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EVALUATION

of Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air

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Glossary

Term or acronym	Meaning or definition
ADR	Alternative dispute resolution body
CPC	Consumer Protection Cooperation
EASA	European Aviation Safety Agency
EC	European Commission
ECA	European Court of Auditors
ECAC	European Civil Aviation Conference
EEA	European Economic Area, includes EU countries and also Iceland, Liechtenstein and Norway
EFTA	European Free Trade Association
EU	European Union (as of 1 May 2021 with 27 Member States)
EU+4	The EU27 plus Iceland, Norway, Switzerland and the United Kingdom
FTE	Full Time Equivalent (employees)
IATA	International Air Transport Association
ICAO	International Civil Aviation Organisation
NEB	National Enforcement Body

OAG	Official Airline Guide
PRM	Persons with disabilities or persons with reduced mobility
PTD	Package Travel Directive
UNCRPD	United Nations Convention on the Rights of Persons with Disability

1. INTRODUCTION

1.1. Overall context of passenger rights

Collective transport services are vital to stimulate economic growth, to enable social and territorial cohesion and to preserve the environment; their quality affects directly their attractiveness and the satisfaction of passengers in the EU. Traditionally passenger rights were mandated through the terms and conditions of the contract between passengers and carriers. This approach proved insufficient as very often it turned out to be costly, cumbersome and frustrating for passengers to defend their rights vis-à-vis carriers. It is the reason why the objective to introduce passenger protection rules in all modes of transport was set by the Commission twenty years ago[1].

Today the EU framework for passenger rights provides a consistent level of protection for citizens using collective transport services (either air, rail, waterborne or bus and coach transport). They promote quality and protect passengers during all phases of the journey (before, during and after the service). The framework consists of five Regulations covering air, rail, bus & coach as well as waterborne passenger rights. These Regulations were designed to minimise travel disruptions, improve passenger information and ensure an immediate and proportionate assistance when required, including for persons with disabilities and reduced mobility (PRM).

The EU passenger rights Regulations were adopted between 2004 and 2011 and they are the following:

- Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights[2], keeping in mind that denied boarding[3] and carrier's liability in the event of accident[4] in aviation were already addressed in the 1990s. This Regulation was complemented by **Regulation (EC) No 1107/2006 concerning the rights of persons with disabilities and persons with reduced mobility when travelling by air**[5] whose ex-post evaluation is presented in this report;

[1] White paper – 'European Transport policy for 2010: time to decide', COM(2001) 370 final, 12.09.2001.
[2] Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ L 46, 17.2.2004, p. 1–8).
[3] Council Regulation (EEC) No 295/91 of 4 February 1991 establishing common rules for a denied boarding compensation system in scheduled air transport (O.J. L36, 08.02.1991, p. 5-7).
[4] Council Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in the event of accidents (OJ L 285, 17.10.1997, p. 1-3).
[5] Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (OJ L 204, 26.7.2006, p. 1-9).

- Regulation (EC) No 1371/2007 rail passengers' rights and obligations.[6], which will be repealed and replaced by Regulation (EU) No 2021/782 on rail passengers' rights and obligations[7] as of 7 June 2023;
- Regulation (EU) No 1177/2010 concerning the rights of passengers when travelling by sea and inland waterway [8]; and
- Regulation (EU) No 181/2011 concerning the rights of passengers in bus and coach transport[9].

After the adoption of passenger rights Regulations for all four transport modes, the Commission published in 2011 its communication entitled "European vision for passengers: Communication on passenger rights in all transport modes"[10] where three key principles for passenger rights were identified: the non-discrimination of passengers; the availability of accurate, timely and accessible information to all passengers; and an immediate and proportionate assistance when required. This was underpinned by ten core passenger rights (see Annex 5).[11] The framework also intended to contribute to a level playing field for transport operators within and across modes, through creating a European standard for passenger protection.

As a result, EU passenger rights apply to a growing market of around 450 million citizens performing several billions of journeys every year for private or business purpose.[12] In this context, the passenger protection has become a cornerstone of EU transport policy[13], building on international conventions and the general consumer protection framework of the Union.

In its recent Sustainable and Smart Mobility Strategy[14], the Commission observed that "EU passenger rights should be better implemented, clearer for both carriers and passengers, offer adequate assistance, reimbursement, possibly compensation when disruptions arise, and appropriate sanctions if the rules are not properly applied" and expressed its intention to take actions to achieve this aim.

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[6] Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations (OJ L 315, 3.12.2007, p. 14-41).

[7] Regulation (EU) No 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers' rights and obligations (OJ L 172, 17.5.2021, p. 1-52).

[8] Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 (OJ L 334, 17.12.2010, p. 1-16).

[9] Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 (OJ L 55, 28.2.2011, p. 1–12)

[10] See COM(2011) 898 final.

[11] See COM(2011) 898 final.

[12] Analysis of EU Transport in figures, Statistical pocketbook, European Commission http://publications.europa.eu/resource/cellar/da0cd68e-1fdd-11eb-b57e-01aa75ed71a1.0001.03/DOC_1 and Eurostat Statistics Explained https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Category:Passengers

[13] White Paper – 'Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system', COM (2011) 144 final.

[14] See Sustainable and Smart Mobility Strategy – putting European transport on track for the future, point 92; Annex (Action Plan) Action 63, COM(2020) 789 final. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0789

In line with the Sustainable and Smart Mobility Strategy, the level of protection introduced by Regulation (EU) No 1107/2006 on the rights of persons with disabilities and persons with reduced mobility when travelling by air (hereafter "the Regulation") 13 years ago is now evaluated in the context of the simplification and consolidation of the EU framework on passenger rights. This evaluation is also in line with the recommendations presented by the Court of Auditors in its special report on passenger rights in November 2018.[15]

1.2. Purpose and scope of the evaluation

The purpose of this *ex-post* evaluation is to assess whether the Regulation has delivered the intended rights to PRM and to assess whether there are any gaps in the Regulation. The evaluation aims to provide evidence to support any future decisions related to the development of the legislative framework in this policy area, including a possible revision of the current Regulation.

The Regulation was evaluated for the first time in 2011[16], just three years after it became fully applicable. At the time the Commission concluded that the overall implementation of the Regulation was satisfactory, and there was no evidence that would have indicated a need for the legislative review of the Regulation. However, it emerged that the interpretation and application of certain provisions of the Regulation varied between Member States. Therefore the Commission adopted in 2012 Interpretative Guidelines[17] to ensure the uniform interpretation of the Regulation.

In accordance with the Commission's Better Regulation Guidelines, it is appropriate now to assess how well the Regulation has performed, whether it has reached its intended purpose and whether it continues to be justified in light of new developments in the last ten years.

The evaluation of this Regulation has been carried out in parallel with the evaluation of Regulation (EU) No 1177/2010 on waterborne passenger rights and Regulation (EU) No 181/2011 on bus and coach passenger rights.

[15] ECA Special Report no 30/2018: EU passenger rights are comprehensive but passengers still need to fight for them. See https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=47547. Recommendations from ECA are the following: (1) improve the coherence of the EU passenger rights framework; (2) improve the clarity within the passenger rights framework; (3) increase passengers' awareness about their rights; (4) improve the effectiveness of the passenger rights framework; (5) further empower the national enforcement bodies (NEBs) s with more rights to enforce the Regulation and enable the Commission to receive the necessary information from NEBs about the state of play of the enforcement of passenger rights.

[16] Report from the Commission to the European Parliament and the Council on the functioning and effects of Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air, COM(2011) 166 final. It is based on a support study by an independent consultant that can be found at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2011%3A0166%3AFIN

[17] Interpretative Guidelines on the application of Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air, SWD(2012) 171 final.

The evaluation of this Regulation was also announced in the European Union's Strategy for the Rights of Persons with Disabilities 2021-2030[18].

The geographic scope of the evaluation covers all 27 EU Member States as well as the United Kingdom, Iceland, Norway and Switzerland (collectively referred to as "EU+4")[19].

The evaluation covers the period from 26 July 2008, when the Regulation became fully applicable, until February 2020. It builds *inter alia* on an external support study (hereafter "the support study") carried out by an external contractor[20] (hereafter addressed as "the contractor") which covers the period between 2008 and 2019. The scope of the support study does not include the impact of the COVID-19 pandemic. However, when stakeholders have made specific comments or where effects are already clear and unambiguous, these points are presented in the support study and also in this evaluation.

The evaluation solely focusses on Regulation (EC) No 1107/2006 and does not evaluate the air passenger rights covered by Regulation (EC) No 261/2004. However, it is not entirely possible to separate these two Regulations, so there will be references to both Regulations throughout the evaluation.

This evaluation assesses the actual performance of the Regulation in terms of its:

- Effectiveness where the progress towards achieving the objectives of the intervention is analysed. This analysis will seek to identify factors driving or hindering progress and how these are linked to the intervention;

- Efficiency where costs and benefits of the Regulations are analysed with the purpose of making it clear whether the costs of the intervention have been proportionate;

- Relevance: looking at the objectives of the EU intervention being evaluated and see how well they (still) match the (current) needs and problems;

- Coherence where it will be analysed how well the Regulation works i) internally and ii) with other EU interventions and international obligations;

- EU added value: considering arguments about the value resulting from EU interventions that is additional to the value that would have resulted from

[18] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions 'Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030', COM(2021) 101 final.

[19] Lichtenstein was not included in the analysis, due to the fact that there is no commercial air passenger traffic in the country.

[20] Final report: https://op.europa.eu/en/publication-detail/-/publication/d8b8bd04-1b4d-11ec-b4fe-01aa75ed71a1/language-en/format-PDF/source-231259999
Executive summary: https://op.europa.eu/en/publication-detail/-/publication/621740d2-1b4f-11ec-b4fe-01aa75ed71a1/language-en/format-PDF/source-231261208
Stakeholder consultation report: https://op.europa.eu/en/publication-detail/-/publication/327ffbfa-1b4e-11ec-b4fe-01aa75ed71a1/language-en/format-PDF/source-231261449

interventions initiated at regional or national levels by both public authorities and the private sector.

2. BACKGROUND TO THE INTERVENTION

2.1. Specific context of air PRM passenger rights

There are approximately 87 million people in the European Union that live with disabilities.[21] They should have opportunities equal to other citizens, including when using air transport. Not all of them will require assistance when travelling, but it is important that they do not experience limitations or discrimination because of their disability.

It was important to introduce a set of well-defined rules to ensure that PRM don't experience discrimination when travelling by air as the transportation of PRM often involves more costs than transporting other citizens: they might need special attention and it can take extra resources to assist them. In an industry that strives to reduce costs as much as possible and relies on strict schedules and swift processes, airlines would otherwise be inclined to refuse transporting many of them.

Regulation (EC) No 261/2004 was the first EU regulation that established the definition of PRM which is currently used in the EU passenger rights legislation. In addition, Regulation (EC) No 261/2004 granted certain rights to PRM: in the context of denied boarding, cancellation and delays the carrier is obliged to pay particular attention to the needs of PRM (Article 9) and give them priority in such situations (Article 11).

As Regulation (EC) No 261/2004 did not address most issues that PRM face when travelling by air, in 2006 this Regulation was adopted to provide a comprehensive protection to PRM passengers. Subsequently, in case of passenger rights for other modes of transport (rail, waterborne and bus and coach) the Commission decided to propose one single regulation per mode, including the rights of PRM within the modal regulation.

The Regulation which started to fully apply in 2008 sets the legal framework for the rights of PRM to travel by air in the European Economic Area.

For the purposes of the Regulation, a 'person with disability' and a 'person with reduced mobility' is defined as "any person whose mobility when using transport is reduced due to any physical disability (sensory or locomotor, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or age, and whose situation needs appropriate attention and the adaptation to his or her particular needs of the service made available to all passengers"[22]. This is a very broad definition covering persons who need a

[21] EU SILC (Statistics on Income and Living Conditions) and EU LFS (Labour Force Survey): https://www.disability-europe.net/downloads/1046-ede-task-2-1-statistical-indicators-tables-eu-silc-2018; According to this data, 24.7% of EU population who are more than 16 years old are limited in their activities as a result of a disability: 17.7% having moderate, 7% severe limitations. See Table 1. of that document.

[22] See Article 2(a), Regulation (EC) No 1107/2006. This definition is very close to the definition of Article 2(i), Regulation (EC) No 261/2004.

wheelchair but also persons who have difficulties walking long distances, persons who are hard of hearing or visually impaired as well as persons with hidden disability (including cognitive disabilities such as anxiety, Asperger syndrome or a mental health conditions).

The market for PRM travelling by air

There are no statistics available on the number of PRM travelling by air. However, based on data shared by some of the busiest airports in Europe it is estimated that in 2018 around 9.8 million passengers requested PRM assistance in Europe[23]. Both the absolute number of PRM travelling by air and their percentage within all air passengers have increased significantly over the last two decades. According to the above mentioned data shared by some of the busiest airports in Europe it is estimated that in 2003 0,4% of all air passengers (around 2,6 million out of the total 590 million passengers) requested assistance on journeys to and from EU27+4[24]. Between 2008 and 2018, the number of passengers requesting PRM assistance increased by +111% (from around 4,6 million passengers, 0,6% of the total 805 million passengers in 2008 to around 9,8 million passengers, 0,9% of the total 1120 million passengers in 2018) whilst in the same period passenger journeys increased by +39% only[25].

Participants at the stakeholder consultation (airlines, airports, PRM representative organisations) mentioned the following factors that could explain this increase:

- An aging population;
- An increasing proportion of population with severe long-standing disabilities;
- Increased confidence of PRM to travel by air.

2.2. Description of the intervention and its objectives

Since the creation of a European Single Market for aviation in the 1990's, air transport has revolutionised the way we travel and has brought Europeans closer together as more and more people can travel and travelling times became much shorter. This process has happened in a relatively short timeframe and what started with national legacy carriers is now a highly global and competitive market for airlines.

In 2002 the Commission made a stakeholder consultation related to airlines' contracts with passengers[26] which identified a number of possible improvements to passengers' rights and invited stakeholders to comment on which issues required action by the European Union. The results of the consultation showed that the protection of people with reduced mobility was one of the first priorities.[27]

[23] See support study point 1.11
[24] See support study, Figure 1.2
[25] See support study, Figure 1.2
[26] Airlines' contracts with passengers. Consultation paper of Directorate-General for Energy and Transport, 21.6.2002. See also the summary of this consultation, COM(2005)47 final, p. 3-4.
[27] Proposal for a Regulation of the European Parliament and of the Council concerning the rights of persons with reduced mobility when travelling by air, COM(2005) 47 final, p. 2.

The Commissions legislative proposal for PRM travelling by plane[28] was preceded by a broad public consultation[29], where the overwhelming majority of stakeholders who responded supported the adoption of a broad set of rights protecting PRM when travelling by air.

The stakeholder consultation in 2002 showed a broad support among respondents from each stakeholder groups for the objectives in the intervention. The only major debate concerned whether airports or airlines should be responsible for providing assistance to PRM at airports.

Before the Regulation was adopted only airlines provided assistance for PRM by themselves or via their ground handlers. At the time when the Commission presented its legislative proposal, it was aware that assisting PRM could have a negative effect on airlines' profits, particularly when PRM travel on less expensive tickets. If only airlines would be responsible for transporting PRM, their PRM assistance costs would be roughly proportional to the number of PRM they transport. In such cases the competitive pressure to reduce costs could lead to incentives for airlines to reduce the number of PRM that they carry, either by lowering the scope or quality of assistance or deny transporting them abusing safety rules. If they gained a reputation for doing so, PRM would soon start to avoid them.

As a consequence, the Commission decided to put the responsibility of assisting PRM at airports on airports managing bodies and in its proposal established a centralised system for the provision of PRM assistance at each airport, obliging airport managing bodies to be responsible for such assistance and at the same time allowing them to levy a transparent, cost related charge on all airlines using an airport in proportion to the number of passengers that they transported to and from that airport.

