



Enforcement of Passenger Rights in the EU

COM (2023) 753 final
COM (2023) 752 final

Passenger Rights in the Context of Multimodal Journeys

Executive Summary

Summarised assessment

In AK's view, the European Commission's proposals are a step in the right direction in some areas, but overall they fall well short of the urgent need for stronger and more readily enforceable passenger rights. All the laudable efforts of the Commission will not have an adequately successful outcome if passenger rights are not considered from the passengers' point of view: They want to use public transport in a well-informed manner, in comfortable and sufficiently available means of transport, protected by uniform, transparent and enforceable European passenger rights.

Our main demands

- Uniform, transparent and coherent passenger rights
- Effective channels of information and communication for travellers
- Effective law enforcement

Uniform, transparent and coherent passenger rights

AK believes that a much more extensive revision and standardisation of the currently very diverse passenger rights is needed first and foremost to make them more transparent and easier for consumers to access. In future, a divergent approach should only be justified if there are actually marked objective differences.

For example, all continuous and chronologically related journeys that start at the point of departure and end at the desired destination must be protected by European passenger rights. This applies not only to single-mode or multimodal journeys, but also to all combined journeys. It cannot be that it is still up to the companies in Europe to decide whether passengers are offered standardised tickets and thus whether passenger rights are guaranteed.

Effective channels of information and communication for travellers

Irrespective of other communication channels, carriers and intermediaries must provide a postal address, e-mail address and a free, reachable telephone number.

Passengers should be informed about these contact details, passenger rights, any reimbursement processes and national enforcement bodies pre-contractually, but also always together with the standardised reimbursement form in the booking confirmation and later at the time of any travel disruption.

Effective law enforcement

In order to put an end to the existing unlawful practice, particularly in the aviation sector, and to prevent the numerous black sheep from gaining further advantages to the detriment of honest companies, it is essential to introduce minimum penalties based on annual turnover (e.g. Directive (EU) 2019/2161).

In the event of repeated violations, special and general preventive deterrent sanctions are required, for example the temporary withdrawal of airline take-off permits, to make clear to all parties involved the importance of passenger rights for fair interaction in the European Union.

All passenger complaints – regardless of the operating company, whether multimodal or not, in urban or long-distance transport – should also be able to be lodged with a national enforcement body with a low threshold. Participation in these procedures must be mandatory for companies across the board as part of alternative dispute resolution in consumer matters (Directive 2013/11/EU).

The restriction or at least insolvency protection of advance payments by air passengers is also an essential part of this topic, which should no longer be ignored.

AK's Position

Enforcement of Passenger Rights in the EU

General

In its [Special Report No. 30 from 2018](#) the European Court of Auditors already identified that many passengers are not sufficiently aware of their rights and are often unable to exercise them due to problems with enforcement. The Court therefore made a number of useful recommendations to improve the coherence, clarity and effectiveness of the passenger rights framework and to better inform passengers so that they are aware of and can enforce their rights.

Despite extensive preparatory work, this initiative was regrettably unable to achieve its goal of creating more transparency and coherence – mainly due to the many exceptions and concessions afforded to companies. Expert knowledge is still required to recognise whether and which rights are due in a specific case.

Bus passenger rights are a good illustration of the problem: Bus passengers do not have the same rights as rail, sea or air passengers. For example, passengers only have limited rights when traveling by bus (only from a distance of 250 km and only if the departure is delayed). While a rail or airline passenger can claim compensation for a delay of 3 hours, a bus passenger is left empty-handed. This is completely incomprehensible to bus passengers, especially when in many cases they have no alternative, as many journeys cannot be made by rail or air. The argument that buses are at risk of getting caught in traffic and that bus drivers could make up for delays through risky driving is an insult to responsible bus drivers and companies. Indeed, practice shows that aircraft can also be held up by traffic and trains are certainly confronted with delays caused by third parties.

But it is not only bus passengers who find the existing passenger rights unclear and unfair; passengers on urban or regional services, for example, will not be able to explain why certain rights and obligations do not apply to urban and regional transport companies (such as the restriction on the amount of processing costs). Due

to the numerous exceptions permitted, passengers in this area cannot generally call on the national arbitration and enforcement body to fight injustice and unfair practices. In Austria, for example, urban transport is largely legally excluded from the application of passenger rights.

