



## Thematic Fiche

### ► Passenger Rights in the European Union:

### Key Points for SMEs on

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## I. Background

The establishment of passenger rights in all modes of transport is one of the European Union's major successes. The EU is currently the only area in the world where passengers are protected by a full set of rights - whether they travel by [air](#), [rail](#), [ship](#) or [bus and coach](#) before, during, and after their travel.

So, when consumers travel, they benefit from so called "core" passenger rights, ranging from: non-discrimination, special protection for passengers with reduced mobility, passenger information, the rights to re-routing, care and assistance, reimbursement and compensation, the possibility to lodge a complaint with the carrier, the supervision by national monitoring bodies, etc. (See Section 2).

The aim of this thematic factsheet is to provide SMEs working in the tourism sector, or wishing to develop within it, with a snapshot of the main regulations governing passengers' rights in the UE, relevant links, and sources for further information.

It is estimated that, annually, EU passenger rights apply to more than 13 billion passenger travels in the EU<sup>1</sup>.

Passenger rights Regulations apply in addition to legislation on consumer protection and package travel, as well as applicable international conventions such as the Charter of Fundamental Rights and the Montreal Convention (for air), and relevant national provisions (ex: national deadline to sue a carrier).

However, the application of these regulations is proving difficult and recourse to the competent courts in the Member States is frequent, especially for air passenger rights. The Court of Justice of the European Union (ECJ) played and continues to play a decisive role in their interpretations. Where relevant to Small and Medium Enterprises (SMEs), this thematic fiche will present the main rulings handed down by the ECJ.

**For a quick help to find answers on passenger rights: use the [Your Europe website](#) on passenger rights or download the [passenger rights app](#)!<sup>2</sup>**

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<sup>1</sup> Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EC) No 261/2004, (EC) No 1107/2006, (EU) No 1177/2010, (EU) No 181/2011 and (EU) 2021/782 as regards enforcement of passenger rights in the Union.

<sup>2</sup> Here the link to the information and to the app: [https://europa.eu/youreurope/citizens/travel/passenger-rights/index\\_en.htm](https://europa.eu/youreurope/citizens/travel/passenger-rights/index_en.htm)

## II. The “Core” Passenger Rights and their cross-mode variations

Over the last 20 years there has been sharp increase 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/coach. This resulted in the creation of passenger rights for all four modes of transport.

The table below summarizes the so called **10 core passenger rights**<sup>3</sup>. The section also further explains how such common passenger rights materialise in all specific modes of transport and refer to useful documentation, per mode.

Figure 1: The 10 “core” Passenger Rights across modes.

EU RIGHT		WHAT IS COVERED
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.

<sup>3</sup> The expression 10 core passenger rights have been developed by the European Commission in its communication: “A European vision for Passengers: Communication on Passenger Rights in all transport modes”, COM(2011) 898 final of 19.12.2011.



<b>9</b>	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).
<b>10</b>	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.

The European Commission and the European Parliament developed factsheets on Passenger rights **for all EU Passenger Rights Regulations**, which provide valuable information for SMEs willing that work in the tourism and travel industry and that we encourage you to consult:

- Your Europe website section on [“Passenger Rights”](#)
- European Parliament factsheet on [“Passenger Rights”](#)

## A-Air Passenger Rights



A first level of protection was introduced in 1991 for aviation.<sup>4</sup> Currently, the Regulation (EC) No 261/2004 (so called “Air Passenger Rights Regulation”) set the rules for air passenger rights.

### Regarding its scope, it applies:

- To passengers departing from an airport located in a Member State to which the EU

Treaties applies, but also to passengers departing from an airport located in a country which is not an EU Member State such as the United States, the United Kingdom etc., to an airport situated in the territory of a Member State to which the EU Treaties apply, at the condition that the operating air carrier is licensed in an EU Member State (so called an “EU carrier”).

- To the contrary, passengers travelling, free of charge or at a reduced fare not available directly or indirectly to the public are not covered.
- To benefit from the Air Passenger Rights Regulation, passengers shall also have:
  - o a confirmed reservation on the flight concerned and,
  - o except in the case of cancellation, present themselves for check-in at the time indicated in advance or,
  - o if no time is indicated, not later than 45 minutes before the published departure time.

<sup>4</sup> The first passenger rights Regulation was Council Regulation (EEC) No 295/91 introducing compensation for denied boarding.

A key provision is the designation of an independent national enforcement bodies (NEB) in each EU Member States with the mandate to **enforce** the regulation.

**Below you can find the main provisions that could be of relevance for SMEs.** It is worth noting that the interpretation of provisions of the Regulation triggered numerous disputes and has been clarified in a series of rulings by the Court of Justice of the EU. Where relevant, the case law is mentioned in the factsheet.