Such an approach greatly reduced the incentives for airlines to minimise the number of PRM carried as airlines pay charges proportional to the total number of passengers that they carried to or from an airport, so the costs of airlines related to PRM assistance at that airport is independent of the number of people with reduced mobility that each airline transported.

The other measure to impede discrimination was to establish strict rules about when airlines are allowed to derogate from the obligation to transport PRM. Airlines can only deny the reservation of PRM or refuse transporting them on the basis of justified aviation safety requirements established by national, EU or international law or the decision of the competent authorities or in case the size of the aircraft or its doors make the embarkation or carriage of that person physically impossible. In addition, to deter abuse airlines are obliged both to make publicly available the safety rules that they apply to the transport of

[28] See COM(2005) 47 final.

[29] See the summary of the results in the Commission's Proposal for a Regulation of the European Parliament and of the Council on the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection law COM(2008) 817 final, p. 6.

PRM and to inform in writing passengers who are refused to be transported of the reasons for that refusal if the passengers concerned request that.

The general objective of the Regulation was to provide PRM with opportunities for air travel comparable to other citizens. This general objective was supported by two specific objectives, namely to ensure extended and seamless assistance at all European airports and to avoid giving airlines incentives to reduce the number of PRM transported.

The Commission's legislative proposal was adopted by the EU co-legislators with some modifications. The following provisions of the Regulation were not part of the Commission's legislative proposal: the obligatory PRM awareness and assistance training for airline and airport staff (Article 11), the obligation of carriers and airports to handle complaints (Article 15), the obligation of airlines to make their safety rules publicly available (Article 4(3)), the obligation of airport managing bodies to have to separate the accounts of their activities related to PRM assistance (Article 8(5)) and to publish an audited annual review of the use of the charges they collected for PRM assistance (Article 8(6)). The only negative change for PRM passengers compared to the Commission's original proposal was that the pre-notification deadline for PRM was raised from 24 hours in the proposal to 48 hours in the Regulation (Article 7(1)).

Based on the Commission's legislative proposal and the result of the legislative procedure the following PRM needs and operational objectives can be identified retrospectively:

Table 1 - Problems, proposals and objectives of the Regulation

Problem identified at the time of the proposal	PRM need identified at the time of the proposal	Operational objective in the Regulation	Article in Regulation
PRM were denied boarding for reasons other than safety	Limit instances of denied boarding	Prohibit airlines from refusing PRM carriage on the grounds of disability or reduced mobility, with the exceptions of justified safety reasons established by law	Article 3 and Article 4
There was no established, consistent process for booking assistance	Ensure a more structured and consistent approach to booking assistance services	Require airlines, travel agents and tour operators to make certain arrangements on prior notification of the need for assistance	Article 6
Only limited rights had been granted to PRM under	Establish a broader set of rights for PRM (and the	Grant PRM the right to a specified package of assistance at airports on departure, on arrival and in transit and	Article 7

Problem identified at the time of the proposal	PRM need identified at the time of the proposal	Operational objective in the Regulation	Article in Regulation
Regulation 261/2004[30]	corresponding responsibilities for key operators)	require them to notify the need for this assistance	
		Make the managing bodies of airports responsible for providing this assistance free of charge to PRM and allow them to levy charges on airlines to finance he costs of such assistance, separate the accounts of their activities related to their PRM assistance and publish an audited annual review of the use of the charges they collected for PRM assistance Train airport staff to provide appropriate PRM assistance	Article 8 Article 11
		Require the managing body of an airport to lay down quality standards for assistance services, after consultation with airport users (airlines) and PRM representatives	Article 9
		Require airlines to provide specified assistance on board aircraft, free of charge to PRM Train airport staff to provide appropriate PRM assistance	Article 10 Article 11
		Forbid the limitation or waiver of obligations created by the regulation	Article 13
There was no system for imposing sanctions following an infringement of rights	Create a framework for complaints-handling, and enforcement	Require Member States to designate bodies responsible for enforcement of the Regulation and for dealing with complaints	Article 14 and 15
		Require Member States to lay down sanctions for infringements	Article 16

Source: Commission analysis based on Table 3.18 of the support study

2.3. Baseline and points of comparison

In assessing how the intervention affected PRM rights, the situation before the adoption of the Regulation has to be recalled.

[30] In case of denied boarding, long delay or cancellation of the flight, they shall receive assistance as soon as possible, blind and visually impaired passengers shall receive information in a format which is accessible for them.

There were no binding obligations at international level to protect PRM rights when travelling by air before the adoption of the Regulation. Both the International Civil Aviation Organization (ICAO) and the European Civil Aviation Conference (ECAC) published and updated non-binding recommendations and guidelines, however these documents did not grant enforceable rights for PRM nor do obligations for operators (see in more detail in 3.2 and 5.4)[31].

The US had already a comprehensive legislation on PRM rights at the time of the drafting of the Regulation, but that did not generate the necessary impetus for an international intervention on the rights of PRM when travelling by air.

In 2005 nine member states (i.e. Austria, Germany, Spain, France, Ireland, Italy, Netherland, Sweden and the United Kingdom) already had national legislation protecting the rights of PRM when travelling by air, however their scope and content varied significantly[32]. While the associated protection covered most of the largest Member States playing a key role in the EU aviation market, it did not extend to the majority of Member States. In addition, the level of protection granted by national legislation in different Member States varied, giving rise to confusion about which rules applied.

Had this situation continued, the protection provided to PRM would have varied considerably across Member States, potentially reducing their confidence when travelling and hence the overall level of PRM travel. They would also have faced additional barriers such as much time spent in investigating different protection schemes and possibilities.

In those Member States where PRM were not granted rights when using air transport, they had to rely on airlines' policies, terms and conditions on transporting PRM.

Airlines often offered assistance to PRM even before the implementation of the Regulation. The services were in most cases provided solely by the airlines or their ground handlers and airport managing bodies were rarely involved in the provision of the service. Some airlines offered better services than others depending on their interest in PRM as their possible customers. The travelling experience of PRM therefore varied considerably, with the offer ranging from no service at all to assistance broadly comparable with that currently available. In many cases, airlines charged an extra fee for PRM assistance services. This situation in many cases limited PRM travel options and confidence in air transport.

[31] Chapter 8 of Annex 9 of the Convention on International Civil Aviation (also known as Chicago Convention) makes some recommendations to state parties about the facilitation of PRM passengers and the European Civil Aviation Conference adopted a document (ECAC Doc 30.) containing non-binding guidance material for national authorities and operators on the same topic.

[32] See Impact Assessment Study on the Legislative Proposal on the rights of passengers in International bus and coach transports, Final Report, July 2007. Commissioned by DG Energy and Transport, and carried out by PwC.

3.1. Description of the current scope of the Regulation

The Regulation applies to PRM, using or intending to use commercial passenger air services on departure from, on transit through, or on arrival at an airport, when the airport is situated in the territory of a Member State to which the Treaty applies.[33] The Regulation is applicable to Iceland, Liechtenstein and Norway in accordance with the EEA Agreement[34] and to Switzerland in accordance with the Agreement between the European Community and the Swiss Confederation on Air Transport (1999)[35].

The Regulation does not allow Member States to grant any exemptions from the application of the Regulation.

3.2. Other relevant legislation and guidance

The Regulation does not perform its tasks in isolation, but in interaction with other EU legislation, national legislation and non-binding international standards and guidance documents. The following is a brief description of the different legal instruments related to the transportation of PRM in the EU.

In point 5.4 on Coherence this interplay will be analysed in detail.

European Union legislation and guidelines

Central for passenger rights in air is Regulation (EC) No 261/2004 that grants rights to PRM as to any other air travellers' rights in case of denied boarding, cancellation and long delay of flights. As mentioned earlier, Regulation (EC) No 261/2004 stipulates specific rights to PRM: it imposes a general obligation on airlines to prioritise their needs and it specifies that in the case of denied boarding, cancellations or long delays, PRM shall receive care as soon as possible.

Furthermore the luggage and mobility equipment of PRM is handled by ground-handlers who therefore have a significant impact on the PRMs' travel. The activity of ground-handlers is regulated by Directive 96/67/EC on access to the ground-handling market at

[33] See Article 1(2) of Regulation (EC) No 1107/2006. According to Article 355 of the Treaty on the Functioning of the European Union (TFEU), EU law does not apply to the countries and territories listed in Annex II to the TFEU (See Annex II to the Treaty on the Functioning of the European Union (TFEU) (http://ec.europa.eu/archives/lisbon_treaty/index_en.htm).Instead, those countries and territories are subject to the special association arrangements laid down in accordance with Part Four of the TFEU. Moreover, it does not apply to the Faeroe Islands, the Isle of Man and the Channel Islands according to the act of accession of Denmark and the United Kingdom. Therefore, these territories are to be considered as third countries within the meaning of the Regulation. On the other hand, under Article 355 of the TFEU, the provisions of the Treaties do apply to French overseas departments, namely Guadeloupe, French Guiana, Martinique, Réunion Island, Mayotte as well as Saint-Martin, the Azores, Madeira and the Canary Islands. Therefore, these territories are part of a Member State to which the Treaty applies within the meaning of the Regulation.

[34] Agreement on the European Economic Area
OJ L 1, 3.1.1994, p. 3–522

[35] Agreement between the European Community and the Swiss Confederation on Air Transport - Final Act
OJ L 114, 30.4.2002, p. 73–90

Community airports[36]. The provisions of Directive 96/67/EC shall also apply to the activities covered by the Regulation where this does not conflict with the Regulation[37].

On the basis of Commission Regulation (EU) No 965/2012[38], the European Aviation Safety Agency (EASA) adopted 'acceptable means of compliance' (AMC) related to the carriage of 'special categories of passengers' (SCPs), including for PRM. These AMCs are non-binding standards to illustrate how to comply with EU safety rules: one does not have to follow them, but if one follows them, safety rules are complied with.[39]

Certain rules regarding liability for loss or damage of mobility equipment can be found in Regulation No (EC) 2027/1997 on air carrier liability in respect of the carriage of passengers and their baggage by air[40] which transposes the Convention for the Unification of Certain Rules for International Carriage by Air commonly (known as the 'Montreal Convention') into EU law.

Finally, it should be mentioned that the Commission published non-binding interpretative guidelines on the Regulation[41] to enhance the harmonised application of the Regulation.

International binding and non-binding legal instruments

There are two international organisations governing civil aviation which both adopted non-binding standards and guidance related to the facilitation of transporting PRM.

The International Civil Aviation Organization (ICAO), a United Nation agency, adopted the Convention on International Civil Aviation (also known as the 'Chicago Convention'). Chapter 8 of Annex 9 of this Convention makes some recommendations to state parties about the facilitation of transporting PRM passengers.

The European Civil Aviation Conference (ECAC) is an intergovernmental organisation which seeks to harmonise civil aviation policies and practices amongst its 44 Member States and, at the same time, to promote understanding on policy matters between its Member States and other parts of the world. ECAC also adopted a document, known as

[36] Council Directive 96/67/EC of 15 October 1996 on access to the ground-handling market at Community airports (OJ L 272, 25.10.1996, p. 36–45).
[37] Recital (9), Regulation (EC) No 1107/2006.
[38] Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1).
[39] European Union Aviation Safety Agency, Acceptable Means of Compliance (AMC) and Guidance Material (GM) to Annex III Organisation requirements for air operations [Part-ORO] of Commission Regulation (EU) 965/2012 on air operations, https://www.easa.europa.eu/sites/default/files/dfu/Consolidated%20AMC-GM_Annex%20IV%20Part-CAT_March%202019.pdf; See Annex I (2) of Regulation (EU) No 965/2012.
[40] Council Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in the event of accidents (OJ L 285, 17.10.1997, p. 1–3).
[41] See SWD(2012), 171 final.

ECAC's Doc 30[42], containing non-binding guidance material for national authorities and operators on the facilitation of transporting PRM passengers.

It is also important to mention here that the legislation in the US (known as 14 CFR Part 382) has a different approach to the division of responsibility for PRM assistance, which have an impact on carriers operating between the EU and the US.

In the broader context, the UN Convention on the Rights of Persons with Disabilities (UNCRPD)[43] should be mentioned to which all the 31 countries examined in this report are parties. The UNCRPD requires state parties to the Convention to ensure that persons with disabilities have access to transport and therefore sets a very strong foundation of PRM passenger rights[44].

Carriers' and airports' implementation and application

Providing assistance to PRM at airports has an average cost which ranges from EUR 0.06 per passenger at the cheapest airport (Palanga, LT) to EUR 1.53 at the most expensive (Catania, IT). The overall cost envelope is difficult to estimate as PRM assistance numbers are not available for all European airports. However, eight airport operators (namely Paris-CDG, Frankfurt, Riga, Copenhagen, Rome-Fiumicino, Shannon, Zurich and Heathrow) indicated the costs for PRM assistance, which amounts to around EUR180 million annually for all eight airports. Such costs can be passed to airlines in the form of PRM charges.

3.3. Member States' implementation and monitoring

The Regulation requires Member States to designate national enforcement bodies (NEBs), which are responsible for enforcing the Regulation and to lay down penalties in their national law in order to sanction operators that breach the Regulation[45]. All Member States designated their NEBs and adopted national legislation which allows to sanction operators that breach the Regulation.

3.3.1 The National Enforcement Bodies (NEBs) and their activities

[42] ECAC Policy Statement in the field of Civil Aviation Facilitation, ECAC Doc No. 30 (Part 1), 12th edition, May 2018, https://www.ecac-ceac.org/images/documents/ECAC-Doc_30_Part_1_12th_edition_May_2018_Amendment_4_Nov_2020.pdf.

[43] United Nations Convention on the Rights of Persons with Disabilities, https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/convention-on-the-rights-of-persons-with-disabilities-2.html The UNCRPD was adopted in 2006 and entered into force in May 2008. It creates a legal obligation on the Member States that have ratified it to incorporate accessibility requirements in national legislation.

[44] Persons with disabilities - Employment, Social Affairs & Inclusion - European Commission (europa.eu), https://ec.europa.eu/social/main.jsp?catId=1137

[45] The consumer law Directives followed a similar approach, which has been changed only recently with the adoption of the so-called Omnibus Directive, which introduces more detailed and stronger rules regarding enforcement, see Directive 2019/2161/EU of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernisation of Union consumer protection rules, OJ 18.12.2019, L 328/7.

The Regulation follows the same approach as Regulation (EC) No 261/2004 and later the other passenger rights Regulations, an approach that allows for high flexibility in respect of enforcement, recognising the different national regulatory frameworks in place in different Member States. More specifically, while the substantive rights of PRM travelling by air are specified in the text of the Regulation, the articles on enforcement (i.e. Articles 14 to 16) allow a great discretion to the Member States to designate one or more existing transport, consumer protection or equality authority as NEB or create a new one to carry out complaint handling, monitoring and enforcement activities.

The Member States have implemented the Regulation differently and hence NEBs have different tasks and powers and follow different procedures in the different Member States.

The NEBs are in most cases civil aviation authorities, transport authorities dealing with different modes of transport or ministries responsible for transport. In a few cases Member States have designated consumer protection authorities as NEBs. Finally, in two Member States authorities responsible to promote the equality of persons with disabilities were designated as NEBs.

Most Member States designated one NEB for the enforcement of the Regulation. Latvia, Luxembourg, Hungary, Malta, Romania, Sweden designated two NEBs and Finland designated three. The distribution of tasks between the NEBs vary Member State by Member States but often one NEB (typically the transport authority) is responsible for the systemic enforcement and oversight and the other NEB (typically the consumer protection authority or authorities responsible to promote the equality of persons with disabilities) handles individual complaints.