It is also incomprehensible why regulations for bookings via intermediaries should only be necessary within the framework of the Air Passenger Rights Regulation. As intermediary activities are increasingly common in all forms of transportation, including multimodal travel, there is also a need for corresponding provisions in the passenger regulations.

Uniform, transparent and coherent passenger rights should also include combined tickets for journeys. If a passenger's combined tickets for a continuous and temporally coherent route from the starting point to the destination are not all uniformly covered by the protection of passenger rights, it is at the discretion or whim of the companies to decide whether a uniform ticket can be purchased in this case. This problem not only affects multimodal journeys, but also has yet to be satisfactorily resolved for journeys with one single mode of transport, such as changing to another train. In addition, travellers usually do not have the option of purchasing the connected routes from one single company, but must buy tickets from different sellers to reach their destination. The right to a through ticket is therefore required if the route is continuous as defined above.

Remarks about specific provisions

Effective information and communication channels for passengers (Art 8a (2), Art 14, Art 16aa Air Passenger Rights Regulation and similar in the Passenger Rights Regulations)

One of the most common practical problems is the lack of communication with transport companies and intermediaries. The proposed additions, especially in the Council's position, are important but do not go far enough. Regardless of other communication channels (chats, applications, etc.), carriers and intermediaries must offer a postal address, e-mail address and a free,

reachable telephone number. These contact details must be noted on the booking confirmation and made available to travellers immediately in the event of a disruption.

For all communication options, passengers should have the right to two-way communication in at least the language of the booking and the national language of the Member State in which the carrier operates.

Disclosure of information to consumers by electronic means (Art 8a (2), Art 14, Art 14a, Art 16aa Air Passenger Rights Regulation and similar in the other Passenger Rights Regulations)

AK agrees with the recommendation of the European consumer organisation BEUC, which stipulates that all information provided for in the various regulations on passenger rights (pre-contractual, in the event of travel disruption, complaint handling, etc.) must be disclosed to consumers by electronic means and on a durable medium. The consumer's email address and telephone number should be part of the data requested by the body making the transport booking and passed on to the provider when booking via intermediaries. If this data is made available, it is possible to provide information by electronic means. Consequently, the currently chosen formulations such as „if technically feasible“ (Article 14 new paragraph 4), „if possible“ (Article 16 paragraphs 1 and 4), which invite circumvention of the provision, should be deleted.

Uniform form for refund and compensation claims (Art 16aa Air Passenger Rights Regulation and similar in the other Passenger Rights Regulations)

The introduction of a standardised form for reimbursement and compensation applications in all passenger rights regulations is expressly welcomed as a simplification for consumers. The concept is also advantageous for transport companies – it ensures the necessary clarifications for quick and effective processing. AK also takes a very positive view of the fact that all passenger regulations should stipulate that transport companies must provide active support if an application is not sufficiently completed.

However, the design of the complaints process would have to be made considerably more effective. For example, the form should already be sent to the passenger together with accompanying information about passenger rights with the booking confirmation and later again at the time of a travel disruption triggering passenger rights to the consumer's contact details (e.g. by e-mail and SMS) in the booking language and the national language of the Member State in which the carrier operates. In this way, the carriers and inter-

mediaries to be obliged to do so would also make a positive contribution to raising awareness of passenger rights across the board. This obligation and the option of submitting the form by e-mail and post (see above) should exist independently of any means of communication used by the companies themselves (e.g. app applications).

Carriers should have to substantiate any rejections of claims - this would significantly simplify a legal review (e.g. by consumer protection organisations).

Effective law enforcement

Consumers must be able to assert their rights quickly and easily. This is currently not the case and the present proposal, despite its title, only brings disappointingly few improvements. Practice shows that even undisputedly existing obligations (especially by airlines) are not complied with across the board. For many companies, the existing regulations seem to make it much more economical to accept fines than to pay consumers their legitimate claims.

