries.

The Commission has proposed to reduce the exemptions in its recast proposal (see COM(2017)548 final), but the debate in the Council shows that most Member States are not in favour of limiting the exemptions (see Progress Report of the Bulgarian Presidency, [Council document 8721/18](#)).

¹ Art. 16(b) of Regulation (EC) No 1371/2007 for rail; Art. 19 (1)(a) Regulation (EO No 181/2011 for bus and coach, and Art. 18(1)(a) Regulation (EU)1177/2010 for sea and inland waterway.

It should be noted that passengers may also benefit from additional rights guaranteed at national level.

27. The Commission has given guidance on the method of measurement of regular services as referred to in the bus and coach Regulation. In its view, the full length of a route should be taken as the basis for the measurement. Passengers travelling between two points along the route are thereby covered even if their individual journey is shorter than 250 km.

32. The Commission considers that the options “Reimbursement of other substantiated expenses” and “A flight with a different airline to the same destination” may be covered by the Regulation: Art. 8(1)(b) of Regulation (EU) No 261/2004 refers to re-routing "under comparable conditions", which can include a flight with another carrier, and the right to care in Art. 9 of this Regulation can give the right to reimbursement for the costs the passenger had to face if the carrier failed to fulfil its obligations in the first instance. See also Commission reply to paragraph 24.

Common Commission reply to paragraphs 33 and 34:

The four transport modes are different in nature and this is reflected in the detail of the individual rights guaranteed.

The Commission considers that there was no need to revise the lump sum compensation amounts as the market changed considerably (more airlines, more tickets, lower prices).

35. The Commission would like to refer to the recast for the rail passenger rights regulation (COM(2017)548 final), where it proposed an introduction of a force majeure clause also for rail passengers' rights.

Common Commission reply to paragraphs 35 and 36:

The Commission is assessing the possibilities to make more information available in the context of the Directive 2010/40/EU on the framework for the deployment of Intelligent Transport Systems, especially Multi-Modal Travel Information Services, see COM Delegated Regulation (EU) 2017/1926 of 31 May 2017 (See Annex point 2.1.).

Box 8 - Passenger experience: unequal treatment

See Commission reply to paragraph 35.

According to Article 5(3) of Regulation No 261/2004 an air carrier is exempted from paying the compensation if the long delay is caused by extraordinary circumstances. One of these circumstances, as indicated in Recital 14, may be meteorological conditions. It should also be kept in mind that individual passengers may have e.g. different flight connections and may be eligible for compensation on different grounds.

36. The Commission can confirm that only a few carriers have shared data for the assessment of the cost. The Commission underlined in its Impact Assessment (SWD(2013)62) for the proposal COM(2013)130 for air passengers rights that "The limited availability of data has required the recourse to a number of assumptions in order to make the calculations of which the results are presented in this report."

37. In its Impact Assessment for the air passenger rights proposal (SWD(2013)62), , the Commission noted: "If the Regulation had been fully complied with during the crisis, it would have increased airlines' combined costs by an estimated €960 million (which is roughly 1.5 times the expenses for care and assistance in a "regular" year, and this within a period of less than a week)."

Box 10 - Passenger experience: A train ride to forget

The Commission considers that such a case would be a violation of the carrier's obligation to inform passengers as set out in Regulation (EC) No 1371/2007.

43. See Commission reply to paragraph 36.

45. The obligation to take the measures necessary to ensure that the rights of passengers are respected lies with the NEBs according to all four regulations.

The Commission supports their efforts on the Your Europe website, by the EDCC, ECC-Net with centres in each Member State, by the passenger rights app which allows also for offline information, and by its regular exchange with the NEBs.

47. The Commission supports NEBs to cooperate in cross-border cases as provided for in the bus & coach and maritime passenger right regulations. Under the CPC Regulation 2006/2004, national competent enforcement bodies can seek mutual assistance from their counterparts.

As regards rail, the Commission has given further guidance on this issue in its Interpretative Guidelines for rail passenger rights.

For air passenger rights an agreement exists between NEBs on cross-border cooperation.

48. The structure of the NEBs is the sole responsibility of the Member States according to the Regulations.

The Commission publishes on its website the responsible NEBs, depending on the information provided by the Member States.

Common Commission reply to paragraphs 49 and 50:

Regarding bus and coach and sea and inland waterway, passengers may submit complaints to the carrier or to the NEB. The Regulation does not stipulate a chronological order in which complaints must be lodged, but it does allow Member States to require that passengers submit their complaint to the carrier first, with the NEB only acting as an appeal body. In total, 20 (for bus and coach) and 21 (for sea and inland waterway) Member States have chosen this option. It has the advantage that NEBs can process complaints more efficiently and rapidly, as they have a more comprehensive overview of the case from both parties' points of view².