Table 2 - Summary of Member State implementation

Member State	Regulation 261/2004	Regulation 1107/2006
Belgium	SPF Mobilité & Transport	
Bulgaria	Ministry of Transport, Information Technologies and Communications	
Czechia	Czech Civil Aviation Authority	
Denmark	Danish Transport, Construction and Housing Authority*	
Germany	Luftfahrt-Bundesamt (LBA)	
Estonia	Consumer Protection and Technical Regulatory Authority (CPTRA)*	
Ireland	Commission for Aviation Regulation (CAR)	
Greece	Hellenic Civil Aviation Authority	
Spain	Agencia Estatal de Seguridad Aérea (AESA)*	
France	Direction générale de l'aviation civile (DGAC)	
Croatia	Croatian Civil Aviation Agency	
Italy	L'Ente Nazionale per l'Aviazione Civile (ENAC)	
Cyprus	Department of Civil Aviation	
Latvia	Consumer Rights Protection Centre (CRPC)*	Civil Aviation Agency of Latvia
Lithuania	Lithuanian Transport Safety Administration (LTSA)	
Luxembourg	Ministère de l'Économie	Direction de l'Aviation Civile
Hungary	Ministry for Innovation and	Equal Treatment Authority

Member State	Regulation 261/2004	Regulation 1107/2006	
	Technology (ITM) & Consumer Protection Bodies		
Malta	Malta Competition and Consumer Affairs Authority	Civil Aviation Authority	
Netherlands	Human Environment and Transport Inspectorate (ILT)		
Austria	APF - Agentur für Passagier- und Fahrgastrechte*		
Poland	Commission on Passengers' Rights & Civil Aviation Office (CAO)		
Portugal	Autoridade Nacional da Aviação Civil (ANAC)		
Romania	National Authority for Consumer Protection (ANPC)*	Ministry of Labor, Family and Social Protection National Authority for People with Disabilities	
Slovenia	Civil Aviation Agency		
Slovakia	Slovak trade Inspectorate *		
Finland	Consumer Disputes Board*	Finnish Competition and Consumer Authority	Traficom
Sweden	Swedish Transport Authority	Swedish Consumer Agency	
Iceland	Icelandic Transport Authority (ICETRA)		
Norway	Civil Aviation Authority		
Switzerland	Federal Office of Civil Aviation (FOCA)		
United Kingdom	Civil Aviation Authority		

*NEBs which also are alternative dispute resolution bodies (ADR)[46] (or in the case of Spain are in the process to become an ADR)
Source: Study on the current level of protection of air passenger rights in the EU[47]

The fact that such diverse bodies are in charge to enforce the Regulation in the Member States can make it difficult for PRM and other stakeholders (e.g. organisations representing PRM, transport operators) to locate the NEB, submit complaints or other enquiries.

The competence of NEBs also differs significantly. All can handle individual complaints except the German NEB which focuses on the systemic enforcement of the Regulation only (however, in case of Germany passengers can submit a complaint to an efficient transport specific ADR if the airline agreed to participate in the conciliation procedure before this body which most airlines operating in Germany do).

Many NEBs did not disclose data on how much staff they dedicate to implement the Regulation. NEBs which did disclose data seem to have very limited staff resources,

[46] Alternative Dispute Resolution bodies (ADRs) are bodies that offer a simple, fast and low cost out-of-court solution to disputes between consumers and service providers.
[47] See Study on the current level of protection of air passenger rights in the EU, Final Report, 13 January 2020 commissioned by DG Mobility and Transport.: https://op.europa.eu/en/publication-detail/-/publication/f03df002-335c-11ea-ba6e-01aa75ed71a1

most often they indicated that 1 full time equivalent (FTE)[48] or even less deals with the enforcement of the Regulation.[49]

The maximum amount of penalties also differ significantly between Member States, and in some cases it is doubtful whether even a maximum fine could dissuade operators from breaching the Regulation.

3.3.2 Monitoring activities

In addition of dealing with complaints, and (if necessary) imposing sanctions, Article 14(1) of the Regulation also stipulates that NEBs shall "*take the measures necessary to ensure that the rights of PRM are respected.*" However, besides this general obligation, the Regulation offers flexibility for NEBs to choose the actions they deem appropriate to monitor operators' compliance with the Regulation.

Although these tasks are not specified in the text of the Regulation, monitoring and enforcement of the Regulation presupposes carrying out at least some specific activities. It seems from the contributions received from NEBs and the analysis of the contractor that there are significant differences between the level of monitoring activities of the different NEBs: some of them seem to be very proactive and engage in different monitoring activities on a regular basis, some are less proactive (they only engage in specific monitoring activities or they engage in monitoring activities less frequently) while other NEBs indicated no proactive monitoring activities at all and they seem to focus only on handling complaints. Some NEBs did not share information on this issue.[50]

Those NEBs which indicated during the stakeholder consultation that they carried out monitoring activities mentioned that they carried out one or more of the following tasks:

- monitoring of the homepages of airlines (e.g. to ensure that airlines' general terms and conditions are not contrary to the Regulation) and airports (e.g. to check whether their quality standards are published);
- audits of airports and some of them also audit airlines;
- targeted inspections of airlines or airports;
- regular contact with airports and airlines (in the form of meetings or by written correspondence) to inform them about their obligations and ensure that they comply with them;
- cooperation with organisations of persons with disabilities to gather information about the application of the Regulation (to complement the information they receive from the few formal complains PRM submit to them).

3.3.3 Complaint handling

[48] A full-time equivalent (FTE) is a unit to measure employed persons in a way that makes them comparable although they may work a different number of hours per week. A full-time person is therefore counted as one FTE, while a part-time employee gets a score in proportion to the hours he or she works.
[49] In Annex 4 (Running costs and benefits according to the NEBs) a detailed table indicates the full time equivalent (FTE) of staff dealing with the enforcement of this Regulation for each NEB.
[50] See Support Study, Appendix D Country Fiches

If a PRM passenger considers that an airport managing body or airline infringed their rights granted by the Regulation, they are entitled to submit a complaint to that airport managing body or airline.

In case the PRM passenger concerned is not satisfied with the airport managing body's or airline's response to the complaint, they are entitled to submit complaints to a NEB or to another body designated by a Member State.

The total amount of complaints submitted to the NEBs relating to the Regulation is very low: about 150 complaints for the whole EU in 2019 (Around 15 complaints per million passenger). Different NEBs deal with varying numbers of complaints. 18 of the 26 NEBs providing complaint data received on average less than five complaints per year throughout the period for which they provided data. The eight NEBs with the highest number of complaints in 2019 received between 11 and 26 complaints[51]. At the same time, four NEBs[52] did not receive any complaints in 2019, and the remaining NEBs received an average of one to five complaints per year in 2019 or in the previous years for which they provided data.

It shall also be noted that reporting on the volume of complaints by different NEBs differs significantly, whilst some report exclusively complaints which fall under the scope of the Regulation others report any complaint that they received for any reason. As there is no reporting obligation for NEBs under the Regulation, the Commission depends on the data the NEBs voluntarily share with the Commission.

Nevertheless, the overall volume of complaints appears to be growing slowly with a grow of more than 85 % from around 80 in 2008 to around 150 in 2018 (EU 27+3), which might be due to an increase in the number of PRM travelling, more breaches of the Regulation, better awareness of the right to complain, or more willingness to do so. There can be many factors to this varying number of complaints and due to limited data available, it remains difficult to specify the determining factor - in particular as regards the motivation for a passenger's decision to/not to complain. A further analysis on the factors for this and the impacts will be addressed in Chapter 5.

In addition to submitting a complaint to a NEB, PRM passengers should also be able to seek for redress using alternative dispute resolution (ADR) bodies. Based on information provided by NEBs and ADR bodies themselves, not all Member States are equally equipped in that respect: a number of them do not have specific ADR bodies for the transport sector, which may lead to a lack of transport sector specific expertise which may make their work difficult. Therefore, in such countries disputes related to passenger rights are handled by a generic ADR body. In addition, in some Member States where ADRs are entitled to adjudicate on passenger rights claims, the participation of carriers in

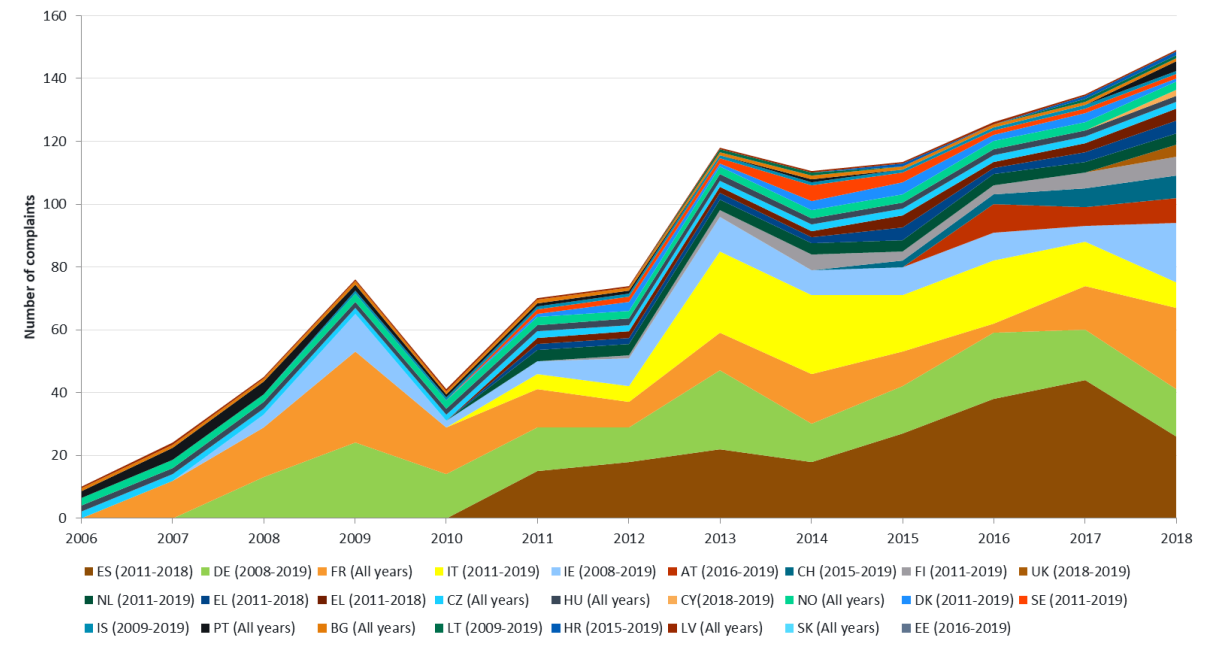
[51] These were the NEBs with the highest number of complaints in 2019 (with the number of complaints received): - Spain (26), Austria (14), France (21), Germany (15), Ireland (13), Italy (11), Netherlands (13) and the UK (17). With the exception of Austria, these countries represent the largest European aviation markets, either in terms of passenger numbers at airports or countries of registration of the largest EU airlines. see Support Study point 3.13

[52] Estonia, Croatia, Cyprus, Croatia, see Support Study Point 3.13

the procedure is voluntary. The Commission has supported the launch of Travel-Net,[53] an association of Alternative Dispute Resolution (ADR) and Online Dispute Resolution (ODR) bodies for transport and travel disputes, to facilitate networking and exchange between them.

National ADRs also indicated that they only received very few complaints related to the Regulation. The only exception is the UK ADR body, which received more than 160 complaints both in 2018 and in 2019 This is likely related to the fact that UK legislation, in line with the provisions of UK disability rights legislation applying in other sectors, grants passengers who suffer emotional distress due to an infringement of the Regulation the right to seek financial compensation from the airline or airport concerned. The below figure shows the complaints reported by NEBs.

Figure 1 - Complaints received by NEBs in years 2006-2018



Source: Support Study, Figure 3.2
Note that UK is not in the chart as it would be off-scale due to national legislation granting additional rights

The main reasons for PRM to complain are, by order of importance: "Lack of or low quality assistance by airline or airport" (20%), "loss or damage of the mobility equipment" (17%), "denied boarding of the mobility equipment by the airline" (12%), "slow or delayed assistance by the airport" (10%) and "denial to transport assistance dogs" (10%) amounting to a total of two third of complaints according to data received from NEBs as shown in Figure 2 below[54].

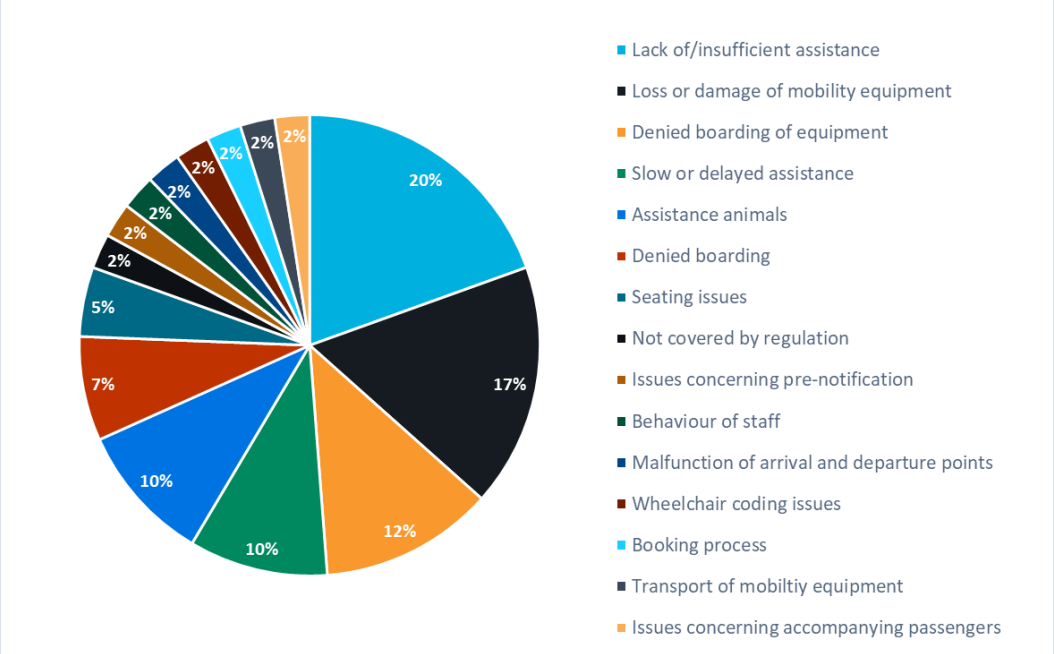
[53] Launch event for TRAVEL_NET, a network of ADR entities handling consumer disputes in the passenger transport and travel sectors (Berlin, 10 November 2017); https://www.adrpoint.gr/travel-net (the Greek ADR hosts the website with an application form). It has more than 20 members.
[54] Support study Figure 3.3: Most common types of complaints received by NEBs

The highest number of complaints (20%) concern the lack of or insufficient assistance. This may be caused by both the airline and the airport and it may be due to long waiting times or lack of communication of needs between carriers, airport, booking agency and passenger.

Denied boarding is the reason only for 7% of the complaints. However since denied boarding of mobility equipment comprises 12% of complaints and denial to transport assistance dogs comprises another 10%, and the latter two cases will often entail a situation when the passenger will not be able or willing to travel without the mobility equipment or assistance dog, the data shows that denied boarding remains an issue for PRM.

It is also important to note that the loss or damage of mobility equipment concerns 17% of the complaints. This was one of the reasons why the Commission proposed in the context of the review of air passenger rights that the liability of air carriers with regard to mobility equipment should be increased up to the actual value of the equipment[55].