In the Council's general approach, the already very moderate approaches of the Commission proposal in terms of law enforcement have now been further curtailed: The risk-based approach to monitoring compliance with passenger rights rules, reporting obligations on service quality standards and cooperation between Member States and the Commission have been removed (see below). In view of the objective of the proposal, this is incomprehensible and should be consistently rejected.

Instead, sanctions that actually act as a deterrent for non-compliance with passenger rights are urgently needed. Given the high and recurring number of complaints in the area of passenger rights (see recent Consumer Scoreboard), the National Enforcement Bodies should be empowered to take more targeted action against non-compliant providers. Under the current regulations on passenger rights, sanctions for infringements must be „effective, proportionate and act as a deterrent“. In many Member States, however, sanctions are very rarely imposed in practice and even when they are, the amounts are too small to have a deterrent effect. This undesirable practice also leads to different levels of protection for consumers across Europe, depending on the specific Member State.

AK therefore calls for the introduction of minimum penalties for violations of passenger rights, which are based on the annual turnover of the companies (such as Directive (EU) 2019/2161), to prevent companies that apply unfair and unlawful practices from acting to the detriment of honest companies. In the event of

repeated infringements, there is also a call for special and general preventive deterrent sanctions (such as the temporary withdrawal of take-off permits for airlines) to make the importance of passenger rights for fair interaction in the European Union clear to all parties involved.

In Austria, carriers are largely obliged to participate in arbitration proceedings in the event of disputes or complaints and to provide all information and documents required to assess the situation. In an average of three quarters of arbitration proceedings (the vast majority of which concern air travel), agreements between companies and passengers can be reached in this way. On the basis of this positive outcome, AK is in favour of mandatory participation in conciliation procedures for companies throughout the European Union. It would therefore also make sense to oblige other companies involved in the area of passenger rights (providers, intermediaries, multimodal hub operators, urban or long-distance transport) to participate in arbitration procedures. In its amendments (2023/0376 (COD)) to the proposal for an amendment to Directive 2013/11/EU on alternative dispute resolution for consumer disputes (ADR Directive), the EP Committee on the Internal Market and Consumer Protection (IMCO) has already called for the mandatory participation of air carriers within the meaning of Regulation 261/2004.

Harmonisation of powers and strengthening of the National Enforcement Bodies (Art 16ba, Art 16bb, Art 16bc Air Passenger Rights Regulation and similar in the other Passenger Rights Regulations)

AK supports the proposal of a risk-based approach (e.g. Art 16ba Air Passenger Rights Regulation) for monitoring compliance with the provisions on passenger rights in all Passenger Rights Regulations. The envisaged exchange of information with the national enforcement bodies (e.g. Art 16bb of the Air Passenger Rights Regulation), including the actors' obligations to cooperate, is also welcome. However, the Air Passenger Rights Regulation should also stipulate that airport operators and intermediaries are subject to the same obligations (as provided for in the Council position and in Art 14b of the Regulation on Disabled Air Passengers and Air Passengers with Reduced Mobility and similarly in the other Passenger Rights Regulations).

Cooperation between the Member States and the Commission (Art 14d Regulation on Disabled Air Passengers and Air Passengers with Reduced Mobility and similar in the other Passenger Rights Regulations)

The proposed provision is another example of inappropriate distinctions in the Passenger Rights Regulations - as it is intended for all regulations except the Air Passenger Rights Regulation. AK therefore suggests that the provisions on cooperation between the Member States and the National Enforcement Bodies and the European Commission should also be integrated into the Air Passenger Rights Regulation. Such cooperation would make it much easier for National Enforcement Bodies and the European Commission to identify widespread compliance problems by providers or intermediaries without much additional effort.

Service quality standards – reporting obligation of all actors (Art 15a Air Passenger Rights Regulation and similar in the other Passenger Rights Regulations)

AK is in favour of the introduction of reporting obligations on service quality standards in all Passenger Rights Regulations, whereby we also advocate the inclusion of SMEs, which represent the majority of stakeholders in some sectors. The reports must be evaluated and assessed at regular intervals by the authorities of the Member States in order to increase and maintain compliance with passenger rights, including service quality.