**In a nutshell, the Air Passenger Rights Regulation establishes passengers' rights if:**

- **Passengers are denied boarding against their will.**
- **Their flight is delayed.**
- **Their flight is cancelled.**
- **They are placed in a lower class than that for which the ticket was bought (downgrading)**

## 1. Delays

The Regulation introduces a **four-tier system**:

- In case of delays at departure (of 2 hours or more, depending on the distance of the flight), passengers must in **every case be offered free meals and refreshments plus 2 free telephone calls, telex or fax messages, or e-mails.**
- If the time of departure is deferred from one or several days, **passengers must also be offered hotel accommodation and transport between the airport and the place of accommodation.**
- When the delay is 5 hours or longer, passengers have to be offered a refund of the full cost of the ticket together with, when relevant, a return flight to the first point of departure.
- In case of long delays at arrival of 3 hours or more, passengers are entitled, under **certain conditions**, to a lump sum compensation from the airline (see also under sections 2 and 3).

## 2. Cancellation

In the event of the cancellation of a flight **by the airline**, the passengers concerned must be offered:

- Care (meaning refreshments, meals, hotel accommodation, transport between the airport and place of accommodation, two (2) free telephone calls, telex or fax messages, or e-mails).
- The choice of a refund of the cost of the ticket within a seven (7) days deadline together with, if relevant, a **return flight** to the first point of departure; or re-routing to their **destination at the earliest opportunity or at a later date at the passenger's convenience.**
- A lump sum compensation of:
  - o €250 for all flights of 1,500 kilometres or less.
  - o €400 for all intra-EU flights of more than 1,500 kilometres, and for all other flights between 1,500 and 3,500 kilometres.
  - o €600 for all other flights.

## 3. Compensation

The lump sum compensation under the Air Passenger Rights Regulation must be paid if the passenger has not been informed of the cancellation sufficiently in advance and has not been re-routed within certain time limits, **except if the carrier can prove that the cancellation is caused by extraordinary circumstances** which could not have been avoided even if all reasonable measures had been taken.

In case of long delays at arrival, the Court of Justice of the EU clarified in its *Sturgeon* ruling in [joined cases C-402/07 and C-432/07](#), that when passengers reach their final destination **3 hours or more** after the scheduled arrival time, they are also entitled to the lump sum compensation from the airline, except if the delay is caused by an **extraordinary circumstance**.

This decision from the Court of Justice of the EU is based on the principle of equal treatment between passengers, meaning that according to the ECJ, passengers whose flights are delayed and those whose flights are cancelled 'at the very last moment' shall be considered as being in comparable situations, because those passengers suffer similar inconvenience, namely, a loss of time.

The Court also clarified in its 2014 case [C-452/13 Germanwings](#), that the actual arrival time of a flight corresponds to the moment when at least one of the aircraft doors opens.

#### **Extraordinary circumstances – a notion subject to interpretation:**

The notion of extraordinary circumstances is the provision of the Air Passenger Rights Regulation, which triggers the most debate, interpretation, and requests for clarification to the Court of Justice of the EU.

For instance, the Court of Justice of the EU had to rule if strikes should be considered as “extraordinary circumstance” dispensing carrier to pay compensation or not.

It is now clarified that:

- A strike organised by trade union staff of an air carrier that is intended to support workers' demands does not constitute an 'extraordinary circumstance'. Therefore, internal strike action does not release the airline from its obligation to pay compensation in the event of cancellation or long delay of flights (see [Case C-28/20, Airhelp Ltd.](#), [Case C-195/17, Krüsemann and Others](#), [Case C-613/20, Eurowings](#), [Case C-287/20, Ryanair DAC](#)).
- To the contrary, strikes 'external' to the airline, such as strike action taken by air traffic controllers or airport staff, may constitute an extraordinary circumstance.
- For more information, see the updated European Commission Interpretative [Guidelines](#) on Regulation on the Air Passenger Rights Regulation.

#### **4. Upgrading and downgrading**

If an operating air carrier places a passenger in a class higher than that for which the ticket was purchased, it may not request any supplementary payment.

If an airline places the Air Passenger in a lower class than that for which the ticket was bought, the passenger must be refund within 7 days, as follows:

- 30 % of the price of the ticket for all flight's of 1500 kilometres or less.
- 50 % of the price of the ticket for all intra-EU flights of more than 1500 kilometres, except flights between EU countries and the French overseas departments, and for all other flights between 1500 and 3500 kilometres.
- 75 % of the price of the ticket for all other flights, including flights between EU countries and the French overseas departments.



## 5. Denied boarding.

When an air carrier reasonably expects to deny boarding passengers on a flight, it shall first call for volunteers to surrender their reservations in exchange for certain benefits.

If there is an insufficient number of volunteers to allow the remaining passengers to board the flight, the air carrier may then deny boarding to passengers **against their will. In such case it must compensate them.** During this process, air carriers shall give priority to persons with reduced mobility and any persons accompanying them.