Figure 2 - Types of complaints received by NEBs



Source: Support Study, Figure 3.3

It is important to note that although between 2012 and 2019 several businesses ('claim agencies') have emerged to help air passengers to manage their complaints against airlines, these businesses seem to deal exclusively with complaints arising from the

[55] This would be achieved, in conformity with the Montreal Convention, by compelling airlines to automatically offer the option to make a special declaration of interest laid out within the Convention, at no additional cost (Article 2(4) of the proposal – Article 6a of the amended Regulation (EC) No 2027/97), see Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air, COM(2013)130 final.

breaches of Regulation (EC) No 261/2004 (in particular those giving a right to compensation)[56] and not from breaches of Regulation (EC) No 1107/2006.

3.3.4 Sanctions imposed by NEBs

The maximum amount of penalties that NEBs may impose on operators differ significantly between Member States, and in cases these maximum amounts are very low (in case of Lithuania it is only EUR 800, but the maximum amount is also below EUR 5000 in Bulgaria, Estonia, Malta and Latvia) it is doubtful whether even a maximum fine could dissuade operators from breaching the Regulation.

Most of the NEBs are authorized to impose sanctions themselves, however in some cases the NEBs can only initiate to impose sanctions and another authority will decide whether sanctions are imposed or not.[57]

There is also a great difference in the number of sanctions that the NEBs have actually imposed since the introduction of the Regulation ranging from 67 sanctions to 0 sanctions.

The Belgian, Luxembourg, Maltese and Polish NEBs did not indicate whether they imposed sanctions or not.

NEBs from 17 Member States (Bulgaria, Czechia, Denmark, Estonia, Ireland, Greece, Croatia, Cyprus, Latvia, Lithuania, Hungary, Austria, Romania, Slovenia, Slovakia, Sweden), and also from the United Kingdom, Iceland, Norway, Switzerland did not impose any sanction on the basis of infringement of the Regulation.

Accordingly, between 2008 and 2019 only NEBs of 6 out of the 31 countries examined imposed sanctions: the Spanish NEB imposed 67 sanctions, the German NEB imposed four sanctions, the French, Italian, Dutch and Portuguese NEBs imposed one sanction each[58].

The French NEB has used the maximum amount possible when it imposed penalties.

The table below shows the differences in enforcement of the Regulation by different Member States and the number and amount of sanctions imposed.

[56] There is no evidence to conclude that in the UK claim agencies are dealing with complaints in massive numbers.
[57] Czechia, Denmark, Germany, Ireland, France, Austria, Slovenia.
[58] See for more details Annex 3.

Table 3 - NEB competences and sanctions

MS	Able to handle individual complaints?	Enforcement powers	Max fine amount	Number of sanctions imposed to date and magnitude of penalties levied
BE	Yes	Supervisory and inspection powers, and the power to report infringements for consideration of prosecution	No information	No information
BG	Yes	Supervisory and inspection powers, and the power to issue fines	EUR 5,000	No sanctions imposed
CZ	Yes	The NEB can initiate sanctions proceedings	1,000,000 czk (approximately EUR 37,000)	No sanctions imposed
DK	Yes	The NEB has the power to act as an intermediary between parties as dispute resolution, and can initiate procedures to issue fines	Unlimited	No sanctions imposed
DE	No	The NEB has monitoring and enforcement powers, and can initiate administrative offence procedures	EUR 30,000	4 sanctions, EUR 1000-EUR 2,000 per sanction
EE	Yes	The NEB can issue a precept (a form of order to comply) and can issue sanctions if this is breached.	EUR 3,500	No sanctions imposed
IE	Yes	The NEB has the power to initiate prosecutions, which can lead to fines being imposed, and can carry out monitoring and inspections at airports	No information	No sanctions imposed
EL	Yes	The NEB can issue sanctions through airport-based teams	EUR 250,000	No sanctions imposed

ES	Yes	. The NEB can issue financial sanctions.	EUR 70,000	67 sanctions, with sanctions of on average and EUR 500,000 in total
FR	Yes	The NEB can make reports to the Minister of Transport who can decide whether to issue a sanction	EUR 7,500 per instance of non-compliance	1 sanction for refusing to transport a PRM (3 infringements in total). Sanction of EUR 22,500
HR	Yes	The NEB can impose sanctions on carriers	EUR 6,700	No sanctions imposed
IT	Yes	The NEB can carry out inspections, and impose sanctions	EUR 120,000	1 sanction imposed with a sanction of EUR 10,000
CY	Yes	The NEB can carry out investigations, impose sanctions and suspend or withdraw operating licenses	EUR 8,000 or 10% of the company's annual turnover	No sanctions imposed
LV	Yes	No information provided	EUR 1800	No sanctions imposed
LT	Yes	The NEB has complaints handling and sanctioning powers	EUR 800	No sanctions imposed
LU	No information provided	No information provided	No information provided	No information provided
HU	Yes	Investigation, arbitration and sanctioning powers.	EUR 20,000	No sanctions imposed
MT	Yes	The NEB can issue sanctions	EUR 2,329.37	No information provided
NL	Yes	The NEB can investigate cases and issue sanctions	EUR 74,000	1 sanction imposed with an amount of EUR 9,000
AT	Yes	The NEB can investigate claims and file a complaint with the district authority who can impose a sanction	EUR 22,000	No sanctions imposed
PL	Yes	The NEB can investigate compliance, although responsibility for enforcement is split and only one body can issue fines	No information	No information provided
PT	Yes	The NEB can issue fines, but not award compensation	EUR 400,000	1 sanction of EUR 6,000, with 3 sanctions proceedings ongoing.

RO	Yes	No information provided	No information provided	No sanctions imposed
SI	Yes	The NEB has the power to investigate, and commence minor offence proceedings	EUR 60,000	No sanctions imposed
SK	Yes	The NEB has the power to investigate and make non-binding civil decisions. It may also impose fines.	EUR 66,000 for a first offence, rising to EUR 166,000 for repeated non-compliance	No sanctions imposed
FI	Yes	The NEB can investigate cases and issue fines.	Unlimited	No sanctions imposed
SE	Yes	The NEB can issue injunctions and impose fines	Unlimited	No sanctions imposed
UK	Yes	The NEB can carry out inspections, review licenses and impose fines	Unlimited	No sanctions imposed
IS	Yes	The NEB can review cases with the aim of resolving them, and can impose fines although it is their policy not to	No information	No sanctions imposed
NO	No	The NEB can carry out system level monitoring and enforcement, and impose fines	No information	No sanctions imposed
CH	Yes	The NEB can carry out system level enforcement, investigate cases, and impose fines.	CHF 20,000 (approximately EUR18,641)	No sanctions imposed

Source: Commission analysis based on the Support Study, Table 3.13.

3.3.5 Infringement cases / preliminary rulings

All Member States designated on time one or more NEBs to enforce the Regulation or handle complaints and NEBs are authorised to impose legal sanctions for the breach of the Regulation. No cases of NEBs having a consistent administrative practice contrary to the Regulation were detected either.

There was also no indication of any significant volume of national court litigation based on the Regulation. There has furthermore been no national court or tribunal applying to the Court of Justice of the EU for a preliminary ruling related to provisions of the Regulation.

3.4. Role of the European Commission in the implementation of the Regulation

The European Commission played a supporting role in the implementation of the Regulation in several aspects:

The Commission has a web page dedicated to inform citizens about their passenger rights[59];

The Commission conducted several information campaigns to raise the awareness of citizens about their passenger rights (including on this Regulation):[60] The Commission started carrying out information campaigns aimed at raising awareness among citizens in 2009. The first campaign (2010-2012) was organised for air and rail passenger rights, while a second one launched in 2013 concerned all modes. Online communication campaigns (online advertising) have proven the most cost-effective means during the last years (campaigns in 2016-2017, 2019, 2020 and 2021), which was reflected in a steep increase of visits of the relevant Your Europe passenger rights webpages;

The Commission also conducts regularly Eurobarometer surveys on passenger rights. The results of the latest survey from 2019 showed that only 32% of respondents of EU citizens are aware of the existence of EU passenger rights (however, we do not have data about how many of the PRM who actually travel by air are aware of their passenger rights) [61]

The Commission facilitated the uniform application of the Regulation by publishing its interpretative guidelines in 2012[62];

The Commission organised regular meetings with NEBs and stakeholder representatives, with a view to promote cooperation and the sharing of experiences (relating to both difficulties encountered and good practices).[63] In addition, the Commission maintains a regular exchange with the NEBs between these meetings to reach common understanding on the interpretation of specific provisions of the Regulation and to help solving specific cases.

In the context of COVID-19 pandemic, the Commission published Interpretative Guidelines on the progressive restoration of transport services and connectivity – COVID-19[64] emphasizing the obligation of operators to continue giving assistance for PRM and calling them to provide with their staff assisting PRM with appropriate personal protective

[59] See https://europa.eu/youreurope/citizens/travel/passenger-rights/air/index_en.htm.
[60] https://transport.ec.europa.eu/transport-themes/passenger-rights/passenger-rights-campaign_en
[61] Special Eurobarometer 485 on Passenger Rights (survey carried out in the EU28, incl. the UK, in February/March 2019) https://ec.europa.eu/commission/presscorner/detail/en/ip_19_6814;
[62] See SWD(2012) 171 final.
[63]https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&groupId=2861&fromMembers=true&memberType=4&memberId=44084
[64] Communication from the Commission Guidelines on the progressive restoration of transport services and connectivity – COVID-19, 2020/C 169/02 C/2020/3139 OJ C 169, 15.5.2020, p. 17–29

equipment. Updated information for passengers was also frequently posted at the Commission's Coronavirus Response website[65].

In the summer of 2020 the Commission also launched infringement procedures for the breach of other passenger rights Regulations in the context of the COVID-19 pandemic (e.g. for not applying the relevant rules on reimbursement of tickets following cancellation of services), however, the Commission did not receive any complaints about the breach of this Regulation in the context of the Covid pandemic.

3.5. Major recent developments

There are some factors that were not taken into consideration or that had yet to occur when drafting the Regulation that are important to take into consideration when evaluating the Regulation.

The size and complexity of airports and the operational procedures of the aviation industry make it more difficult for passengers to reach their flights

Since 2008 when the Regulation became applicable several airports have been significantly extended or new large airports were built where the walking distance between the entrance of the terminal and the departure gate has increased. Very often commercial aspects prevail during airport construction or refurbishment over aspects like accessibility or easiness to navigate at the airport.

Some passengers find it impossible to walk long distances, therefore they ask for assistance. Other passengers who also have difficulties to walk longer distances would nevertheless prefer to reach their flights independently and not to ask for assistance if they would be allowed more time to do so. However, in many airports they are not allowed to check in enough time before their flights, and the departure gate is only announced a short time before departure (to entice passengers to spend their time shopping or at other commercial facilities) making it impossible for them to reach their departure gate on time and forcing them to request PRM assistance[66].

Increase in demand of PRM assistance by passengers who do not have a genuine disability

During the targeted stakeholder consultation, several airport managing bodies and airlines mentioned the increase in the number of passengers requesting assistance for reasons other than disability or reduced mobility, as an unintended effect of the Regulation. Several airports and airlines participating at the stakeholder consultation claim that there is a growing number of requests for assistance from certain passengers

[65] https://ec.europa.eu/info/live-work-travel-eu/coronavirus-response_en

[66] Airport Council International (ACI) Europe, the association representing airports in Europe published a guidance document indicating how airports and their operation should be designed taking into consideration how independent movement of PRM could be facilitated: https://www.aci-europe.org/downloads/resources/aci%20europe%20guidelines%20for%20passenger%20services%20at%20european%20airports.pdf.

who would otherwise struggle to find their way in big and complex airports, or passengers who would like to skip queues or to have someone else to carry their luggage. Such misuses have a negative impact on the costs of operators and also on the quality of service that persons with genuine disability receive (in the sense that genuine PRM may need to wait more to receive assistance).

Technological developments

The development of technological solutions such as ambulifts and chairlifts that help to embark and disembark an aircraft have led to significant improvements in the safe, dignified and efficient conveyance of PRM. Such technologies remove the need for the manual handling of PRM where they are not able to lift themselves into or out of a seat or climb stairs. As a consequence, where these solutions are available, certain airports and NEBs prohibited the manual handling of PRM.

Several innovations using digital technology have improved the efficiency with which services are delivered. PRM assistance tracking devices now used in several airports allow PRM assistance providers to know where staff and assistance equipment are in real time, and improve operational planning and monitoring the performance of their personnel. Other digital innovations such as online applications have facilitated access to information for PRM: some inform them about their rights, others allow them to have access to real time information or to specify and personalise the assistance they need.

The size, weight and power of electric wheelchairs used by PRM has developed substantially. Electric wheelchairs are increasingly powered using lithium ion batteries. This has created safety problems and as a result it lead to increasing denial of their transport.[67]

The COVID crisis poses challenges to the sustainability of financing PRM assistance

The COVID-19 pandemic has virtually wiped-out most passenger traffic (including PRM) at European airports since spring 2020. This has created a problem for airports as the financial scheme is set up so that airport charges in one year pay for the costs incurred in the previous year. Hence airports and airlines were supposed to bear the costs of assisting PRM in 2019 (which was historically high) in 2020. It has not been deemed suitable to increase the respective PRM charge in 2020, because it would be so high that it may have a significant effect on tickets prices, and hence discourage potential passengers from travelling by air. However, at the same time, many airports and airlines have financial difficulties and they are unable to bear the costs of PRM assistance themselves.

In addition, PRM costs remain high during the COVID-19 pandemic, even though airports have been very pro-active at trying to lower PRM assistance costs in the face of lowered PRM demand. The reason for this is that there are significant fixed costs that are independent from the number of PRM requesting assistance (e.g. they cannot reduce the

[67] See the case study on safety requirements of airlines in Appendix C of the support study

number of staff in the same proportion of the decrease of demand, they need to maintain the equipment, etc.).

In several Member States, airlines and airports are negotiating with the competent authorities about potential solutions for this problem, possibly by spreading the assistance costs to a longer time period.

4. METHOD

4.1. Short description of methodology

The evaluation of the Regulation started in 2019 with the publication of a roadmap[68] and was overseen by an Inter-service Steering Group (details in Annex 1). It builds to a large extent on the support study carried out by an external contractor for the Commission between February 2020 and July 2021[69].

A wide range of data sources have been used to collect evidence to answer the evaluation questions. Stakeholders' views were gathered through public consultations and targeted consultation activities, including a workshop. All stakeholder groups were reached, and the risk of receiving incomplete or biased information was mitigated by triangulating different sources of information, including multiple stakeholders, juxtaposing divergent viewpoints, and by providing the relevant factual information where possible. The findings are supplemented by additional information gathered by the Commission during its monitoring of the implementation of the Regulation across Member States, from issues raised by NEBs at the Commission's regular expert group meetings or at ECAC meetings[70] , and from individual complaints received from citizens.The methodology for this evaluation includes the following elements:

- Public consultation for a five weeks period on the evaluation roadmap;
- A 15-week long public consultation;
- Support study:
    - Desktop research collecting publicly available information (e.g. specific studies which are relevant to the evaluation, reports, national legislation, guidance documents of the industry, documents published by NEBs);
    - Targeted stakeholder consultations on the five evaluation questions with a broad range of stakeholders at different points of the evaluation phase;
    - Three case studies: dealing with 1) safety conditions applied by airlines related to the transport of PRM, 2) the quality standards of airports relating to PRM and 3) PRM charges applied by airports;

[68] See https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/11896-Air-passenger-rights-people-with-disabilities-reduced-mobility-evaluation-_en.

[69] Final report: https://op.europa.eu/en/publication-detail/-/publication/d8b8bd04-1b4d-11ec-b4fe-01aa75ed71a1/language-en/format-PDF/source-231259999

[70] Especially the meetings of the Subgroup on the Transport of Persons with reduced mobility of the ECAC Facilitation Working Group

- Country fiches developed for all EU+4 countries showing information received from NEBs the implementation methods, enforcement methods of each Member State;
- Workshop with a representative sample of selected stakeholders;
- A cost-benefit analysis.