The Commission recommended that a similar approach be adopted in the 2 other transport modes: see the Interpretative Guidelines for rail passenger rights³ and the Interpretative Guidelines for air passenger rights⁴.

50. See Commission replies to paragraphs 47 to 49.

52. The NEBs are currently required to publish an activity report every 2 years, including statistics on complaints and the sanctions applied (bus and coach, sea and inland waterway).

In the rail sector, railway undertakings must include information on complaints in their annual reports.

In the air sector, the Commission has proposed amendments in this regard.

² (see for bus and coach Art. 27 and 28(3) of Regulation (EC) 181/2011 and the report [COM\(2016\)619 final](#)), and for sea and inland waterway Art. 25 and 25(3) of Regulation (EU) No 1177/2010 and the report [COM\(2016\)274 final](#))

³ (OJ C 220 of 4.7.2015, p.1, point 8.1)

⁴ (OJ C 214 of 15.6.2015, p. 5), see point 7.1, and, according to the CJEU (cases C-145 and 146/15 Ruijsenaars e.a.), the Regulation does not prevent Member States from adopting legislation which obliges NEBs to adopt measures in response to individual complaints.

54. As regards bus and coach, the situation varies significantly between Member States. For instance the report of the German NEB for 2015-2016 shows that in 2015, a total of 836 written and 387 oral submissions in connection with the rights of passengers travelling by bus and coach were received, and in 2016, a total of 1269 written and 458 oral submissions.

55. The Commission shares the view that the actual number of complaints from passengers to rail, bus and waterborne carriers is much higher than the number of cases reaching the NEBs and that this indicates that most of the complaints are resolved at carrier level.

57. It should be noted that Member States are not required to establish an ADR entity that deals only with passenger transport disputes. They can also establish ADR entities that cover more than one retail sector. In some Member States passenger transport disputes are therefore dealt with by general consumer ADR bodies.

Under the ADR Directive 2013/11/EU, Member States can choose the ADR model(s) on which they wish to rely for achieving full ADR coverage on their territories. There are ADR models under which the outcome of the ADR procedure is binding on the parties and others where the outcome is not binding.

58. While the ADR directive prescribes that ADR procedures need to be free or available at a nominal cost for consumers, it does not regulate the question of fees for traders. It is for Member States to choose the appropriate ADR model (with the appropriate cost structure for traders). Among the ADR bodies that levy a fee for traders, the amount of fee can vary depending on the ADR body. The main reason for not using ADR may be that the compensation claims based on statutory rights in many instances are straightforward and do not need an ADR procedure.

59. While the Commission considers that it is desirable that ADR outcomes should not fall short of the compensation to which the passenger is entitled under EU passenger rights, it also acknowledges the fact that settlements can be an effective and efficient way to achieving compensation.

60. In the future, the Commission's proposal on Representative actions (COM(2018)184) may be an alternative for consumers to seek redress in cases of denial of passenger rights, subject to Article 18 (2) of that proposal.

61. The Commission has also provided information on its website on the risks passengers may encounter when ceding their rights to so-called claim agencies, see https://ec.europa.eu/transport/sites/transport/files/2017-03-09-information-note-air-passenger-rights-on-claim-agencies_en.pdf

63. See Commission reply to paragraph 52.

64. Information about passenger rights should be visible and presented in a readable manner in all terminals. The Commission will discuss this matter with the NEBs for these transport modes.

The Commission is committed to organising joint raising-awareness campaigns also through the ECC-Net.

66. The Commission is constantly seeking to improve the practical guidance given to passengers. Examples include the Your Europe website, the ECC-Nets and the EDCC as well as the Passenger Right App.

CONCLUSIONS AND RECOMMENDATIONS

67. Passenger rights gradually adopted by the European Union have contributed successfully to minimising the negative impact of travel disruption on users of collective transport modes and to improving service quality for passengers. The Commission is committed to ensuring towards a high

level of protection for passengers and is of the opinion that further development and consolidation of these rights should take place.

68. The Commission considers that good practices related to passenger rights as experienced in some third countries could be examined carefully with a view to appraising their potential relevance to the EU.

69. Transport modes have different specificities, which the EU legislator took into account. The Commission recalls that derogations are the results of the institutional legislative process and that there is no possibility of derogations for air passenger rights. Moreover measures ensuring passenger rights exist also at national level.

Recommendation 1 on improving coherence of the EU passenger rights framework

The Commission accepts this recommendation

It accepts carrying out an analysis of passenger rights in all modes of transport in order to determine best practices.