In the event of a flight cancellation or denied boarding, passengers affected benefit from the following rights:

- The refund of the cost of the ticket within seven days or a return flight to the first point of departure or re-routing to their final destination.
- Care (refreshments, meals, hotel accommodation, transport between the airport and place of accommodation, two (2) free telephone calls, telex or fax messages, or e-mails).
- A compensation totalling<sup>5</sup>:
  - o €250 for all flights of 1500 kilometres or less.
  - o €400 for all intra-EU flights of more than 1500 kilometres, and for all other flights between 1500 and 3500 kilometres.
  - o €600 for all other flights.

## B-Rights of people with reduced mobility travelling by Air

Persons with disabilities and persons with reduced mobility<sup>6</sup> have rights when travelling by air in the EU which are defined by the [Regulation \(EC\) No 1107/2006](#)<sup>7</sup>.

This Regulation is of importance as it forbid carriers to refuse booking or boarding to passengers because of its disability or reduced mobility. It is also ensuring that those passengers receive an assistance with is 'free-of-charge' to allow them to use air transport on an equal footing with other passengers.

**Strict exemptions and special conditions are defined in the text allowing under certain circumstances<sup>8</sup>**, air operators, their agents and / or a tour organisers to refuse reservation or boarding. It is the case if it is required to meet



<sup>5</sup> Please note that these amounts can be halved if the passenger is rerouted and arrives within 2, 3 or 4 hours (depending on flight distance) of the scheduled arrival time of the originally booked flight. (See article 7(2) of the Air Passenger Rights Regulation 261/2004).

<sup>6</sup> Disabled person or person with reduced mobility: any person whose mobility when using transport is reduced due to any physical disability (sensory or affecting mobility, whether permanent or temporary), intellectual disability or impairment, or any other cause of disability, or age, who needs appropriate attention and adaptation of the service made available to all passengers to his or her particular needs.

<sup>7</sup> Regulation (EC) No 1107/2006 on rights of disabled persons and persons with reduced mobility when travelling by air.

<sup>8</sup> Article 4 of the Regulation (EC) No 1107/2006.

applicable safety requirements established by law (the carrier may also request that the person be accompanied by another person capable of providing assistance to meet these safety requirements) and, if the size of the plane or its doors makes boarding or transporting the person physically impossible.

If your consumers face either of these situations, they must be immediately informed of the reasons of the refusal or to be denied boarding. Reasonable efforts must be made to offer the person an acceptable alternative. Beware that consumers denied boarding for these reasons are entitled to

reimbursement or re-routing in accordance with Regulation (EC) No 261/2004 (see above).

The text introduces provisions for assistance at the airport. Concretely, people with reduced mobility or disabilities are entitled to free assistance at airports (on departure, arrival and during transit) and on-board aircraft (e.g. transport of mobility equipment and guide dogs).

Finally, the Regulation obliges EU Member states (and European Free Trade Association countries), to define penalties for infringements and set up independent bodies to deal with complaints related to the application of the text.

### Relevant documentation:

- Please see the European Commission website on [Air Passenger Rights](#). The site contains FAQs on the application of the Regulation, information on rules in specific countries etc.
- It also contains all information related to the rights of persons with disabilities or reduced mobility travelling by air under the [Regulation 1107/2006](#) (text, guidelines, evaluation of the Regulation etc.).
- During the COVID-19 pandemic, the European Commission also published the following documents which could be of relevance for SMEs:
- Commission Notice [Interpretative Guidelines](#) on EU passenger rights regulations in the context of the developing situation with Covid-19.
- Commission [Recommendation \(EU\) 2020/648](#) of 13 May 2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic

## C-Rail Passenger Rights



### It applies:

- To all international and domestic rail journeys and services throughout the EU provided under license by one or more railway undertakings.
- It does **not** apply to journeys and services carried out on the territory of non-EU Member States.
- The EU Member States had the regulatory choice under Regulation (EC) No 1371/2007 to grant exemptions from most articles of the Regulation to long-distance domestic rail passenger services for a maximum period of 5 years, which could have been renewed twice. Regulation (EU) 2021/782 allows those Member States who made use of this possibility to exempt those services for one additional period of 5 years for a limited number of provisions.
- Member States may also exempt urban, suburban, and regional rail passenger services from several Articles of this Regulation.

In the rail sector, [Regulation 2021/782 on rail passengers' rights and obligations](#), which repealed Regulation (EC) No 1371/2007 on [rail passengers' rights](#) and obligations applies.

### 1. Transport contract and information.

Passengers should be given clear and accessible information:

- **Before the journey**, concerning the relevant conditions applicable to the contract, timetables and the fares applied.
  - o In this context, the recast of the Rail Passenger Rights Regulation introduces a new obligation for railway undertakings qualifying as a 'sole railway undertaking' (meaning railway company which are closely interlinked based on a 100% ownership criterion) to offer their long-distance (international and domestic) and regional rail services as a "through-ticket".
  - o *What are the practical impacts for consumers?*
  - o Before purchase, passengers should be clearly informed if **tickets sold by a railway undertaking in a single commercial transaction constitute a through-ticket or not**. If passengers are not correctly informed that the tickets represent separate transport contracts, the railway undertaking should be liable as if those tickets were a through-ticket.
  - o If the ticket is **sold by a ticket vendor or a tour operator** which sell separate tickets as a bundle, they should clearly inform the passenger that those tickets do not offer the same level

of protection as through-tickets and that those tickets have not been issued as a so called “through-tickets” by the railway undertaking or railway undertakings providing the transport service.