4.2. Limitations and robustness of findings

As previously explained, the Commission did not undertake a detailed Impact Assessment before its legislative proposal in 2005[71], hence information about the period before the legislative proposal had to be gathered from other sources for this evaluation. It was possible to retroactively reconstruct the situation before the intervention, although it should still be noted that the information available about that period is limited.

On the other hand, a number of inputs from a broad range of stakeholders were received from the period after the adoption of the Regulation, including from NEBs and major European airports and airline groups, as well as passenger and PRM organizations. In addition, robust data from Eurostat and recognised industry sources such as data from the air travel intelligence company Official Airlines Guide (OAG) ensured a solid quantification basis. OAG schedule data and Eurostat passenger, aircraft movement and economic data is available for the whole evaluation period, whilst fare data is available for the period 2011-2018. Hence, it is possible to make comparisons between years and analyse the development of movements. Furthermore, the costs of PRM services can be analysed on the basis of availability of airport PRM charge data for a wide selection of airports, accounting for 82% of all passengers travelling in Europe, and of data on the associated costs incurred by a majority of stakeholders.

On the contrary, there is little accurate data on the overall size of the market affected by the Regulation and the number and profile of passengers benefitting from it. This is an important limitation of the analysis.

The stakeholder consultation was carried out in 2020 during the COVID-19 pandemic and some stakeholders could not participate in the support study. Others were unable to send responses as detailed as they would have wished due to a lack of resources during the health crisis, although they were given additional time to participate in the consultation process.

Despite the difficulties caused by the COVID-19 pandemic and the limitations mentioned above, the quality of data gathered by the stakeholder consultation is relatively good as several high quality responses were received from representatives of all major stakeholder groups.

[71] See Point 2.2. above

5. ANALYSIS AND ANSWERS TO THE EVALUATION QUESTIONS

5.1. Effectiveness

Evaluation questions

5.1.1. To what extent have the objectives of the Regulation been achieved, especially the general objective of ensuring that PRM have comparable options to travel by air as other citizens and the specific objectives to prohibit discrimination based on disability and provide PRM with an extended and seamless assistance during their journey?

The Regulation has been very effective in meeting its general objective and its two specific objectives. Compared to the situation in 2008, when the Regulation became fully applicable, today PRM have significantly more freedom to travel by air at no extra cost to them, and barriers that may have prevented them from travelling in the past have been substantially overcome. As a result, their options to travel by air are broadly comparable to those of other citizens. They receive in general better assistance than before the adoption of the Regulation, and there are fewer instances when they might suffer discrimination.

The Regulation has led to improvements of the situation of PRM who intend to travel across the EU in five main aspects.

Greater awareness to the special needs of PRM when using air transport

Most stakeholders participating in the targeted stakeholder consultation (including PRM representatives) agreed that, mainly due to the obligatory disability equality training which the Regulation introduced, the awareness of airport and airline staff about the needs of PRM has significantly increased and a European culture of PRM assistance was created.

However, this was a gradual process. Although the Regulation was adopted having in mind all passengers with disabilities and reduced mobility[72], in the early years the implementation of the Regulation heavily focused on the needs of passengers with restricted mobility and the needs of citizens who live with other disabilities (e.g. blind, deaf persons, persons with intellectual or developmental disabilities) were often neglected. Assistance to PRM was often seen as the provision of a wheelchair with an attendant[73].

[72] This is clearly reflected in the broad definition of persons with disabilities and persons with reduced mobility in Article 2 a) of the Regulation.

[73] According to the support study, in the past in 97% of the cases airlines provided wheelchair assistance for their PRM passengers. Persons with a disability that does not cause a limitation in mobility (e.g. blind or deaf persons, and persons with intellectual or developmental disability) would need a different type of assistance more suited for their needs. PRM representative organisations noted that providing wheelchair assistance for all types of PRM does not respect the dignity of PRM without a limitation in their mobility and tend to reduce their propensity to ask for assistance for the future.

The stakeholder consultation revealed that in recent years several airports started to introduce good practices focusing on the needs of persons with hidden disabilities: some UK airports[74] introduced the 'sunflower lanyard' as a discreet sign with which a passenger can indicate the need for special support (for example more time at the security), Italian and Baltic airports[75] developed programs to explain to autistic passengers what to expect during their journey at the airport.

Some stakeholders (including PRM representatives and certain airports) nevertheless still consider that more attention should be paid to the needs of persons whose mobility is not restricted, but their disability (which is often less visible to the airport and airline staff) makes them travelling by air challenging.

In addition, although the Regulation does require a disability-related training[76] for certain personnel working for the airport managing bodies and for airlines, it does not require such training from everyone working at the airport in direct contact with PRM (notably security and immigration officers and staff handling the mobility equipment of PRM). The Regulation does also not require travel agents and tour operators to complete such training. As the work of the latter is essential to provide a seamless and pleasant travel experience for PRM[77], it can be considered as a legal gap that they are not obliged to complete such training.

Improved assistance provided to PRMs

As mentioned already in point 2.3. above, before the Regulation became applicable airlines provided assistance to their PRM customers and the scope of services depended on the applicable national legislation (but only nine Member States had national legislation protecting PRM travelling by air) and on the commercial policy of the respective airline. Consequently, if the national legislation did not grant rights to PRM when travelling by air, it depended solely on the airline's interest in PRM as a market segment whether they provided assistance to PRM or not, and whether they charged (sometimes significant) extra fee for such service or they offered PRM assistance free of charge.

Stakeholders (including PRM representative organisations, airports, airlines and NEBs) participating at the consultation agreed that the Regulation has brought significant

[74] Among others Gatwick and Heathrow Airports See Support Study point 3.45
[75] Vilnius and Bologna Airports See Support Study point 3.45
[76] Such trainings should take into consideration the communication and other needs of persons living with different types of disabilities.
[77] PRM representatives mentioned at the stakeholder consultation that the lack of proper training of ground-handlers about mobility equipment is one of the major causes of these equipment being damaged during a flight (add reference). Security checks can be a particular source of concern for PRM, because of issues such as sensitivity around physical searches or handling of specialist mobility or medical equipment, therefore the lack of disability awareness training of security officers can also cause negative impacts for PRM. Travel agents and tour operators have a crucial role to register the special needs of their PRM customers and to transmit them to airlines. PRM representatives mentioned at the stakeholder consultation that travel agents and tour operators do not always precisely register the assistance need for PRM or they do not transmit them to the airlines in due time because they lack the necessary training about PRM needs and about the Regulation.

improvement: assistance is provided at all airports throughout Europe to all passengers who request it. It consists of a pre-determined package of services, it is free and available if pre-notified at least 48 hours before departure although most operational stakeholders will still ensure that it is provided even when the passenger in need of such assistance does not pre-notify in due time and only asks for it at the last minute. In conclusion, most PRM receive the necessary support when travelling by air[78].

The Regulation imposes the obligation on airports with an annual traffic of more than 150 000 commercial passenger movements to adopt in cooperation with airport users (airlines) and PRM representatives their quality standards for the provision of PRM assistance at airports and to publish them,[79] which should be then monitored and enforced by NEBs.

The support study[80] found that quality standards have been widely adopted across European airports, however their impact on the quality of assistance is very limited because very few NEBs monitor their application. In addition, most of these quality standards put too much emphasis on the ECAC Doc 30 key performance indicators related to the punctuality of providing assistance, which resulted in many airports focusing on the timeliness of conveying PRM through the airport to meet performance targets rather than providing care and empathy.

However, the stakeholder consultation also showed a different approach by some airports: e.g., the Italian NEB requires all Italian airports to publish annual 'Service Charters' that measure the 'softer' service elements (e.g. 'perceptions of the adequacy of personnel training' and 'perceptions of the professionalism of personnel dedicated to the provision of the assistance service') against published targets. The UK NEB publishes annual quality of service reports covering assistance delivered at UK airports which also uses 'soft' metrics (e.g. a passenger survey where customers can also measure staff attitude and where the airport regularly consults with PRM representatives and implements their recommendations). Finally, some airports in other Member States (e.g. Copenhagen Airport, Aéroports de Paris, all Spanish airports) survey PRM after assistance has been delivered to them, which can also give a more comprehensive feedback to airport managers and customers.

A reduction in the number of denied boarding events

The Regulation prohibits airlines to refuse reservation or carriage of PRM except where necessary to comply with applicable safety regulations or where the size of the aircraft or

[78] According to the representative Special Eurobarometer 485 survey about passenger rights carried out in 2019 with the participation of approximately 28.000 persons from all Member States, 8% of the respondents requested PRM assistance for themselves or for another person in 2018 when using air, rail, waterborne or bus and coach transport, and 81% of them were satisfied with the service provided. Although this survey was not specific for air transport, it shows the importance of PRM assistance free of charge for passengers who need it and also the commitment of carriers to provide a high quality assistance: See the survey at: https://europa.eu/eurobarometer/api/deliverable/download/file?deliverableId=71855

[79] See Article 9(1), Regulation (EC) No 1107/2006.

[80] See the case study on Airports' Quality Standards of the Support Study Appendix C

its doors make the embarkation or carriage of the PRM impossible.[81] When an airline uses one of these derogations, it has to inform the PRM immediately about the reasons for refusal, and it has to communicate these reasons in writing to the PRM within five working days if the PRM so requests[82].

This strict non-discrimination rule has guaranteed for most PRM the right to travel by air. They book their travel like any other passengers and then contact the airline or airport to pre-notify their specific assistance needs. Pre-notification might be cumbersome for PRM, it nonetheless ensures that they are not denied transportation. In addition, if a PRM fails to pre-notify his or her special needs, it does not mean that he or she will be penalised for that: airports and airlines shall nevertheless make all reasonable efforts to provide the necessary assistance.

It is difficult to draw definitive conclusions on the progress made towards non-discrimination of PRM travelling by air. Data on discrimination, notably on denied boarding is not readily collected in Europe, making qualitative analysis in this area very challenging.

The fact that the number of PRM traveling by air between 2008 and 2019 increased year on year, both in absolute numbers and as a proportion of the total number of passengers while the number of complaints submitted to NEBs related to denied boarding remained relatively constant and low since 2008[83] seems to indicate that the number of incidents related to denied boarding has been significantly reduced since the Regulation became applicable.

Nevertheless, 29% of all complaints relates to denied boarding or refusal to transport mobility equipment or assistance dogs[84] which may be considered as an indirect form of denied boarding, because most mobility equipment and assistance dogs are indispensable for their users who will not be willing to travel without them.

Some PRM representatives are sceptical whether refusal to transport PRM always occurs on the basis of genuine safety concerns, notably they considered it questionable whether certain restrictive policies applied by airlines vis-á-vis PRM are justified on the grounds of safety: their examples include airlines which only transport two wheelchairs or one recognised assistance dog per flight while other airlines using the same type of aircrafts on the same route do not have similar limitations or airlines that require PRM to travel with an accompanying person when the PRM person does not need their help to comply with the statutory safety requirements, but to help eating or using the toilet.[85]

The support study also shows that safety rules of airlines vary significantly, and they are often difficult to find and interpret (in particular those related to the transport of batteries

[81] See Articles 3 and 4(1), Regulation (EC) No 1107/2006.
[82] See Article 4(4), Regulation (EC) No 1107/2006.
[83] See above under point 3.3.3.
[84] See Figure 4, where 7% relates to refusal to board a PRM passenger and 12% relates to refusal to board mobility equipment.
[85] See Appendix C of the support study

of mobility equipment, electric wheelchairs and oxygen) leaving PRM exposed to the risk of denied boarding.[86] In general, PRM are unlikely to be able to research applicable safety legislations and airline rules comprehensively, or to assert their rights with confidence at the gate given this level of information asymmetry. This discourages certain PRM from using air transport and demonstrates the importance of effective NEBs monitoring and enforcement.

Greater consistency of treatment across airlines, airports and Member States

Before the Regulation became applicable airline policies to transport PRM varied from airline to airline, and the scope of assistance provided to PRM varied from one airport to another as well. The Regulation has imposed a consistent single framework throughout the EU+4 and there is a detailed list of specific assistance services that must be available to PRM free of charge. As a result, the same general obligation applies throughout the EU+4 to transport PRM. The Regulation also provides strict rules when derogation from this obligation is possible for reasons of aviation safety.

As mentioned in the previous point, there is one area where such consistency is lacking: there are significant differences between the safety rules of airlines which limit the transport of PRM.

Clear division of tasks between airports and airlines

The Regulation achieved in general a clear division of tasks between airlines and airports: The Regulation lists in Annex I the assistance to be given by airport managing bodies and in Annex II those to be provided by airlines on-board of the aircraft. However, some uncertainties remain about the allocation of a few specific tasks.[87]

5.1.2. Are passengers easily granted the rights to which they are entitled?

In order to exercise their rights, PRM have to be aware of them. In general, airlines, airports and also certain NEBs inform PRM of their rights under the Regulation through their websites, posters and leaflets at airports and via assistance telephone lines. However, it shall also be noted that the obligation of operators to provide information is not as extensive as that available under Regulation 261/2004 (in particular Article 14 of Regulation 261/2004 contains a specific obligation to inform passengers of their rights in case of denied boarding, long delay and cancellations).

Given the data available, it cannot be concluded whether passengers are easily granted the rights to which they are entitled or not. PRM submit very few complaints and most NEBs do not undertake pro-active monitoring.[88] If they do, they report very little infringements.

[86] See Appendix E of the support study.
[87] As explained in detail below in point 5.4 on coherence.
[88] See above point 3.3.2.

Stakeholders expressed diverging views about the reasons for such a low level of complaints: PRM representatives argued that the complaints to NEBs, ADRs and operators only represents "the tip of the iceberg" while operators claimed that they provide a high quality service, so in most cases PRM do not have reasons to complain.

The following reasons could contribute to the low number of complaints:

- PRM representatives indicated that many PRM are unaware of their rights.
- PRM may be less willing to complain than other passengers. The Swiss NEB noted that "PRM accept to a great extent that travelling for them is more burdensome. They seldom complain, probably also due to the fact that to make a complaint is often stressful for them".
- PRM representatives indicated that the lack of accessibility of complaint forms may also mean that PRM face greater barriers than other passengers when seeking to make a complaint.
- Many passengers may consider that submitting a complaint to a NEB might not be beneficial for them as in many countries NEBs do not have the power to issue a binding decision in their case.
- In case an operator breaches the Regulation, NEBs cannot grant compensation to the PRM concerned, with the exception of the damage or loss of mobility equipment; consequently PRM have little financial incentive to complain.[89]
- In some Member States, PRM may also be confused by the existence of several NEBs dealing with passenger rights in air transport.

In particular, the non-binding nature of NEB decisions to passenger complaints tends to dilute the intended benefit of the Regulation because in case a PRM wishes to exercise their rights, there might be a need to bring the claim to the national courts which can be both expensive and time consuming.

5.1.3. To what extent has the Regulation ensured the same level of passenger rights protection across the EU?

While in theory the same substantive rights apply across the EU, the enforcement of these rights differs across the EU.

According to the Regulation, NEBs shall take measures necessary to ensure that the rights of PRM are respected, including compliance with the quality standards referred to in Art. 9 and the satisfactory implementation of assistance at airports as referred to in Art. 8 (Art. 14), among others by imposing if necessary effective, proportionate and dissuasive sanctions (Art. 16) and handle individual complaints (Art. 15).

[89] Especially if we compare this Regulation with Regulation (EC) No 261/2004, where passengers may receive a compensation up to 250, 400 or 600 EUR in case of long delays or cancellation of a flight.
In addition, in point 2.3 above it has already been mentioned that the UK ADR body which seems to be the only organisation which can grant compensation in case the provisions of the Regulation are breached by operators receives more complaints than any other ADR or NEB also seems to show that financial compensation is a strong incentive for PRM to complain if they consider that their rights were not respected.

