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# Improving EU Sea Passenger Rights for Greater Consumer Protection

## Position Paper



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# Executive summary

The European Consumer Centres Network (ECC-Net), based on an extensive review of over 4,400 cases and multiple consultations with European Consumer Centres, has identified key regulatory gaps in the current EU sea passenger rights framework. This policy paper highlights critical issues frequently encountered by consumers, particularly in the areas of:

- unclear regulatory definitions,
- inadequate assistance during disruptions,
- challenges in re-routing,
- compensation inconsistencies.

ECC-Net urges the EU legislators to address these gaps to ensure fairer, more effective protection for sea passengers in all Member States.

## About this paper and its publisher

The analysis and recommendations are based on more than 4,400 related cases handled by the European Consumer Centres Network (ECC-Net).

ECC-Net offers consumers advice on their rights and legal protections when shopping and travelling in another European Union Member State and some European Economic Area countries. As the network is in direct contact with consumers across Europe (118,000 cases in 2023), it can identify the challenges citizens face in countries across the single market and raise these issues with policymakers. From the offices in 29 countries, 150+ legal experts provide free advice and assistance in 24 different languages. ECC-Net is funded by the European Commission and by national governments.

# Key issues and recommendations

## 1. Definitions in the Regulation (Article 3)

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### Current problems

#### Scheduled time of departure

The lack of a clear definition for 'scheduled time of departure' creates significant ambiguities in the application of Article 18 (Re-routing and reimbursement in the event of cancelled or delayed departures) and Article 19 (Compensation of the ticket price in the event of delay in arrival).

Carriers frequently adjust departure times shortly before travel, even for bookings made months in advance. This raises the question of whether the updated time overrides the original time, thereby potentially depriving passengers of their right to compensation for delays, even in cases where significant disruptions to their travel plans are caused by the changes.

#### Boarding procedures

Carriers currently apply inconsistent rules regarding boarding procedures. For instance, some passengers may complete check-in but are marked as 'no-shows' if they are not in the boarding queue at the designated time. Across all modes of transport, boarding procedures are a fundamental part of the travel experience; yet, they vary significantly between traders and are not regulated by EU or national law. This lack of standardisation often leads to confusion and consumer complaints.

### Recommendations

#### Clarify scheduled time of departure

Clearly define 'scheduled time of departure' as the originally booked time to ensure consumers can fully exercise their rights under Articles 18 and 19, particularly regarding compensation, even when traders alter schedules shortly before departure.

#### Standardise boarding procedures

Harmonise boarding procedures across carriers to prevent disputes and ensure a seamless travel experience.

## 2. Rights for persons with reduced mobility (Articles 7 to 15)

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### Current problems

#### **Lack of enforcement of PRM assistance obligations**

ECC-Net has noticed a significant lack of enforcement mechanisms when assistance obligations for passengers with reduced mobility (PRMs) are not met. This gap leaves PRMs without effective recourse, undermining their ability to assert their rights.

#### **Lack of acknowledgement for PRM passengers**

Passengers with reduced mobility often feel discriminated against when their rights are not respected, as traders seldom acknowledge their mistakes or offer apologies. This lack of recognition deepens their sense of exclusion and significantly undermines trust in the system.

### Recommendations

#### **Compensation for PRM violations**

Implement penalties for non-compliance with PRM assistance obligations and establish a formal process to ensure PRMs receive both apologies and appropriate monetary compensation when their rights are violated.

#### **Foster accountability and trust with PRMs**

Develop a response mechanism to ensure accountability and to rebuild trust with PRM passengers.

## 3. Assistance during delays and cancellations (Article 17)

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### Current problems

#### Lack of practical implementation

Assistance obligations under Article 17 (snacks, meals, or refreshments) are rarely fulfilled in practice. The article's wording, 'provided they are available or can reasonably be supplied', allows carriers significant leeway to avoid providing assistance, leaving passengers without adequate support during delays or cancellations.

#### Unequal treatment based on location

The Regulation creates unequal treatment by limiting assistance (especially accommodation) to passengers already at the port terminal. Passengers who have yet to arrive, despite facing the same delays or cancellations, are excluded from these rights, even if they may require overnight accommodation due to long travel distances to the port.

### Recommendations

#### Strengthen the obligatory nature of assistance

Revise the wording of Article 17 to eliminate ambiguity and ensure carriers are required to provide assistance, such as meals, refreshments, and accommodation, regardless of feasibility or practicality, to guarantee passengers receive the support they need.

#### Equalise assistance rights for all affected passengers

Ensure that assistance, particularly accommodation, extends to all passengers impacted by delays or cancellations, irrespective of whether they are already at the port terminal or are still en route.