- If you are a railway ticket vendor or tour operator and you fail to comply with this requirement, and if the passenger misses one or more connections, **you are liable to reimburse the total amount paid for the transaction** for the tickets and **to pay compensation equivalent to 75 % of that amount**.
- **During the journey**, concerning any delays or interruptions to services, the reviewed Rail Passenger Rights Regulation notably establishes that infrastructure managers shall distribute real-time traffic data to rail ticket vendors or tour operators and that railway undertakings shall provide real-time dynamic travel information to other railway undertakings, ticket vendors and tour operators. **This could be of relevance for your consumers, especially in case of travel disruption.**
- **Concerning procedures for the submission of complaints.** In the recast of the Rail Passenger Rights Regulation, a standardised EU-wide form allowing passengers to request reimbursement or compensation is introduced.

## 2. Delays and cancellations

In the case of a reasonably expected delay at arrival of more than 60 minutes, either at departure or in the event of a missed connection or a cancellation, rail passengers have the right between:

- The refund of the full cost of the ticket for the part of the journey not made, or
- The continuation or re-routing to the final destination under comparable transport conditions, either at the earliest opportunity or at a later date at the passengers’ convenience.

If passengers **do not opt for reimbursement** but for continuation of the journey, they may claim a minimum compensation equivalent to:

- 25% of the ticket price for a delay of 60 to 119 minutes,
- 50% of the ticket price for a delay of 120 minutes or more.

The payment of this compensation is due, except if railway operators can justify that the delay of the cancellation is due to **an extraordinary circumstance** (for instance, extreme weather conditions).

**In the case of a delay in arrival or departure of more than 60 minutes**, passengers have the right to:

- Receive information on the situation and the estimated departure and arrival time.
- Assistance by receiving meals and refreshments within reasonable limits.
- Accommodation (such as hotel nights) where a stay of one (1) or more nights becomes necessary (3 nights maximum in the event of extraordinary circumstances).
- Transport to the railway station or to the alternative departure point or to the destination if the train is blocked on the track.
- The updated Regulation also creates **a right to self-routing in certain circumstances**. In concrete terms, if passengers do not receive a timely solution (within 100 minutes after the scheduled departure time) in the event of a disruption to their journey, they can themselves organise alternative public transportation (by rail or bus) and later on, be reimbursed by the carrier for the ‘*necessary, appropriate and reasonable*’ cost of the additional ticket.



- The designation of an independent national enforcement bodies (NEB) in each EU Member States with the mandate to **enforce** the regulation.

### 3. Persons with disability and reduced mobility

The Rail Passenger Rights Regulation aims to ensure that persons with disability and reduced mobility can travel in a way that is comparable to other passengers. Thus, the text gives them the following rights:

- The right to non-discriminatory access to transport at no additional charge.
- **On demand**, to be provided with information concerning the accessibility of rail services and stations.
- An assistance **free of charge** on board trains and at staffed stations if staff trained to assist persons with disability and persons with reduced mobility is available (passengers are requested to give 24 hours' notice of their assistance needs before departure<sup>9</sup>).
- The right to compensation if the railway undertaking is responsible for the loss or damage of their mobility equipment.

### 4. Security, complaints, and service quality

- An effective complaint handling mechanism must be put in place by railway undertakings, and passengers can complain to any railway operator involved in their journey.
- The Rail Passenger Rights Regulation defines minimum service quality standards for railway undertakings. They notably include passenger information and tickets; punctuality of service; statistics on delays and cancellation of services; complaint handling, refunds, and compensation for non-compliance with service quality standards; assistance provided to disabled persons and persons with reduced mobility, etc.

#### Relevant documentation:

- - Please see the European Commission [website on rail passenger rights](#). The site contains, FAQs on the application of the Regulation, information on rules in specific countries etc.
- - Tables summarising national exemptions from the scope of Regulation (EU) 2021/782 on rail passenger rights
- - During the COVID-19 pandemic, the European Commission also published the following documents which could be of relevance for SMEs:
- - Commission Notice [Interpretative Guidelines](#) on EU passenger rights regulations in the context of the developing situation with Covid-19.
- - Commission [Recommendation \(EU\) 2020/648](#) of 13 May 2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic.

<sup>9</sup> Please note that until 1 July 2026 Member States may allow to apply a longer pre-notification period (36-hour).