The Regulation allows flexibility to the Member States to design the enforcement mechanism in their national legislation. As a result, the legal powers and practical capabilities of NEBs towards the enforcement of the Regulation vary significantly from one Member State to another.[90]

Monitoring activities

The overall approach of NEBs toward monitoring the implementation of the Regulation also varies significantly: some NEBs are very proactive, while some others appear only react to complaints which they receive.[91] As the number of complaints,[92] and the number and level of sanctions are very low everywhere in the EU,[93] it is questionable whether the latter approach is sufficient to effectively enforce the Regulation.

Many NEBs did not indicate the number of FTE working on ensuring the enforcement of the Regulation. Many NEBs which did disclose this data seem to have very limited staff resources, only one FTE or even less[94], which appears to be particularly low given that the NEBs are expected by the Regulation to carry out a wide range of enforcement and monitoring activities: monitoring the homepages of airlines and airports (to ensure that airlines do not apply discriminatory safety requirements, and allow PRM to pre-notify their assistance need, that airports adopted quality standards for assistance in cooperation with airport users and PRM representatives and these standards are respected), inspecting airports (e.g. whether airports designated meeting points in accordance with the Regulation), supervising the setting of PRM charges, informing PRM about their passenger rights and in case of serious or repetitive breaches of the Regulation sanctioning the operator responsible for such breaches.

There can be several factors contributing to the low number of sanctions, e.g. the satisfactory implementation of the Regulation and the effective complaint handling by airports and airlines. However, it may also be a sign of lack of pro-active monitoring of the Regulation's application by NEBs, difficulties of providing evidence for infringement or a lack of knowledge of PRM about their right to complaint.

It is also important to mention that in some Member States[95] even the maximum amount for a fine that can be imposed seems too low to be dissuasive for operators.

In addition, the number of sanctions and the amount of the fines are only one indicator of the activity of a NEB. Several NEBs (e.g. Denmark, Italy or United Kingdom) ensure the compliance with the Regulation using regular audits, inspections and dialogue with operators, so sanctions aren't necessarily needed to enforce the Regulation.

[90] See above under point 3.3.2 and 3.3.4.
[91] See above under 3.3.4 and the Country fiches in Appendix D of the support study
[92] See above under point 3.3.3.
[93] See above under point 3.3.4.
[94] See above under point 3.3.2.
[95] See above point 3.3.4 and Table 3 the lowest amounts have Bulgaria, Estonia, Croatia, Latvia, Lithuania

The above mentioned variations in the legal powers, monitoring capabilities and approaches of NEBs mean that the extent to which PRM can exercise their rights varies significantly between Member States.

Airports and airlines are negatively affected by the lack of a level playing field as a result of the different regulatory enforcement that they face in the different Member States (e.g. airlines operating flights from or to Member States with more demanding NEBs might have much higher regulatory costs from the compliance with the Regulation than other airlines).

5.1.4. Did the Regulation lead to legal clarity? Are there legal gaps hindering the realisation of the Regulation's objectives?

Provisions lacking legal clarity

Stakeholders indicated that most provisions of the Regulation are easy to understand and implement, however there are some provisions which lack legal clarity and raise questions of legal interpretation.

NEBs, airlines and airports found in particular problematic the following notions:

- The definition of PRM (Article 2(a)) does not clarify whether the scope of the Regulation extends to obese or pregnant passengers and parents travelling with young children.
- The Regulation does not provide a definition of a "recognised assistance dog"[96], consequently carriers are left without guidance to determine when a particular dog should be considered as a recognised service animal which can create disputes between airlines and passengers intending to travel with their assistance dogs.
- The Regulation does not specify what is a mobility equipment[97] and what is a medical equipment[98] that airlines have to carry free of charge.

Legal gaps

While the Regulation allocates most PRM assistance tasks clearly between airports and airlines, the precise allocation of handling PRMs' hand luggage and mobility equipment is missing. Article 7 of the Regulation does not provide sufficient clarity on whether the PRM or the airport staff assisting the PRM is responsible for hand luggage. This is an important concern for airports, as it appears that some passengers book assistance so that they can get help with their hand luggage. Stakeholders also indicated that the annexes of the Regulation are silent about whether ground-handlers (working for the airline) or PRM assistants (working for the airport) are responsible for carrying wheelchairs to the aircraft hold when left at the aircraft door by the passenger.

[96] The Regulation refers to recognised assistance dogs in Article 7(2), Annex I and Annex II.
[97] The Regulation refers to mobility equipment in Article 4(3), Article 12, Annex I and Annex II.
[98] The Regulation refers to medical equipment in Annex II.

5.1.5. What have been the positive and negative effects of the Regulation? Were there any unintended or unexpected effects? Could the changes observed since the adoption of the Regulation be credited to the Regulation?

As explained in point 5.1.1 the two major positive effects of the Regulation are the improved service quality and the reduction in denied boarding: both quantitative and qualitative evidence suggests that the treatment of PRM improved, in particular the quality of service is better compared to the time when the Regulation was adopted and there are less cases when PRM are denied boarding.

Several airlines and airports participating in the stakeholder consultation indicated that an unintended negative effect of the Regulation was the increase of PRM assistance requests from passengers who do not have a genuine disability or reduced mobility. As a result, genuine PRM may end up receiving lower quality or slower assistance than they could receive if such misuses would not take place. The gravity of the problem is difficult to assess as there is no quantitative data available.

5.1.6. Which factors have contributed to/hindered the achievement of the Regulation's objectives?

A number of factors have contributed to the successful achievement of the Regulation's objectives:

- Even before the Regulation became applicable, airlines and ground-handlers on behalf of airlines already provided PRM assistance in Europe. While the Regulation changed the allocation of roles and responsibilities between airlines and airports (in the past assistance of PRM was the sole responsibility of airlines) it built on an existing framework of service provision, and the Regulation did not introduce a completely new approach with which the industry was unfamiliar.
- It was acknowledged by all stakeholders that airports and airlines realised the need for the inclusion of PRM and embraced the challenge of providing them the necessary assistance.
- Following the approach adopted for Regulation (EC) No 261/2004, the Regulation obliged Member States to establish an institutional framework for monitoring and enforcement of PRM rights. Most of the 31 countries designated the same body as NEB to enforce both Regulations, while in some Member States (i.e. Latvia, Luxembourg, Hungary, Malta and Romania) separate bodies have been designated as NEBs responsible for Regulation (EC) No 261/2004 and the Regulation. However, regardless of the arrangements applied in a given Member State, the fact that in each Member State specific authorities were designated to monitor and enforce the Regulation has contributed to some degree to its effectiveness.

- Although the Regulation is silent about many technical issues, experts from NEBs have, with the continuous update of the ECAC Doc 30 guidance, been developing a common harmonised guidance on the processes for delivering and assessing service quality. The Commission's interpretative guidelines on the Regulation[99] have also contributed to the harmonised application of the Regulation by clarifying issues that were interpreted differently by NEBs, airports and airlines during the first years of the Regulation's application.
- The expansion of digitalisation and greater accessibility of online services has also contributed to better PRM services: for instance real-time information on websites/apps may help hearing impaired passengers and specific apps were developed to help the orientation for persons with visual impairments at airports.

At the same time, there were also factors that hindered the full achievement of the aims of the Regulation:

- Neither the Regulation nor any other EU legislation imposes an obligation to make airport infrastructure or aircrafts physically more accessible for PRM. Infrastructural constraints and the lack of investment in airport and aircraft accessibility for PRM have limited the effectiveness of the Regulation: if aircrafts are not physically accessible[100], airlines can refuse transporting PRM and accessibility issues at an airport might discourage PRM to travel from or to that airport.
- Poor communication between PRM and airlines or between PRM and travel agents, tour operators negatively affects the organisation of assistance. If the special needs of PRM are not recorded properly by airlines, travel agents or tour operators or they are not forwarded to airports on time it will be more difficult and sometimes even impossible to tailor the assistance to the individual needs of PRM.
- In addition, very few NEBs monitored pro-actively compliance with the Regulation and imposed sanctions for non-compliance, so airlines and airports had limited financial incentives to comply with the Regulation.

[99] See SWD(2012) 171 final.

[100] PRM representatives indicated at the stakeholder consultation that there are some cases where airlines cannot place certain electric wheelchairs in the cargo hold of the aircraft. The PRM concerned often renounce from travelling if they cannot do so with their mobility equipment.

5.2. Efficiency

Evaluation questions

5.2.1. What types of benefits have been achieved for the different stakeholder groups?

During the stakeholder consultation, stakeholders explained the types of benefits that they have achieved from the Regulation, however they were not able to quantify those benefits.

PRM

PRM benefit from free assistance the cost of which is distributed between all air passengers paying a specific extra charge included in their ticket fare. Before the Regulation became applicable, some airlines imposed significant charges to PRM for the provision of those services.

As mentioned in the subchapter on effectiveness, the adoption of the Regulation also contributed to the improvement of service quality standards across Europe which also benefitted PRM travellers.

Airports, airlines, NEBs and some PRM representative organisations consider that PRM feel more empowered and they have more confidence to travel by air, at least within the EU. As a result, their demand for air transport has significantly increased, creating benefits to other stakeholders such as airlines, airports, travel agents or tour operators.

When PRM consider that their rights granted by the Regulation were not respected by the airlines or airports, they are entitled to submit a complaint. In case they are unable to settle the complaint amicably, they have the right to submit a formal complaint to a NEB.[101]

PRM also benefit from time saving in planning their journeys as there is now one set of rights applied across Europe and, in principle, free assistance when travelling by air is available for them. However, the need to pre-notify airlines to ensure that the requested assistance is provided continues to complicate journey planning. In addition, the time needed for resolving complaints depends on the different approaches, processes, and languages used by different NEBs (e.g. it might take more time to seek redress if the NEB to which a complaint is submitted cannot take a decision which is binding on the parties or if the complainant does not speak the language used by such NEB).

Other passengers

Passengers in general benefit from greater sense of fairness and societal equity by ensuring that PRM have opportunities to use air transport comparable to other citizens. In addition, when as a result of an illness or an accident their mobility is temporarily reduced, they can also benefit from PRM assistance.

[101] Support study, Stakeholder Consultation Report, Para 3.26

NEBs

NEBs indicated that they do not have any direct benefit from the Regulation, however the harmonised rules at EU level allow them to develop a better understanding of airlines and airports processes. Most NEBs who replied to this question in the consultation indicated[102] that their respective Member States benefitted indirectly from the benefits enjoyed by PRM, including through improved service quality as well as greater propensity to travel, confidence when travelling and societal equity.

Airports

Airports noted that they derive some benefits from process efficiencies as a result of the standardisation of PRM services across Europe, and from the increased demand of PRM. A track record of providing good quality assistance to PRM can result in some positive reputational benefits for airports; conversely, where PRM experience poor quality service, there is a risk of negative reputational effects.

Airlines

Similarly, airlines can derive benefits from the standardisation of PRM services and from the increased demand from PRM. If the quality of PRM assistance they provide is good, they can also benefit from reputational benefits.

Other stakeholders

The stakeholder consultation questionnaire was sent to other stakeholders (e.g. travel agents, tour operators and ground-handlers) as well, however they did not reply to this question.

5.2.2. What have been the costs associated with the Regulation? How significant have they been and what are they influenced by? How are they distributed among the stakeholders?

The Regulation places the economic burden of providing PRM assistance services on airlines and airports, who pass it on to all passengers through a special charge in the price of airline tickets.

PRM

The assistance is free of charge for the PRM passenger who benefits from it. However, it does not mean that PRM will not have any costs. They accrue costs from the obligation to pre-notify their assistance needs (e.g. calling charges, loss of time), and often have additional costs related to issues not addressed properly by the Regulation. For instance, in cases where an airline declines to transport them due to safety reasons, they might need to bear the costs of an alternative flight and possibly the costs of extra accommodation. They can have further costs if their mobility equipment is lost or

[102] The Belgian, German, Estonian, Irish, Spanish, Croatian, Italian, Lithuanian, Dutch, Austrian, Polish, Portuguese, Slovenian, Finnish, Swedish, UK, Icelandic and Swiss NEBs.

damaged and the costs of reparation or replacement are higher than the compensation limit stipulated in the Montreal Convention (provided that the airline does not wave voluntarily this compensation limit)[103]. In addition, as many NEBs cannot take legally binding decisions, PRM may also have additional costs if they will need to take legal action to remedy the injuries they suffered as a result of the breach of the Regulation by an airline or airport.

According to the stakeholder consultation the benefits achieved by PRM overweight the costs that they accrue as a result of the Regulation.

Other passengers

As mentioned above, every passenger has to pay a special charge in the ticket price for the assistance of PRM. The average cost of this charge was EUR 0.55 per passenger in 2019, a value low enough not to impact air ticket prices significantly.

Airports

Providing assistance to PRM at airports has an average cost which ranges from EUR 0.06 per passenger at the cheapest airport (Palanga, Lithuania) to EUR 1.53 at the most expensive (Catania, Italy). The overall cost envelope is difficult to estimate as PRM assistance numbers are not available for all European airports. However, eight airport operators (namely Paris-CDG, Frankfurt, Riga, Copenhagen, Rome-Fiumicino, Shannon, Zurich and Heathrow) indicated the costs for PRM assistance, which amounts to around EUR 180 million annually for all eight airports. Such costs can be passed to airlines in the form of PRM charges.

Airlines

Airlines did not provide detailed information about their costs and benefits related to the Regulation, but the support study estimated the costs incurred.

Airlines incur two types of cost arising from provision of assistance to PRM:

- Direct costs when PRM travel on their services, including costs linked to booking assistance and transmitting information, having suitable equipment on board and having suitably trained personnel on the ground and on-board. An airline with a higher share of PRM among total passengers will incur more direct costs than an airline with a lower share; and
- Indirect costs as a result of the direct costs incurred by airports being passed through to airline passengers via the PRM fee, which is added to the ticket price. This is independent from the number of PRM passengers an airline transports each year. It shall be shared among all airlines using the airport in question in proportion to the total number of all passengers that each carries to and from that airport.

[103] See in more detail under point 5.4.3, where the Regulation's coherence with the Montreal Convention is analysed.

The airport managing body is entitled to set the PRM charges, but it has to cooperate with the airport users (airlines) using the airport when setting it. The PRM charge must be reasonable, cost-related and transparent[104].

The cost-benefit analysis of the support study estimates that between the period of 2008 and 2018 the Regulation resulted in a net cost of EUR 3 251 million for airlines[105].

Airline representatives argued at the stakeholder consultation that many airports set their PRM charges in a non-transparent manner, the charges are not always cost-related and the PRM assistance service quality is often not commensurate to the level of the charge.

Although NEBs or other specific bodies designated for this specific purpose shall monitor the imposition of PRM charges by airport managing bodies[106], according to the PRM charges case study of the support study,[107] many NEBs seem not have the necessary expertise to do so or they are unwilling to do so.

On the other hand, some NEBs indicated to actively participate in setting PRM charges: the Portuguese NEB itself sets the PRM charge while the Greek and Italian NEBs have to be consulted and they can refuse or approve the PRM charges set by airports.

NEBs

NEBs have regulatory costs in the form of enforcement costs as a result of the Regulation. These costs are relatively low in most Member States, ranging between the costs of 0.25 and 3 FTEs. Variation across Member States can be explained by differences in the number of PRM carried from/to the Member State concerned, NEB powers and areas of competence, the volume of complaints received and the extent of pro-active monitoring, and the number and size of airports supervised.

However, as mentioned earlier, many NEBs deploy little resources (1 FTE or less[108]) towards the enforcement of the Regulation which seems to be insufficient to carry out the tasks necessary for the monitoring and enforcement of the Regulation (regular inspection of airlines and airports, monitoring their homepages, supervising the setting of PRM charges, etc.) in addition to handling individual complaints.