## 4. Re-routing and reimbursement (Article 18)

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### Current problems

#### Incomplete re-routing and lack of compensation

Re-routing is often incomplete, with trips starting or ending at unbooked ports hundreds of kilometres from the original destination (e.g. the booked port Venice or Trieste is replaced with Ancona). Consumers incur significant additional transport costs without proper compensation from carriers, despite the Court of Justice of the European Union (CJEU) ruling in the Irish Ferries case (C-570/19), which mandates reimbursement for alternative transport expenses — a requirement that carriers seldom implement or communicate effectively.

#### Challenges in proving damages and limited re-routing options

Proving damages is also challenging, especially for those travelling by car, as route changes impact driving distances, and alternative transport receipts are often unavailable. Unlike air travel, passengers are heavily reliant on their booked carrier, often the sole operator on a route, leaving few re-routing options and offering inconvenient alternatives, such as departures one day earlier or three days later, without compensation.

### Recommendations

#### Ensure full re-routing and effective communication

- Mandate carriers to provide complete re-routing to the originally booked destination.
- Strengthen enforcement of the CJEU ruling in the Irish Ferries case (C-570/19) and require carriers to clearly communicate passengers' rights to reimbursement for alternative transport expenses.
- Require carriers to reimburse additional transport costs within a prompt time frame, such as seven days.

#### Improve accessibility and options for re-routing

- Enhance re-routing mechanisms to provide passengers with more viable alternatives when the booked carrier is the sole operator.
- Ensure passengers are compensated fairly for delays or route changes, including additional costs incurred, and establish clearer documentation processes to simplify proving damages.



## 5. Compensation for delays and cancellations (Articles 19 and 20)

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### Current problems

#### Inconsistent definition of ‘ticket price’

Carriers inconsistently interpret ‘ticket price,’ often excluding taxes, fees, and car transport costs, which significantly reduces the base used for calculating compensation. As a result, only a small portion of the actual price paid by passengers is considered—contradicting the Irish Ferries ruling (C-570/19) and the intent of Article 19(3).

Additionally, price components, including taxes, are often not transparently identified, leading to further uncertainty.

#### Excessive delay thresholds for compensation

The current delay thresholds for compensation, such as requiring passengers to endure up to a 6-hour delay for a 24-hour trip, are unreasonably high. Consumers often face a lack of alternative sea carriers, while available options frequently entail complex and inconvenient transport arrangements, leaving passengers insufficiently protected.

### Recommendations

#### Clarify and standardise the definition of ‘ticket price’

- The Regulation should clearly define ‘ticket price’ to include all costs associated with the journey, such as taxes, fees, and car transport. This will ensure consistency in compensation calculations and align with the Irish Ferries ruling (C-570/19).
- Carriers should be required to transparently itemise all price components to eliminate uncertainty for passengers.

#### Lower compensation delay thresholds

- Revise the Regulation to reduce the delay thresholds for compensation, making them more reasonable and reflective of passenger inconvenience. This is especially critical for long journeys, such as 24-hour trips, where delays of up to 6 hours currently go uncompensated.
- Enhance protections to address the lack of alternative sea carriers and the complexity of alternative transport options.



## 6. Exemptions (Article 20)

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### Current problems

#### **Lack of compensation for cancellations**

Article 19 focuses exclusively on compensation for delays, while Article 20(4) refers to Article 19, creating ambiguity about whether it also applies to cancellations. This lack of clarity leaves some carriers uncertain about their obligations, as there is no explicit right to compensation for cancellations shortly before departure, unlike the provisions outlined in Regulation 261/2004 for air passengers.

Carriers also frequently cancel the originally booked connection and provide an earlier departure as the sole alternative. In such cases, passengers currently lack a clear entitlement to compensation under the Regulation.

Although the 'Irish Ferries' judgement allows passengers to claim compensation for cancellations when re-routing leads to a delayed arrival at the originally scheduled destination exceeding the thresholds in Article 19, ECC-Net finds that this protection, even with supporting case law, remains insufficient. It fails to adequately address the real challenges and difficulties passengers face in such situations.

Travel by ship often mirrors air travel in terms of passenger inconveniences and damages caused by delays or cancellations, particularly on routes like the Mediterranean Sea.

Unlike road or train travel, where re-routing options are more readily available, cancellations in sea travel leave consumers with few alternatives. This is further compounded when cancellations occur shortly before departure, leaving passengers who have incurred significant expenses to reach the port (e.g. by train, car, or plane) at a disadvantage. The limited connectivity of the 'port network' compared to the 'airport network' exacerbates these challenges.

### Recommendations

#### **Establish compensation rights for earlier departures due to cancellations**

Revise the Regulation to explicitly grant passengers the right to compensation for earlier departures offered as the only alternative, aligning with the principles of air passenger rights (Regulation 261/2004). This will ensure passengers are fairly compensated for the inconvenience and disruption caused by such changes.