## D-Bus and Coach Passenger Rights



In the buses and coaches sector, [Regulation \(EU\) No 181/2011](#) concerning the rights of passengers in bus and coach transport applies. Thus, passengers travelling by bus and coach, including those with a disability or reduced mobility, enjoy the same rights wherever they travel within the EU.

This Regulation establishes rules for bus and coach transport mainly regarding **regular services for passengers travelling within the EU for distances of 250 kms or more but also regarding services below 250 km as far as “core” rights are concerned**. In the context of the text, regular services mean ordinary bus and coach services carrying passengers along specified routes with pre-determined pick-up and stopping points.

Some of the provisions of the Regulation apply to all services, including those of a shorter distance

than 250km and could be of relevance for SMEs selling that kind of bus travel services.

Regarding so called “long-distance services” (250 km and above), the Regulation establishes that:

- In situations of cancellation or following a delay of more than 90 minutes in the case of a journey of more than 3 hours, **adequate assistance** must be provided to passengers (e.g. meals and up to two (2) nights’ hotel accommodation under certain conditions).
- Passengers also have the choice between a **reimbursement or a rerouting** in situations of overbooking or cancellation or following a delay of more than 120 minutes from the estimated time of departure.
- If the carrier fails to offer the passenger either rerouting or reimbursement following more than 120 minutes delay from the estimated time of departure, cancellation of a journey or overbooking, the passenger is entitled to a **compensation** of 50 % of the ticket price.
- **Information** when the service is cancelled or delayed in departure.
- Specific assistance free of charge for **persons with disabilities and persons with reduced mobility** (both at terminals and on board) and, if necessary, transport free of charge for accompanying people.
- In case of a **road accident**, entitlement to **compensation** for death, including reasonable funeral expenses, or personal injury as well as to loss of or damage to luggage due to accidents arising out of the use of the bus or coach.

For distances of **less than 250 km**, the Regulation provides for the following provisions:

- **Non-discrimination** based on nationality with respect to prices and contract conditions for passengers.

- Non-discriminatory treatment of **persons with disabilities and persons with reduced mobility** and financial compensation for loss or damage of their mobility equipment in case of accident.
  - **Disability-related training** for drivers.
  - Minimum rules on **travel information** for all passengers before and during their journey
- and general information about their rights in terminals and online.
- A **complaint handling mechanism** established by carriers and available to all passengers.
  - The designation of an independent national enforcement bodies (NEB) in each EU Member States with the mandate to **enforce** the regulation.

#### Relevant documentation:

- - Please see the [European Commission website on bus and coach passenger rights](#). The site contains, FAQs on the application of the Regulation, information on rules in specific countries etc.
- - During the COVID-19 pandemic, the European Commission also published the following documents which could be of relevance for SMEs:
- - Commission Notice [Interpretative Guidelines](#) on EU passenger rights regulations in the context of the developing situation with Covid-19.
- - Commission [Recommendation \(EU\) 2020/648](#) of 13 May 2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic.

## E- Waterborne Passenger Rights

If you sell waterborne tickets, the Regulation (EU) No [1177/2010](#) concerning the rights of passengers when travelling by sea and inland waterway applies.

The following rights apply to passengers travelling in the EU **on large ferries** and **cruise ships on sea, rivers, lakes, or canals**<sup>10</sup>.

They include:

- **Reimbursement or rerouting** in situations of cancellation or of delay at departure of more than 90 minutes<sup>11</sup>.
- **The provision of an adequate assistance** (e.g. meals, refreshments and, if necessary, accommodation for up to three (3) nights in situations of cancellation or delay at departure of more than 90 minutes.
- **A compensation** of between 25 % and 50 % of the ticket price in situations of delay in arrival or cancellation of journeys<sup>12</sup>.
- Non-discriminatory treatment and specific assistance free of charge for **persons with disabilities and persons with reduced mobility** both in ports and on-board ships, as well as financial compensation for loss or damage of their mobility equipment.
- Adequate **information** provided to passengers throughout their travel , as well as information about their rights in port terminals, on-board ships and in ports, if possible.
- The establishment of a **complaint-handling mechanism** by carriers and terminal operators.
- The designation of independent national bodies to **enforce** the regulation.

Since 31 December 2012, [Regulation \(EC\) No 392/2009](#) on the liability of carriers of passenger by sea in the event of an accident also applies.

### Relevant documentation:

- Please see the European Commission website on [waterborne passenger rights](#). The site contains, FAQs on the application of the Regulation, information on rules in specific countries etc.
- During the COVID-19 pandemic, the European Commission also published the following documents which could be of relevance for SMEs:
- Commission Notice [Interpretative Guidelines](#) on EU passenger rights regulations in the context of the developing situation with Covid-19.
- Commission [Recommendation \(EU\) 2020/648](#) of 13 May 2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic.