Factors that influence the costs of assisting PRM

[104] See Article 8, Regulation (EC) No 1107/2006.
[105] See Appendix H of the support study. The costs (EUR 3362 million) include the estimated costs of the assistance service provided by the airlines and airports, the estimated costs of compensations and sanctions. From this amount EUR 111 million of estimated benefits were reduced (the contractor considered that the Regulation increased PRMs confidence in air transport and created an extra demand for flights)
[106] See Article 14(2), Regulation (EC) No 1107/2006.
[107] See Appendix C of the support study.
[108] See Annex 4.

The average cost of assisting one individual PRM is estimated at EUR 75 in 2019[109] which is not trivial, sometimes comparable with, or higher than, an average airline ticket.

The costs of PRM assistance are influenced by the pre-notification rate of PRM passengers and whether a pre-notification correctly reflects the PRM's assistance needs and whether it is transmitted properly by travel agents or airlines to the airports (see in more detail below in point 5.2.3). If airlines and airports are correctly pre-notified about a PRM's special need in due time assistance costs much less for them compared to a situation when they are informed about it only at the last minute.

The costs of PRM assistance are also influenced by possible misuse of free assistance by passengers who are not PRM.

5.2.3. Can the costs incurred by stakeholders be considered proportionate to the benefits established?

PRM

In the absence of the Regulation PRM would have incurred higher costs in obtaining assistance (to the extent that they travelled at all) and they would have experienced lower quality of service (as a result of less regulatory oversight). The Regulation also confers societal benefits in the form of greater equity arising from the substantially reduced economic burden of travelling for PRM.

Other passengers

It was not possible to gather information whether the costs are proportionate for other passengers to the benefits they acquire (e.g. that they could actively contribute to social justice and they can also benefit from free assistance if they became temporarily disabled or of reduced mobility as a result of an illness or accident), but as mentioned earlier, the costs of average PRM charges per flight ticket are relatively low, and allowing PRM to travel by air comparable to other citizens brings significant social benefits.

Airports

Airports that responded to the consultation indicated that the costs are proportionate to the benefit they gain from the Regulation in the form of increased demand for air transport, reputational benefits for the airport (if they comply with the Regulation), and the operational efficiencies derived from the standardisation of PRM assistance services across Europe.

[109] The methodology for calculating the total PRM assistance costs between 2008 and 2018 is summarised in Appendix H of the support study (point H-10-H.14), the estimated number of passengers receiving PRM assistance between 2008 and 2018 is in Figure 1.2.

Airlines

Airlines did not provide detailed information about their costs and benefits related to the Regulation, therefore it is not possible to answer the question how proportionate were the costs of the Regulation for them, taking into account the distribution of associated benefits. However, some airlines claimed during the stakeholder consultation that PRM charges are not cost related and reasonable in many European airports[110].

NEBs

The NEBs replying to the question related to the proportionality of costs[111] confirmed that the indirect benefits gained by their respective states exceeded the regulatory costs they had enforcing the Regulation. However, as it was indicated already, it must be taken into consideration that so far several NEBs seem to dedicate insufficient resources to the enforcement of the Regulation.

5.2.4. Is there any potential for reduction of the costs for any of the stakeholder groups?

There are several possible ways to save costs related to PRM assistance.

First, NEBs and airports participating in the stakeholder consultation indicated that there is a strong link between pre-notification rates and the cost of the PRM assistance service.[112] This is due to the fact that there is a strong expectation that airports will ensure that non pre-notified passengers reach their flight in time (on departure), or are assisted promptly (on arrival). However, if part of the passengers who receive PRM assistance do not pre-notify themselves in due time, airports and airlines cannot optimally plan the provision of assistance services. They always need to have more assistance staff and equipment on standby to be able to meet the last minute demand that would not be necessary if everybody would notify themselves in due time. Consequently, higher pre-notification rates would help to save a significant amount of money spent on PRM assistance.

Another potential cost-saving for airports could come from better information about PRM's individual needs which may vary even during a single journey. For example, some PRM may only need assistance during a specific part of the journey and not necessarily at all stages. For instance, a PRM may need assistance in a large airport of departure where walking distances are long, whereas assistance may not be necessary for the same person at a much smaller destination airport. At present, requests for airport assistance made by PRM and relayed by airlines are taken to apply equally at departure, arrival and connecting airports (within the geographic scope of the Regulation) causing a

[110] See support study – Stakeholder consultation report point. 3.19

[111] The Belgian, German, Estonian, Irish, Spanish, Croatian, Italian, Lithuanian, Dutch, Austrian, Polish, Portuguese, Slovenian, Finnish, Swedish, UK, Icelandic and Swiss NEBs.

[112] See the case study on PRM charges in Appendix C of the support study.

waste of resources when a PRM does not actually need such assistance during all the stages of the journey.

In addition, as indicated earlier, there are passengers who request PRM assistance without having a genuine disability or reduced mobility: mostly people struggling with way-finding, (e.g. they do not speak the languages used at the airport and do are not to orient themselves at a complex setting) seeking priority treatment when queuing or who do not want to carry their heavy baggage themselves. Providing them special PRM assistance puts an additional financial burden on the airports and airlines concerned.

However, good practices and experiments show that misuse of PRM assistance could be reduced if airports offer wayfinding services in cooperation with air carriers for free or for payment to passengers who feel confused by a large and complex airport or have linguistic barriers and therefore fear that they will not be able to find their way[113].

Possible long-term cost savings could also come from increased accessibility of airports and aircraft, enabling PRM to travel more independently and requesting less assistance.

There would also be a smaller demand for PRM assistance if airports would be designed having in mind the easiness to navigate (better signage and wayfinding, as explained above, and limiting the distances to walk etc.[114]), and if passengers would be allowed more time to reach their gate: if it would be possible for them to check in earlier and if the information about their departure gate would be communicated to them as soon as this information becomes available for the airport/airline and not only a short time before the flight departs.

Finally, as indicated earlier several airlines claimed that PRM charges are not cost related and reasonable in many European airports. If there would be procedural safeguards to ensure that the airport managing body sets the PRM charge after a genuine consultation with airport users (airlines) and NEBs would more actively monitor the setting of PRM charges, a significant amount of costs could also be saved.

5.2.5. Could the use of other policy instruments or mechanisms have provided better efficiency?

As the aim of the intervention was to establish uniform rights that citizens can exercise in the same way across the Union, therefore it was decided to choose an EU regulation as the most appropriate measure. Regulations are directly applicable in all Member States and binding in their entirety. Compared to directives, regulations do not need implementation into national legislation, therefore they can be applied after a shorter transition period given to operators and Member States to prepare for their application.

[113] Heathrow Airport made experiments in 2019 with 'basic assistance service' where the participants were offered help in wayfinding, language difficulties instead of wheelchair assistance, and 84% of them indicated that they would prefer in the future this basic assistance and not a wheelchair assistance which is the assistance provided by default to PRM at Heathrow Airport.

[114] ACI – Europe's guidance document mentioned in footnote [currently 63] provides several tips to make airports more accessible and easier to navigate for all.

Choosing a Directive could have also created the risk that Member States would implement certain provisions differently. Although the Regulation establishes uniform rights for PRM, at the same time it allows a lot of flexibility for Member States in respect of its enforcement: for instance, Member States can designate existing transport, civil aviation, consumer protection or equality authorities to monitor and enforce compliance with the Regulation[115], while relying on national sanction regimes.[116]

The advantage of this approach is that the enforcement can be easily adapted to the national enforcement systems existing in a given Member State, but it leads, as shown above, also to an unequal playing field for PRM, airlines and airports.

5.3. Relevance

Evaluation questions

5.3.1. To what extent did the original objectives of the Regulation prove relevant to the particular needs of PRM identified at the outset of the intervention?

As presented in Chapter 2, the Commission identified the following needs of PRM in its legislative proposal:

- PRMs were denied boarding for reasons other than safety;
- There was no established, consistent process for booking assistance;
- Only limited rights had been granted to PRMs under Regulation (EC) No 261/2004;
- The responsibilities of airports and airlines to provide assistance were unclear; and
- There was no system for imposing sanctions following an infringement of PRM rights.

Most of the above mentioned needs are met by the establishment of rights in the Regulation, and only three gaps can be identified.

The first gap is related to the missing establishment of a consistent assistance booking process. Here the issue of transmission of information between airlines and airports, travel agents/tour operators and airlines remains problematic. When PRM book with a travel agent or a tour operator these will transmit the pre-notification to airlines, but because of the lack of well-established channels it is difficult for travel agents and tour operators to transmit such information to an airport: In absence of such channels they need to find appropriate contact points at airports, while such contact points are often impossible to identify at airports' websites.[117]

[115] See Figure 2 under point 3.2.1.
[116] The variety of approaches that Member States took is reflected in Appendix D (Country fiches) of the support study.
[117] See support study point 3.115

In addition, travel agencies and tour operators do not forward the contact details of PRM customers to the airlines. If an airline needs to contact PRMs to clarify assistance requirements or inform them of a relevant operating change, it may then not be able to do so directly, but only via the intermediary and depends then on the intermediary that this information reaches the PRM on time. Travel agents and tour operators refer to data protection issues and consider contact details of their customers commercially sensitive, and are therefore reluctant to share it with airlines (who may compete for their patronage directly in the future).

The other legal gap is related to the limited legal framework as PRM are not entitled to receive full compensation in case their mobility equipment is lost or damaged. The Commission has already proposed in 2013 a legislative change in this regard in the context of the review of Regulation (EU) No 261/2004 and Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air[118].

Consequently, it can be concluded that in general the needs of PRM identified at the outset of the intervention and the operational objectives of the Regulation match each other and most operational objectives were translated into effective rights.

5.3.2. Do the original objectives of the Regulation still correspond to the current needs of PRM in the aviation sector?

Most stakeholders responding to the consultation considered that the fundamental needs of PRM, meaning being able to travel irrespective of the type of disability or reduced mobility they have and the type of mobility equipment they use, have not changed since the Regulation was adopted.

Consequently, the determination of key rights and responsibilities remains critical to PRMs travelling by air and the associated operational objectives continue to be highly relevant.

In addition to the needs that existed at the time when the Commission's proposal was adopted, PRM's expectations and the way these expectations are taken care of have changed. Today, PRM expect:

- Accessible communication[119] (for example in audio or tactile format, Braille, large print, plain language),
- To be able to arrive at the airport and take the flight (same as other passengers) without the need to pre-notify their assistance need,
- To have more control over the assistance provided (they should be able to specify their needs, and the assistance should reflect those needs),

[118] See above under point 3.3.3 COM(2013)130 final, see footnote 64 above and below in more detail under point 5.4.2

[119] According Art. 2 of the UNCRPD "communication" is a very broad concept, its definition includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology.

- To be able to choose between online interaction and face-to-face interaction with airlines and airports (as certain airlines build their business model predominantly on online interaction with their passengers which pose challenges to those PRM for whom online communication is not possible or too difficult because of their disability).

It can be concluded that the Regulation remains relevant in the context of the travelling environment of PRMs. However, while it is largely fit for purpose, the above mentioned expectations of passengers are not fully reflected in the Regulation.

5.3.3. How well is the Regulation adapted to technological or scientific advances that may help PRMs travelling by air?

Since the adoption of the Regulation significant technological and scientific advances took place and it is deemed that the Regulation has not been an obstacle to those developments.

The Regulation is not explicit as to which technologies should be used for the provision of assistance. Therefore, it has not created any barrier to the use of certain technologies and the gradual reduced reliance on others. The disadvantage of this approach is that it has left operators responsible for some choices provided that they comply with the wider regulatory environment mandated by EASA. Consequently, policies related to the transport of batteries for electric wheelchairs or oxygen bottles vary between airlines and it can be difficult for PRM to understand and interpret them.

5.4. Coherence

5.4.1. To what extent are the provisions of the Regulation coherent and consistent with one another? Are there any overlaps, contradictions or inconsistencies?

The main mechanisms of the Regulation are consistent and set forth logically; nevertheless, an issue related to the internal coherence of the Regulation have been identified:

There is a lack of consistency between Recital 17 and Article 14 of the Regulation regarding the NEB which shall have the authority to enforce the Regulation with regards to airlines. Recital 17 states that "*complaints concerning assistance given by an air carrier should be addressed to the body or bodies designated for the enforcement of this Regulation by the Member State which has issued the operating licence to the air carrier*". Article 14 states that the "*Member State shall designate a body or bodies responsible for the enforcement of this Regulation as regards flights departing from or arriving at airports situated in its territory*". Although the recital is not legally binding, these two provisions are inconsistent, and the Commission[120] has clarified in its

[120] Interpretative Guidelines on the application of Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air, SWD(2012) 171 final, see reply to Question 16.

interpretative guidelines who is responsible for enforcement. Since then, NEBs did not report any overlaps, contradictions or inconsistencies relating to these two provisions.

5.4.2. To what extent the Regulation is coherent and complementary with other relevant EU legislation and with international obligations?

EU transport legislation

Regulation (EC) No 261/2004

Regulation (EC) No 261/2004 imposes a general obligation on airlines to prioritise the needs of PRM in the case of denied boarding, cancellations or long delays, and specifies that PRM shall have a right of care as soon as possible in those situations.

However, it is unclear whether, for the purposes of Regulation (EC) No 261/2004, cases of denied boarding also include situations where a PRM is denied boarding because of safety reasons in accordance with this Regulation. In case such incidents are also considered as denied boarding for the purposes of Regulation (EC) No 261/2004, the PRM passenger can benefit from the protection granted by the latter as any other passengers who are denied boarding (right to choose between reimbursement, rerouting or rebooking, right to care and right to compensation).

Regulation No (EC) No 2027/1997 on air carrier liability in respect of the carriage of passengers and their baggage by air

An important gap in the Regulation relates to the compensation for damaged or lost mobility equipment. According to the Regulation, where mobility equipment or assistive devices are lost or damaged whilst being handled at the airport or transported on board aircraft, the passenger to whom the equipment belongs shall be compensated "in accordance with rules of international, Community and national law". It is the Convention for the Unification of Certain Rules for International Carriage by Air (commonly known as the 'Montreal Convention') transposed into EU law by Regulation No (EC) No 2027/1997[121], which regulates the airlines' liability for lost or damaged mobility equipment. According to the Montreal Convention compensation for lost or damaged personal baggage (which also includes mobility equipment) is subject to limits (currently approximately EUR 1,365) and it often does not cover the true costs of replacement or repair of a mobility equipment which are made-to–measure and can cost the price of a new car. According to the PRM organisations responding to the public consultation this is one of the most important legal gaps in the Regulation.

The Montreal Convention allows a passenger to make a special declaration of interest in delivery at destination when the baggage is handled over to the airline and, if airline so requires, the passenger has to pay a supplementary sum. In this declaration, the passenger

[121] Council Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in the event of accidents (OJ L 285, 17.10.1997, p. 1–3).

indicates the value of the baggage, and the carrier will be liable to pay a value not exceeding the declared value of the baggage, unless it proves that the value is greater than the passenger's actual interest in delivery at destination. This special declaration of interest can also be made in case of the transport of mobility equipment. However, making a special declaration of interest can be a complex administrative procedure and some airlines charge a high fee for this declaration.

Many airlines participating in the stakeholder consultation indicated that they voluntarily lift the compensation limit and pay full compensation for damaged or lost mobility equipment; however, they do not indicate this on their websites in order to avoid possible abuses of this policy.

This problem was recognised by the EU co-legislators and addressed in subsequent passenger rights legislation: the rail, bus and coach and waterborne passenger rights regulations specify that a PRM is entitled for full compensation in case their mobility equipment is lost or damaged[122].

In its proposal of 2013 to revise Regulation (EC) No 261/2004 and Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air the Commission also intended to solve the problem of compensation for lost or damaged mobility equipment by proposing to compel airlines to automatically offer the option to make a special declaration of interest laid out within the Convention, at no additional cost[123]. However, this proposal is still pending.