70. The Commission considers that EU passenger rights are protected in a multi-level governance environment. There are several mechanisms for enhanced uniformity of interpretation: guidance from the Commission, cooperation between the NEBs and the ECC-Net, and judgments of the CJEU.

Recommendation 2 on improving clarity within the passenger rights framework

The Commission accepts this recommendation.

The Commission has already issued such guidance for rail and air transport. Some of the guidance given has been included in the proposed amendments/ recast of the air and rail passenger regulations to enhance its enforcement. The Commission is prepared to consider further guidelines for bus and coach as well as sea and inland waterway.

71. The Commission has provided practical information on how to act in case of travel disruption, highlighting that there are passenger rights and the specific rights passengers have in given situations (e.g. website Your Europe, EDCC, ECC-Net, Passenger Rights App). It is however aware that the level of public awareness of the public should be further improved. The Commission will in particular provide further information as to how passengers can file complaints successfully.

However, the main duty of information in case of disruption lies with the carriers themselves. In this context the Commission underlines that National Enforcement Bodies (NEBs) have to regularly monitor the implementation by carriers.

72. The Commission is assessing the possibilities to make information on travel disruption available in the context of the Directive 2010/40/EU on the framework for the deployment of Intelligent Transport Systems, especially Multi-Modal Travel Information Services⁵.

Recommendation 3 on increasing passenger awareness

(a) The Commission accepts this recommendation.

It considers it has an important role to play in increasing passenger awareness and will continue to take action in this field. It supports the networking of ADR bodies, which is especially relevant for passenger rights (e.g. a cross border network of ADR bodies was launched in 2017). Further cooperation on awareness campaigns of the NEBs could be investigated.

⁵ Commission Delegated Regulation (EU) 2017/1926 of 31 May 2017

(b) The Commission accepts this recommendation, as it would further enhance the existing guidance. It considers however that such guidance also needs to be accessible to the general public and will therefore consider whether certain complex elements such as case law should be included. A model claim form exists already for air passengers' rights and an updated version is under preparation.

(c) The Commission accepts this recommendation.

It considers that overall the reporting of NEBs should be improved and harmonised. It has already made suggestions in this regard in the ongoing reform procedures for air and rail passengers' rights.

73. The Commission considers that differences in treatment may exist because of the wide range of variable in individual cases. This makes the tasks of the NEBs even more complex and justifies that further attention is to be paid to the effectiveness of the passenger rights framework.

Recommendation 4 on improving the effectiveness of the passenger rights framework

Common Commission reply to (a)-(e):

The Commission accepts this recommendation.

The Commission will use its right of initiative to reflect on and propose solutions towards the remaining challenges to enforcement.

The Commission will consider using the suggestions of the Court in its own reflections and for stakeholder consultations in its future work.

74. The Commission agrees that enforcement of the regulations has to be addressed as a priority. The legislation in force provides that it is for the Member States to set up their NEBs and to lay down effective, proportionate and dissuasive sanctions for infringements of the passenger rights regulations.

75. The Commission considers that the overall performance of NEBs varies depending on the actions carried out in the context of their monitoring of carrier practices and their handling of individual complaints as well as their ability to sanction carriers.

76. The Commission considers that its current role is to monitor the effective application of the existing passenger rights framework.

The Commission does not have a mandate to coordinate the implementation of the passenger rights framework at the Member States level.

Recommendation 5 on further empowering the NEBs and enhancing the mandate of the Commission

(a) The Commission accepts this recommendation.

The Commission will use its right of initiative to reflect on and propose solutions to the remaining challenges to enforcement.

Common Commission reply to (a) (i)-(iv):

The Commission agrees that these issues need to be addressed.

(b) The Commission accepts this recommendation.

The Commission considers that significant improvement should take place in the reporting of the NEBs as a step towards an improved enforcement of passenger rights throughout Europe. Existing proposals for amending the rail and air passenger rights frameworks go in this direction.

The Commission would benefit from further information about the state of implementation of the passenger rights framework.

Event	Date
Adoption of Audit Planning Memorandum (APM) / Start of audit	13.9.2017
Official sending of draft report to Commission (or other auditee)	19.7.2018
Adoption of the final report after the adversarial procedure	3.10.2018
Commission's (or other auditee's) official replies received in all languages	31.10.2018

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The European Union has defined a set of EU passenger rights common to all modes of public transport – bus, train, boat and plane. We examined the scope and reach of the regulations to see if passenger rights are effectively protected and are actually being obtained. We visited ten EU Member States and carried out two surveys of passenger's own experiences. We found that many passengers are not sufficiently aware of their rights and frequently do not obtain them due to problems with enforcement. We make a number of recommendations to improve the passenger rights framework and increase awareness. We also provide ten tips to help improve everyone's travel experience.



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