<sup>10</sup> . Please note that some exemptions exist. See Article 2(2) of the Regulation the Regulation (EU) No [1177/2010](#) concerning the rights of passengers when travelling by sea and inland waterway. The latter does not apply in respect of passengers travelling: (a) on ships certified to carry up to 12 passengers; (b) on ships which have a crew responsible for the operation of the ship composed of not more than three persons or where the distance of the overall passenger service is less than 500 metres, one way; (c) on excursion and sightseeing tours other than cruises; or (d) on ships not propelled by mechanical means as well as original, and individual replicas of, historical passenger ships designed before 1965, built predominantly with the original materials, certified to carry up to 36 passengers.

<sup>11</sup> Please note that this does not apply to passengers travelling on a cruise in accordance with Article 2(1)(c) of the Regulation (EU) No 1177/2010 concerning the rights of passengers when travelling by sea and inland waterway

<sup>12</sup> Idem.

## F- Additional points of relevance for SMEs

### Refund and compensation to be paid in money except expressly agreed otherwise by consumers.

It is important to mention that the under all Passenger Rights Regulations, when reference is made to refund or compensation, they should be paid **in money, except if the passenger agrees expressly otherwise**.

This was a major sources of disputes during the pandemic, and has been confirmed by the European Commission [Interpretative Guidelines](#) on EU passenger rights regulations in the context of the developing situation with Covid-19 and its [Recommendation \(EU\) 2020/648](#) on vouchers.

Furthermore, in 2022, the Commission and national consumer authorities, following a dialogue in the framework of the Consumer Protection Network (CPC Network) conducted in 2021, [secured commitments](#) from 16 major European airlines which confirmed that they reimbursed in money over 500 000 imposed flight vouchers on consumers for cancelled flights during the COVID-19 pandemic. This action from consumer protection authorities confirmed that vouchers cannot be imposed on consumers.

### Is there a time limit to bring a legal action in Passenger Rights Regulations?

Regarding legal actions in national courts, this depends on national law in each European country and will therefore vary throughout the EU. This has been confirmed by the European Court of Justice in its ruling [Case C-139/11 Cuadrench Moré](#).

Check with the [National Enforcement body](#) in the country concerned or a [national consumer centre](#) for more information.

Passengers travelling by sea or inland waterways must submit their complaint to the carrier or terminal operator within 2 months from when the

service was performed or when it should have been performed<sup>13</sup>. Passengers are not required to submit their request for compensation within this 2-month deadline<sup>14</sup>.

Passengers travelling by bus and coach must submit their complaints to the carrier within 3 months from the date on which the service was performed or should have been performed<sup>15</sup>.

Passengers travelling by rail must submit their complaints to the carrier withing 3 months of the incident that it concerns<sup>16</sup>.

<sup>13</sup> Article 24 of Regulation 1177/2010 concerning the rights of passengers when travelling by sea and inland waterway

<sup>14</sup> [Case C-570/19 Irish Ferries](#).

<sup>15</sup> Article 27 of the [Regulation \(EU\) No 181/2011](#) concerning the rights of passengers in bus and coach transport.

<sup>16</sup> Article 28.2 of the Regulation 2021/782 on rail passengers' rights and obligations.

## III. Interlinks between the Air Passenger Rights Regulation and the Package Travel Directive

It is very common for package holidays contracts governed by the Package Travel Directive (PTD) to include travel services (a plane + a hotel and a car rental etc.). In such situations, what are the implications for online intermediaries or travel agents? What are their obligations if, for instance, the passenger flight to a vacation is delayed at arrival of 5 hours)?

In the Air Sector, the Regulation on Air Passenger Rights<sup>17</sup> stipulates that the text **also applies to flights within a package tour**, except where a package tour is cancelled for reasons other than cancellation of the flight (for example, in the event of a hotel cancellation). It is also stated that the rights granted under the Air Passenger Rights Regulation do not affect the rights granted to travellers under the PTD directive.

Travellers thus have, in principle, rights in relation to both the package organiser under the PTD (see the factsheet on the Package Travel Directive) and the operating air carrier under the Air Passenger Rights Regulation.

The Package Travel Directive<sup>18</sup> also provides that any right to compensation or price reduction under that Directive does not affect the rights of travellers under the Air Passenger Rights Regulation. However, any compensation and price reduction granted under passenger rights regulations and under the PTD **shall be deducted from each other to avoid overcompensation**.

It is to be noted that neither the Passenger Rights Regulation nor the Package Travel Directive deals with the question of who between the package organiser or the operating air carrier ultimately has to bear the cost of their overlapping obligations. **Resolving such a matter will thus depend on the contractual provisions between organisers**

**and air carriers and the applicable national law.** Any arrangements made in this regard (including practical arrangements to avoid overcompensation) must not impact negatively on the passenger's ability to address the passenger's claim to either the package organiser or the air carrier and to obtain the appropriate entitlements for the rights that do not arise under the Package Travel Directive.