The changes in the respective Regulations

Article 1 Amendment to Regulation (EC) No 261/2004 (air)

- Reimbursement when booking the airline ticket via intermediaries (Art 8a)

The regulation is generally very welcome, as it addresses a common problem. This refers both to the modalities provided for (e.g. freedom from costs of reimbursement via intermediaries) and the deadlines of 7 days between the airline and intermediaries and a maximum of 14 days vis-à-vis travellers. However, there are considerable concerns regarding the practicability of these provisions in the variant of the Council position (Art 8a (5a) and (b) and Art 14 (5)):

If air passengers are entitled to a refund, then this refund must in any case cover the entire ticket price paid - including the intermediary fees paid (this also

corresponds to the usual understanding of the freedom from costs stipulated in para. 3). However, the wording of the Council position (Art 14 (5)) could be interpreted as meaning that intermediaries themselves determine whether and to what extent intermediary fees paid are refundable. Such a regulation would have to be decisively rejected. AK therefore welcomes the information to be provided in Art 14 (5) on the amount of the intermediary fees and at the same time suggests a clear clarification on the reimbursement of the same in full. Furthermore, the additional period of 14 days for reimbursement provided for in Art 8a (5)(b) is not appropriate. A refund should be made immediately in these cases.

- Legal representatives of intermediaries from third countries (Art 16ab)

The Council's general approach to law enforcement contains a promising concept that has already been taken up in other recent European legal acts: EU representatives should be liable for the fulfilment of obligations arising from the Regulation by companies based in third countries. This makes a lot of sense and should be extended to airlines from third countries. Although airlines based in third countries are expressly covered by the obligations under the Air Passenger Rights Regulation, legal action in the event of non-compliance is sometimes only possible with difficulty. This is not only a problem for consumers, but also a problem in terms of equality for all airlines, regardless of where they are based.

Article 3 Amendments to Regulation (EU) No 1177/2010 (ship)

- Information in the event of cancelled or delayed departures (Art 16)

The inclusion of event-related information obligations is very welcome and will also help to raise awareness of passenger rights.

- Para 4

The information pursuant to Art. 16 (1) and (2) should be made available not only in electronic form but also in paper form. The wording „shall also be provided by“ would therefore be welcome - this would also correspond to the corresponding newly proposed regulation for bus passenger rights (Art 20 (4)).

- Standardised form for reimbursement and compensation applications (Art 19a)

A standardised form that passengers can use to claim reimbursement and compensation from the carrier is very welcome. There are often disproportionately high hurdles for the passengers concerned when submitting an application. A simple and quick way to contact carriers is therefore a suitable support and also makes processing easier for companies, as they can query all relevant criteria in this form so that the time-consuming correspondence between passenger and company, which is common in practice, can be avoided.

- Para 2 last sentence

It would be desirable if not only the claims under Art. 18 and 19 could be asserted using the standardised complaint form, but also all claims for damages by the passenger (such as damaged mobility aids or lack of assistance). The wording should therefore read, as in Art. 11 (1) of the proposal on multimodal travel (COM (2023) 752 final): „... Establishment of a common form for applications for compensation and reimbursement under this Regulation“.

- Para 3

It is to be welcomed that transport companies must provide an e-mail address on their website that passengers can use to contact the company electronically in a simple way. However, it is not comprehensible why this requirement should not also apply if other electronic means of communication are available and would also contradict the passenger's right to use the standardised form referred to in para. 1, which passengers send to the companies. Passengers cannot be expected to download an app and it is not an easy way to contact the company, but an additional inhibition threshold. In practice, finding online complaint forms often involves major hurdles, patience and registration via a user account. This cannot be in the interests of easy access. In particular, people without Internet access must also have access. This not only affects older people, but also those who deliberately want to take a digital break.

- Means of communication with passengers (Art 23a)

As already explained, it is important that information is not only available to passengers electronically; electronic information should be an additional means of access. See proposal on Article 14a (1) of Regulation 261/2004.

- Exchange of information with national enforcement bodies (Art 25b)

The introduction of obligations of carriers, terminal operators and, where appropriate, port authorities to cooperate with national enforcement authorities at European level is to be welcomed. However, intermediaries would also have to be included in Art 25a.