## **Address financial burdens from cancellations**

Recognise the significant financial burden on passengers travelling long distances to ports for trips that are subsequently cancelled. Mandate adequate compensation to cover these additional costs and ensure passengers are fairly reimbursed.

## **7. Downgrading**

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### **Current problem**

#### **Lack of protections against downgrading**

Passengers frequently experience downgrading, such as being assigned to lower-class cabins or substituted ships, often without prior notice or adequate compensation. Unlike air travel, where Regulation 261/2004 (Article 10) provides clear protections and compensation for downgrades, sea travel lacks similar provisions. This leaves passengers without recourse for the inconvenience and disparity in service quality caused by such changes.

### **Recommendation**

#### **Establish compensation rights for downgrading**

Introduce explicit rights and compensation measures for downgrading incidents in sea travel, aligning with the protections offered under Article 10 of Regulation 261/2004 for air travel. This would ensure passengers are fairly compensated for the inconvenience and service discrepancies resulting from downgrades.

## 8. Information on passenger rights, complaint handling and enforcement (Articles 23-25)

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### Current problems

#### Ineffective complaint handling and lack of passenger awareness

Passengers frequently encounter difficulties in exercising their rights due to ineffective complaint handling, weak enforcement mechanisms, and insufficient information. Despite the obligation under Article 23, carriers often fail to properly inform passengers of their rights, leaving many unaware of the protections available to them in cases of delays, cancellations, or other disruptions.

Complaint handling processes are generally inefficient, with carriers often failing to provide clear and timely responses, further frustrating passengers seeking resolutions.

#### Short complaint deadlines

Article 24 requires passengers to submit complaints to the carrier or terminal operator within two months from the date the service was performed or should have been performed. However, this two-month limitation period is not effectively communicated to passengers.

As a result, many passengers are unaware of this strict timeframe and fail to lodge their complaints within the deadline. Carriers frequently reject claims solely on this basis, even when the passenger has a legitimate entitlement to compensation. This situation creates a significant barrier to accessing rights, particularly as the two-month limitation period for ferry passengers is considerably shorter than the deadlines established under other passenger rights regulations (e.g. for air, rail, or bus travel). This discrepancy results in unequal treatment of passengers across different transport modes.

#### Enforcement and limited visibility of NEBs

Additionally, National Enforcement Bodies (NEBs) lack visibility and fail to effectively enforce existing rights under the Regulation. Passengers are often unaware of the NEBs' role or how to access their services.

## Recommendations

### **Improve complaint handling and information on passenger rights**

- Strengthen Articles 23 and 24 by requiring carriers to enhance their complaint handling processes, including the establishment of clear timelines for carrier responses.
- Introduce a longer and uniform timeframe regarding the submission of complaints by passengers, aligning sea passenger rights with other modes of transport.
- Enforce the obligation under Article 23 to ensure carriers properly inform passengers about their rights at all stages of travel, including the complaint submission timeframe. Transparent and accessible information will help ensure passengers are fully aware of their rights and obligations, thereby reducing denied claims based on procedural grounds.
- Establish clear rules for bookings made via Online Travel Agents (OTAs) and intermediary platforms to ensure passengers receive consistent and accurate information about their rights and access to resolution mechanisms.

### **Enhance enforcement of existing rights**

- Strengthen enforcement mechanisms to ensure that existing rights are upheld, as many remain unimplemented in practice.

### **Increase NEB visibility and accountability**

- Improve the visibility of National Enforcement Bodies (NEBs) by requiring transparent communication and regular reporting on their interventions and sanctions within the sector.

### **Harmonise passenger protections across transport modes**

- Develop a harmonised framework for passenger rights across all transport modes, ensuring protections are aligned at an adequate level, taking air passenger rights as a model.

# Conclusion

Sea passenger rights, as outlined in Regulation (EU) No 1177/2010, require significant updates to address recurring issues such as inconsistent definitions, inadequate compensation mechanisms, insufficient assistance during delays and cancellations, and weak enforcement. Passengers frequently encounter challenges in asserting their rights, particularly in areas like re-routing, downgrading, and complaint handling.

To ensure fairness and protect consumer interests, the Regulation must align with established standards in air passenger rights, introducing clearer definitions, harmonised protections across transport modes, and stronger enforcement mechanisms. By addressing these shortcomings, the EU can enhance:

- transparency,
- accountability,
- the overall passenger experience,
- fostering trust,
- equity in sea travel.

## Contact information

For further information on this policy paper or to discuss ECC-Net's recommendations in more detail, please contact us [info@eccnet.eu](mailto:info@eccnet.eu) or via the website [eccnet.eu](http://eccnet.eu).

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