For instance, the ECJ ruled that passengers who have the right to hold the travel organiser liable for reimbursement of the cost of their air ticket under the Package Travel Directive<sup>19</sup>, **can no longer claim reimbursement of the cost of that ticket from the air carrier under the Air Passenger Rights Regulation**, even if the tour organiser is financially incapable of reimbursing the cost of the ticket and has not taken any measures to guarantee such reimbursement ([Case C-163/18 Aegean Airlines](#)). **To be clear, passengers who are entitled to seek reimbursement from their travel organiser under the PTD are not able to seek reimbursement from the air carrier under Air Passenger Rights Regulation.**

The situation is different regarding compensation, where **a traveller may seek compensation** directly from the air carrier for flights delayed for three (3) hours or more or cancelled, **even if there is no contract between that traveller and the respective air carrier** but the flight is part of a package (Case [C-215/18 Primera Air Scandinavia](#)).

<sup>17</sup> Article 3(6) and Recital 16 of the Air Passenger Rights Regulation 261/2004.

<sup>18</sup> Article 14(5) PTD

<sup>19</sup> See Article 8(2) of the Air Passenger Rights Regulation.



For more information about the interlinks between the Package Travel Directive and the Air Passenger Rights Regulation, see the European Commission [Interpretative Guidelines on Regulation](#) on the Air Passenger Rights Regulation. Please note that these guidelines were due to be updated at the time of writing.

## IV. Relevant case law for SMEs

In the air Sector, numerous rulings by the European Court of Justice have clarified the interpretation of various provisions of the Air Passenger Rights Regulation including the right to compensation in the event of delays of more than 3 hours (see Section 2), the interpretation of the concept of extraordinary circumstances, and the responsibilities of travel agencies and online booking intermediaries when air tickets have been booked by them.

The ECJ also clarified interpretation of provisions of the Regulation (EC) No 1008/2008 (so called “Air Services Regulation”) which is also relevant for ticket vendors and intermediaries selling air tickets.

### PRICE TRANSPARENCY AND OPTIONAL PRICE SUPPLEMENTS

For instance, the Court has had the opportunity on several occasions to clarify the rules that persons **selling air travel must comply with when they make offers available on their websites.**

In 2012, the Court ruled those persons selling air travel (ex: an online booking intermediary or a travel agent) do not have the right to include 'flight cancellation' insurance in the price of the ticket by default ('opt-out'). Insurance of that kind is an **optional price supplement which** must be clearly communicated at the start of a booking process

and its acceptance by the customer must be on an 'opt-in' basis ([ebookers.com Deutschland, C-112/11](#)).

The Regulation (EC) No 1008/2008 also provides that **the final price to be paid must at all times be indicated.** The ECJ therefore drew the conclusion that the final price to be paid must be indicated for each air service offered, including the first time that the price is indicated. The purpose of this requirement is, notably, to enable consumers to effectively compare the price of air services offered by different air carriers ([Air Berlin, C-573/13](#)).

event of cancellation, unless the cancellation is caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken. The amount of compensation is based on the distance of the flight (see Section 2).

The ECJ had to rule on several occasions as to whether operating carriers must pay the lump sum compensation to passengers if they had given the information about the cancellation to the intermediary through which the air ticket had been booked (e.g. travel agency or online booking intermediary), but the latter **had not passed on the information to the passengers.**

### CARRIAGE OF LUGGAGE

**Regarding luggage,** the ECJ has recognised that the price of transporting luggage can be charged in addition to the price of the plane ticket, which is what most low-cost airlines do. However, the Court has indicated that cabin luggage cannot be subject to a price supplement, given that it must be regarded as a necessary item for the carriage of passengers ([Vueling Airlines, C-487/12](#)).

### ON THE INFORMATION TO PASSENGERS ABOUT THE CANCELLATION

Under the Air Passenger Rights Regulation, the operating carriers must pay a compensation in the

In the *Krijgsman* case, the ECJ clarified that the **operating air carrier still has to pay compensation if the passenger was not informed of a flight cancellation at least two weeks before the scheduled time of departure because the intermediary** (e.g. travel agent, online travel agency) with whom the passenger had the contract of carriage did not pass on this information from the air carrier to the passenger in time, and the passenger did not expressly authorise that intermediary to receive the information transmitted by that operating air carrier (Cases C-302/16 [Krijgsman](#) and C-263/20 [AirHelp](#)).

In the same vein, the Court clarified in the [Ryanair DAC](#) case that the operating air carrier must also pay the compensation in the event of a flight cancellation of which the passenger was not informed at least two weeks prior to the scheduled time of departure, where that air carrier sent the information in good time to the only email address communicated to it in the course of the booking, without, however, being aware that that address could be used only to contact the travel agent, through which the reservation had been made, and not the passenger directly and that that travel agent did not send the information to the passenger in good time, meaning at least two weeks prior to the scheduled time of departure.