Article 4 Amendments to Regulation (EU) No 181/2011 (bus)

In the view of AK, Regulation (EU) No. 181/2011 requires a fundamental revision (see section General, 3rd and 4th paragraphs). The rights here need to be aligned with those of other means of transport. It is also necessary to adopt provisions concerning intermediaries from the proposal to amend the Air Passenger Rights Regulation (Art 8a and 14a), such as the obligation to provide passengers with appropriate and comprehensible information about their rights under this Regulation. Just as the provisions of Art 19a (cf. present proposal to amend the Air Passenger Rights Regulation Art 16aa (2)) and the information obligations under Art 24 (1) must apply to bus ticket intermediaries. Intermediaries must be included in Art 28b.

- Uniform form for applications for reimbursement and applications for compensation (Art 19a)

Especially in the bus sector, it is very difficult to get in touch with transport companies. A standardised form with which passengers can approach the carrier with claims for reimbursement and compensation is therefore an important support. In addition, a standardised form, which is used to request all the necessary data regarding the reimbursement or compensation claim, also makes processing and communication easier for the bus companies.

- Para 1

It would be desirable if not only the claims according to Art. 18 and 19 could be asserted with the uniform complaint form, but also all claims for damages of the passenger (e.g. carrier damaged mobility aids or lack of assistance). The wording should therefore read, as in Art. 11 (1) of the proposal on multimodal travel (COM (2023) 752 final): „... Establishment of a common form for compensation and reimbursement claims under this Regulation“.

- Para 2 last sentence

It should be made clear that passengers have the right to submit a complaint to the transport companies using this form and that the bus and/or coach under

taking may not refuse to process the complaint solely because only this form is used and not the complaint form provided by the undertaking

- Para 3

It is to be welcomed that the transport companies must provide an e-mail address on their website which the passenger can use to contact the company electronically in a simple way. However, it is not comprehensible why this requirement should not also apply if other electronic means of communication are available and would also contradict the passenger's right to use the standardised form referred to in para. 1, which passengers send to the companies. Passengers cannot be expected to download an app and it is not an easy way to contact the company, but an additional inhibition threshold.

In practice, finding online complaint forms often involves major hurdles, patience and registration via a user account. This cannot be in the interests of easy access. In particular, people without Internet access must also have access. This not only affects older people, but also those who deliberately want to take a digital break.

- Information (Art 20)

- Para 1

It is very important for passengers to be informed directly about the situation and their rights. The inclusion of event-related information obligations is therefore very welcome and will also help to raise awareness of passenger rights. It is also important for passengers to know when the planned arrival time changes. It is therefore necessary for carriers to also provide information about the new estimated time of arrival (see proposed amendment to Regulation 181/2011, Art 16 (1)).

- Right to travel information (Art 24)

According to the new version, transport companies and bus terminal operators must provide appropriate information in the language that is generally accessible to passengers. In practice, this means the respective national language. This restriction is too narrow and particularly disadvantages travellers who do not live in this country. Therefore, another internationally recognised language in this area should also be included in this provision or - the best solution from the passengers' point of view - the information should be available in every EU language with the help of translation software.

- Information on passenger rights (Art 25)

- Para 1

The inclusion of information obligations on contact details and passenger rights in the proposal are very welcome. However, since intermediaries also sell bus tickets, they should also help to ensure that passengers are provided with the information mentioned under a) to c).

- Means of communication with passengers (Art 25a)

As already explained, it is important that information is not only available to passengers electronically; electronic information should be an additional means of access. See proposal on Article 14a (1) of Regulation 261/2004.

- Sharing of information with national enforcement bodies (Art 28b)

The introduction of cooperation obligations for transport companies and bus terminal operators vis-à-vis the national enforcement authorities at European level is to be welcomed. However, mediators would also have to be included in Art 28b.

Article 5 Amendments to Regulation (EU) 2021/782 (rail)

In the rail sector, it is also necessary to involve intermediaries, including those who have no contractual relationship with the rail company. From the passengers' point of view, they must be protected in the same way in the case of brokered contracts as they are when purchasing from the railroad company itself. Adopting the provisions on intermediaries from the present proposal to amend the Air Passenger Rights Regulation (Art. 8a and 14a) is therefore necessary in the interests of passengers. In addition, as in other areas, a low-threshold and verifiable means of communication between the passenger and the company must be ensured.