### STAND-ALONE FLIGHTS BOOKED THROUGH AN ONLINE BOOKING PLATFORM.

Under the current Air Passenger Rights Regulation, **there are no rules regulating online booking intermediaries**. Thus, the ECJ had, in several cases, to clarify the respective liabilities between the operating carrier and the intermediary.

For instance, the ECJ clarified that the onus is on the air carrier, in the event of a flight cancellation, to offer assistance to the passengers in the form of offering them, notably, reimbursement of their ticket, at the price at which it was bought, and, where necessary, a return flight to their first point of departure, even if the ticket has been bought via the intermediary ([Case C-601/17 Harms](#)).

In addition, following dialogues with the Commission and national consumer protection authorities, in the framework of the CPC-Network, three major online travel agencies [committed](#) in 2023 to better inform consumers in the case of flight cancellations by airlines and to transfer ticket refunds received from airlines within seven days.

In the current absence of EU rules dealing with online booking intermediaries, this could be of particular relevance to you when selling airline tickets (See Section V for possible legislative updates).

### For more information about the relevant case law applicable to the Air Passenger Rights Regulation:

- See the European Commission updated Interpretative [Guidelines](#) on Regulation on the Air Passenger Rights Regulation. Please note that these guidelines were due to be updated at the time of writing.
- See the Court of Justice and the Rights of Air Passengers - [Factsheet summarizing the main case law](#).

## V. The review of the passenger rights framework: ‘Passenger Mobility Package’

Passenger rights are a key EU policy. Nevertheless, many challenges remain despite the substantial progress made over the past 20 years.

This is why the European Commission published on last November 2023 the so called “[Passenger Mobility Package](#)” which intends to revise the [Regulations on Passenger Rights](#) to address problematic areas by strengthening the enforcement mechanisms across all modes of transport and introducing rules for air passengers who booked their flights via an intermediary, including on reimbursement.

Furthermore, the Passenger Mobility Package contains a [Proposal on passenger rights in the context of multimodal journeys](#) which proposes to set new rules to protect passengers using different types of transport, like buses, trains, planes and/or ferries, all in one trip.

The European Commission also published [a proposal](#) to revise the 2015 **Package Travel Directive** to make the protection of package travellers more effective, in particular during crisis situations, learning the lessons from the Covid-19 pandemic. For more information about the Package Travel Directive, you can consult its specific factsheet.

Regarding the Air Passenger Rights Regulation, the Commission presented a proposal amending Regulation (EC) No 261/2004 in March 2013 with a view to further enhancing the enforcement of the EU rules by clarifying key principles and implicit passenger rights that have given rise to many disputes between airlines and passengers in the past. The co-decision process is still ongoing and final position are yet to be agreed between Parliament and the Council of the EU. This proposal may be taken up now again by the co-legislators (European Parliament and Council) in the context of the proposals tabled in 2023

## VI. Additional relevant documents

- The European Commission [‘Sustainable and Smart Mobility Strategy’ together with an Action Plan](#)
- Mobility and Transport Commission website - [Passenger Rights Studies](#)
- **Regarding Air Passenger Rights:**
  - o On this [page](#) you will find relevant links to legislation, case law and policy documents on air passenger rights.
  - o For specific information and advice on your rights as an air passenger and how to claim these rights, please visit [‘Your Europe’](#)
- **Regarding Rail Passenger Rights:**
  - o On this [page](#) you will find relevant links to legislation, case law and policy documents on air passenger rights. This page is important because numerous derogations from passenger rights are possible for rail transport, and disputes before the courts are still frequent.
  - o For specific information and advice on your rights as an air passenger and how to claim these rights, please visit [‘Your Europe’](#)
- **Regarding Bus and Coach Passenger Rights:**
  - o On this [page](#) you will find relevant links to legislation, case law and policy documents on bus and coach passenger rights. This page is important because many exemptions to passenger rights are possible for road transport, and disputes before the courts are still frequent. For specific information and advice on your rights as a bus and coach passenger and how to claim these rights, please visit [‘Your Europe’](#)
- **Ship and Waterborne passenger rights**
  - o On this [page](#) you will find relevant links to legislation, case law and policy documents on waterborne passenger rights.
  - o For specific information and advice on your rights as a waterborne passenger and how to claim these rights, please visit [‘Your Europe’](#)
- **Finding the competent National Enforcement Bodies (NEB) per mode of transport :** [https://transport.ec.europa.eu/transport-themes/passenger-rights/national-enforcement-bodies-neb\\_en](https://transport.ec.europa.eu/transport-themes/passenger-rights/national-enforcement-bodies-neb_en)
- **THE COURT OF JUSTICE AND THE RIGHTS OF AIR PASSENGERS** – [Factsheet summarizing the main case law.](#)
- **The Factsheet of the European Commission called [AIR PASSENGER RIGHTS – EUROPEAN CASE LAW](#) (2022)**, summarizing the main decision of the European Court of Justice.
- Commission [Recommendation \(EU\) 2020/648](#) on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic.