Passenger Rights in the Context of Multimodal Journeys

General

AK welcomes the European Commission's initiative to also safeguard multimodal travel. However, the proposed draft falls far short of the needs of passengers and is not suitable for actually making combined travel more attractive.

The European Sustainable and Smart Mobility Strategy {SWD (2020) 331 final} highlights the promotion of effective multimodality, where travellers combine different modes of public transport, as an essential element to achieve the European Green Deal target and reduce transport-related emissions by 90% by 2050. With this in mind, it is necessary to encourage as many travellers as possible to switch to multimodal travel. As this combines modes of transport, passengers have to change from one mode of transport to another, with the risk of missing the next mode of transport due to delays and train cancellations.

In addition to a convenient range of connections, from the passenger's point of view the risk of missing a connection must also be comprehensively covered in order to compensate for the disadvantages of changing trains. Passengers will only opt for multimodal travel if they can be sure that they can switch to an alternative mode of transport in such cases - without additional organisational and financial effort - and/or that they will be compensated for any damage incurred as a result.

From the traveller's point of view, it makes no difference whether the journey is multimodal with different modes of transport (e.g. bus and rail) or a combination of two modes of transport from one mode of transport (rail and rail). For this reason, AK believes that the present draft should be extended to all combined journeys on a continuous route that takes the passenger from the point of departure to the desired destination.

The existing regulations for rail, bus, sea and air travel do not offer sufficient protection for combined travel. According to the Regulation on the Rights and Obligations of Rail Passengers, only passengers who can purchase a through ticket are adequately protected. However, as companies are only obliged to offer a through ticket if they operate all combined routes themselves, the passenger remains unprotected for most combined journeys. Important protection in the event of delays or train cancellations is therefore also eliminated. For this reason, combined journeys that cover a continuous route from a starting point to a destination should be assessed as one journey using a through ticket. If not all combined journeys – whether multimodal or with only one mode of transport – are uniformly covered by the protection of passenger rights, it still depends on the discretion of the companies whether comprehensive passenger rights protection exists or not. The present situation shows that simply encouraging companies is not enough. For instance, it is almost impossible for passengers to purchase cross-border through tickets.

In order to cushion the costs of compensation payments for companies, AK proposes that a European passenger compensation fund be established. This fund is to be financed by contributions from the individual transport companies according to their market share.

In particular

As AK is of the opinion that the scope of application of the present draft is too narrow and therefore unsuitable for promoting combined travel, whether multimodal or using only one mode of transport, the individual articles of the draft will not be discussed in detail. In the view of AK, the extended Regulation should in any case include all rights that are also finally contained in the proposal for a Regulation 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 (COM/2023/753 final) or are suggested by AK.

From the passenger's point of view, uniform, transparent and coherent passenger rights are required for all modes of transport, as well as for combined journeys, which are conveyed to passengers through effective information and communication channels and can be effectively enforced.

Further positions of the AK on travel law are available here:

- [Position paper: Revision of the Package Travel Directive](#)
- [Policy Brief: European travel law – Addressing current issues and challenges in the light of Covid-19](#)
- [Statement: EU air passenger rights 2013](#)



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About us

The Austrian Federal Chamber of Labour (AK) is the legal body which represents the interests of approximately 4 million employees and consumers in Austria. It represents its members on all social, educational, economic and consumer policy-related issues at national level and at EU level in Brussels. Furthermore, the Austrian Federal Chamber of Labour is a part of the Austrian social partnership. The Austrian Federal Chamber of Labour is registered at the EU Transparency Register under the number 23869471911-54.

The main objectives of the 1991 established AK EUROPA Office in Brussels are the representation of AK vis-à-vis the European Institutions and interest groups, the monitoring of EU policies and to transfer relevant information from Brussels to Austria, as well as to lobby the in Austria developed expertise and positions of the Austrian Federal Chamber of Labour in Brussels.