The Regulation is also silent about the question who shall pay this compensation. Although Annex I to the Regulation states that airports are responsible for the ground-handling of mobility equipment, it does not change the legal liability stipulated in the Montreal Convention in relation to the handling of such equipment. Airlines and their agents remain liable in case of damage to mobility equipment in accordance with the Montreal Convention.

Passenger rights Regulations dealing with other modes of transport (rail, waterborne and bus and coach)

As mentioned in the introduction, passenger rights were adopted on a modal basis and the differences between them may create confusions for passengers.

It is worth noting that for the other transport modes (rail, bus and coach and waterborne transport), the rules for PRM are integrated in the unique modal passenger rights regulation for each mode. Only for air transport two separate Regulations exist, which makes it more difficult for PRM to learn about their rights when flying.

[122] Article 25 of Regulation (EC) No 1371/2007, Article 15 of Regulation (EU) No 1177/2010 and Article 17 of Regulation (EU) No 181/2011.
[123] See COM(2013)130 final.

In addition to the difference between the Regulation and other passenger rights Regulations regarding the liability for lost or damaged mobility equipment, there are a few other differences.

First, the deadline to pre-notify assistance needs is 48 hours for the air transport, rail transport and waterborne transport[124], at the same time, it is 36 hours in bus and coach transport[125] and after the new rail passenger rights Regulation becomes applicable it will be only 24 hours for rail transport[126]. Although the issue of pre-notification was mentioned by some PRM representatives, it is less important compared to other modes of transport for two reasons: as indicated earlier, airports and airlines tend to make the outmost efforts to provide assistance even if such assistance need is not notified in due time and there are very few cases where a PRM cannot fly because of the lack of proper pre-notification. The second reason is that PRM, similar to other passengers, use air transport less spontaneously than other collective transport modes (rail, bus and coach and ship): they usually plan their trips days in advance their departure therefore the requirement to pre-notify their needs two days before the journey is less burdensome than in case of other transport modes where it often impedes making spontaneous trips.

Second, if an accompanying person is needed to help the PRM to comply with the safety rules, the regulations related to the other modes of transport allow this person to travel free of charge[127] which is not the case for this Regulation. This is a serious issue for PRM, because in case they do not plan to travel accompanied by someone who can help them to comply with the safety rules, this can cause them substantial extra costs[128].

As regards complaints, the Regulation does not stipulate any time limitation for passengers to submit their complaints[129], neither requires airlines or airports to reply a complaint within a specific deadline.[130] In case of rail passenger rights there is no time limitation for the passenger to complain, but there is a deadline for the rail company or railway station manager to reply, and for waterborne and bus and coach transport there is a time limitation for the passenger to submit the complaint, but also for the carrier or terminal operator to reply to the complaint[131].

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[124] See Article 7(1) of the Regulation, Article 24 of Regulation (EC) No 1371/2007 and Article 11(1)(a) of Regulation (EU) No 1177/2010.
[125] See Article 14(1)(a), Regulation (EU) No 181/2011.
[126] See Article 24(a), Regulation (EU) No 2021/782. However, Member States can postpone the application of the 24h pre-notification period from 7 June 2023 (when the recast Regulation becomes applicable) until 30 June 2026 and apply a 36-hour pre-notification instead.
[127] Waterborne: Article 8(4) of Regulation (EU) No 1177/2010, Bus: Article 10(4) of Regulation (EU) No 181/2011, rail: Article 23(1)(b) Regulation (EU) No 2021/782
[128] In addition, some airlines require accompanying persons to pay a fee to be seated next to the PRM. The Italian NEB decided that this is contrary to the Regulation (see a recent decision of the Italian NEB in this regard:
https://www.enac.gov.it/sites/default/files/allegati/2021-Lug/GENDISP-ENAC_Provvedimento_urgenza_DG-16072021-0000063-P.pdf)
[129] Article 15(1) of the Regulation.
[130] Article 15(1) of the Regulation
[131] Article 27(2) Regulation (EC) No 1371/2007, but this has changed under Regulation (EU) No 2021/782, see Article 28(2); Article 24(2) Regulation (EU) No 1177/2010 and Article 27 Regulation (EU) No 181/2011.

Another problem is the protection of PRM on multimodal journeys. As the current EU passenger rights acquis is based on modal regulations, PRM are left unprotected at modal interfaces. For example, when a PRM passenger combines air and rail transport because the airport is a multimodal hub with rail connection, he or she has no right to be assisted to reach the airport from the rail station or vice versa.

Directive 96/67/EC[132] (The Ground-handling Directive)

The luggage and mobility equipment of PRM is handled by ground-handlers that, depending on the situation, can be airport subsidiaries or the airline or third parties. The quality of their work has a significant impact on the PRM' travel experience.

A significant coherence issue arises as regards ground-handling from the difficulty of airport managing bodies to influence ground-handling service performance, because in the majority of cases they are not in a contractual relationship with ground-handlers. However, if they select ground-handling companies at a competitive bidding process, such process may contain specific provisions concerning the quality of the service provided for PRM. Furthermore, airport managing bodies can also issue rules of conduct, which are guiding principles for the service providers at the airport. These rules are binding for ground-handlers and their breach can lead in extreme cases to a loss of an approval to perform ground-handling activities at the specific airport[133].

Aviation safety rules

Aviation safety rules were adopted in the form of Commission Regulation (EU) No 965/2012, on the basis of technical opinions issued by EASA. EASA is also responsible for monitoring the uniform application of aviation safety rules and for inspections. EASA rules governing the transport of PRM are provided in two documents (Acceptable Means of Compliance (AMCs) and Guidance Material (GM))[134] which contain specific rules and guidance on the carriage of "special categories of passengers" (SCPs), including PRM.

The Regulation does not specify any requirements related to aviation safety, therefore there is no coherence issue between the Regulation and EU aviation safety rules. However, as explained above,[135] it should be noted that vague safety rules of airlines may give leeway for different interpretation by airlines and passengers in regards to carriage of e.g. oxygen tanks.

Directive 2009/12/EC[136] (Airport Charges Directive)

The Airport Charges Directive does not apply to PRM charges[137], which are treated differently from other airport charges. There are no coherence issues between the two

[132] OJ L 272, 25.10.1996, p. 36–45.
[133] See Article 15, Directive 96/67/EC.
[134] https://www.easa.europa.eu/document-library/acceptable-means-of-compliance-and-guidance-materials
[135] See the case study on safety rules of airlines in Appendix C of the support study
[136] Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009 on airport charges (OJ L 70, 14.3.2009, p. 11–16).
[137] Article 1(4), Directive 2009/12/EC.

pieces of EU legislation, but the Airport Charges Directive could serve in two aspects as a model for a future possible amendment of the Regulation: the Airport Charges Directive establishes stricter requirements for airports to involve airport users in setting the charges: the Directive[138] mentions that before an airport sets its charges it must consult airport users (Article 8(4) of the Regulation only states that charges shall be established "in cooperation" with airport users) and if a party does not agree with the decision, it can appeal it before the independent statutory authority (the Regulation does not explicitly mention that airport users may appeal the airport managing body's decision related to PRM charges).

EU external aviation policy

Many horizontal agreements between the EU and third-countries, as well as the model horizontal agreement, do not include any mention of passenger rights in general, nor of the Regulation. This is because horizontal agreements are typically market agreements, including aspects such as traffic rights, taxation of fuel, but do not necessarily include other important elements, although most of them include safety requirements. Where third-countries have signed an Open Aviation Agreement with the EU, it includes significantly more of the EU aviation legislation, and depending when it was signed it may also cover passenger rights legislation, including the Regulation (for example the open aviation agreement signed with Israel in 2013 includes most of the Regulation's requirements).

EU consumer protection policy and legislation

All stakeholders agreed that the Regulation was coherent with EU consumer policy and did not identify any inconsistencies, especially regarding Directive 2015/2302/EU on package travel and linked travel arrangements (the Package Travel Directive)[139] and Regulation (EU) No 2017/2394 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the CPC Regulation).

The CPC Regulation provides for an enforcement cooperation framework for national authorities concerned with cross-border consumer law infringements. It would be possible for NEBs responsible for the enforcement of the Regulation to use this framework to share best practice, alert each other about malpractices that could spread to other countries and ask for assistance in ending the infringement. However, NEBs indicated that they do not use this opportunity because the enforcement of the Regulation requires action from NEBs predominantly within a single Member State.

[138] Article 6, Directive 2009/12/EC.

[139] Directive 2015/2302/EU of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC (OJ L 326, 11.12.2015, p. 1–33).

Directive 2019/882/EU on the accessibility requirements for products and services (the European Accessibility Act)

When it will become applicable in 2025, the European Accessibility Act (EAA)[140] will oblige airlines and airports to make their homepages, mobile apps, electronic ticketing services, real-time travel information services, ticketing and check-in machines compliant with EU wide accessibility standards specified in the same act. As the Regulation is silent about accessibility requirements, the EAA complements the Regulation, therefore there are no issues of consistency between the two legislative instruments.

International obligations

United Nations Convention on the Rights of Persons with Disabilities

The UN Convention on the Rights of Persons with Disabilities (UNCRPD) was adopted in 2006 and entered into force in May 2008. The EU, its Member States and the other four countries examined in this evaluation are all parties to the UNCRPD[141]. Article 9 of the UNCRPD imposes a legal obligation on the Member States that have ratified it and on the EU to incorporate accessibility requirements in national and EU legislation.

There is no coherence issue between the UNCRPD and the Regulation, but it must be noted that the Regulation alone cannot be sufficient to ensure air transport accessibility. The Regulation imposes on airlines and airports the obligation to assist PRM, but it does not require airports, airlines or Member States to make airport infrastructure and aircrafts accessible for PRM.

The ICAO Convention

ICAO has considered the needs of PRM for many decades, and certainly before Regulation 1107/2006 was drafted. Annex 9 of the Convention has been in place since the 1990s and covers, among others, facilitation of the transport of PRM and focusses on the delivery of "special assistance in order to ensure that they receive services customarily available to the general public". It defines a number of Recommended Practices for Member States[142] which are very similar to the obligations of the Regulation, however those Recommended Practices are not legally binding on Member States and operators.

[140] Directive 2019/882/EU of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L 151, 7.6.2019, p. 70–115).
[141] https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&clang=_en
[142] See ICAO Doc 9984 'Manual on Access to Air Transport by Persons with Disabilities' at:

ECAC Doc 30

ECAC Doc 30[143] provides, among others, guidance on the processes for delivering assistance services for PRM and monitoring service quality. Recital (10) of the Regulation states that in organising the provision of assistance to PRM and the training of their personnel, airports and airlines should have regard to ECAC Doc 30. However, since this is guidance material, it is not legally binding and is therefore not always followed by airlines or airports.

There is no issue of coherence between the Regulation and the ECAC Doc 30, because the Member States in the PRM Facilitation Subcommittee carefully solve potential inconsistencies between the ECAC Doc 30 and the Regulation and rather focus on how the former should complement the latter.

Relevant national health and safety legislation

There is sometimes a coherence problem with national health and safety legislation as PRM assistance would be only possible with the manual handling of PRM or their mobility equipment, however some national legislations prohibit this because of health and safety reasons). This problem can partly be solved with the use of assistance devices, however it should be noted that ground-handling of mobility equipment requires significant manual labour even today.

US PRM Legislation

Significant differences that exist between the Regulation and the US PRM legislation (known as 14 CFR Part 382), which can cause difficulties for air carriers: Part 382 applies to non-US carriers on flights to/from the US and all other flights that are operated as codeshares with US carriers (even if not to/from the US). The most significant differences are:

- Part 382 places the responsibility for provision of PRM assistance services on the airline, whereas the Regulation places this responsibility on both the airport and the airline.
  There is a conflict between the US and EU legislation, because flights from the EU to the US are covered both by EU and US legislation as well as flights from the US to the EU by EU carriers
  This means that US airlines operating transatlantic flights from Europe will want to supervise PRM assistance from the entrance of PRM in the airport whereas under the Regulation, they have to leave this responsibility to the airport;
- Part 382 does not permit carriers to request pre-notification. This means that US and other airlines operating to/from the USA (including European airlines) will be prohibited from actively requesting PRM passengers to provide details of their

[143] https://www.ecac-ceac.org/images/documents/ECAC-Doc_30_Part_1_12th_edition_May_2018_Amendment_4_Nov_2020.pdf

assistance needs on these flights as they find themselves in breach of US legislation; and

- Part 382 does not allow limits on the number of PRM on an aircraft and limits the circumstances in which an accompanying passenger may be required.

The differences between the two legislations,[144] may put PRM as well as carriers and airports in a difficult position. One stakeholder stated that different pre-notification periods between the EU and US PRM regulations has indeed caused confusion for transatlantic passengers.

5.5. EU added value

5.5.1. What is the added value of this Regulation compared to what could have been achieved at international level, at national and /or regional level?

The EU does not have exclusive competence to regulate the rights of PRM, therefore it shall be considered whether the same level of protection could have been achieved through other intervention at international, national or industry level.

Before the Regulation was adopted in 2006, there was limited appetite at international level to intervene, and the intervention was done by non-binding recommendations. ICAO already adopted its "Recommended Practices relating to Persons with Disabilities" and ECAC Doc 30 was also published before the adoption of the Regulation. However, none of these non-binding guidance documents could grant enforceable rights to PRM to non-discrimination and to a set of special assistance services available for them at airports and on board of aircrafts.

At industry level IATA already adopted for the first time in 1952 industry standards in its Resolution 700 on the acceptance and carriage of passengers requiring assistance, including PRM, however the non-binding nature of such standards did not allow to meet the objective of the intervention to grant PRM rights to use air transport comparable to other citizens.

Only eight Member States[145] had some form of disability equality or PRM protection legislation, which included to some extent rights for passengers when traveling by air. On the one hand, these legislations covered the largest part of the EU aviation market, on the other hand most Member States did not have any PRM protection legislation for air transport at all. The protection guaranteed by the national legislations varied between Member States, with some national legislation having a very limited scope. For instance, in most Member States there was no specific authority designated to enforce the rights and to handle complaints arising from disputes related to the transport of PRM travellers.

[144] See above under point 3.2.

[145] Germany, Spain, France, Italy, The Netherlands, Austria, Sweden and the UK. The national legislations of these eight countries are presented in Appendix F of the support study.

Most operators provided assistance to PRM travelling by air already before the Regulation, but this was not necessarily organised in a consistent manner. It was usually offered by airlines and subcontracted to ground-handlers, and airports were generally not involved in the provision of the service. Some airlines offered better services than others. The travelling experience of PRM therefore varied considerably, with the offer ranging from no service at all to assistance broadly comparable with that currently available. The quality of PRM assistance services also varied across European airports, depending for example on the networks operated by the airlines providing assistance. PRM were often requested to pay an additional charge for assistance, which sometimes was very high.

Given the diverse rules at international level, at national and /or regional level across the EU before the adoption of the Regulation for PRM when travelling by air[146], the protection provided to PRM would have varied considerably across Europe, potentially reducing PRM's confidence to travel by air and hence the number of PRM travelling by air would be much lower[147]. Some of these passengers would also have faced additional financial burdens in the form of a separate charge for the assistance.

5.5.2. What would be the likely consequences of stopping or withdrawing existing EU intervention on air PRM?

It can be reasonably assumed that PRM would continue to receive assistance even if the Regulation would be withdrawn. As already noted, some PRM assistance services existed before the Regulation was adopted, although they were provided in a different form and with less consistency. The Regulation proved to be very successful to demonstrate to a wide range of stakeholders that there is a need to offer PRM opportunities comparable to other citizens to use air transport. In addition, as mentioned earlier, all the 31 countries examined in the evaluation committed themselves to take measures to provide PRM access to air transport when they ratified the UN Convention on the Rights of Persons with Disabilities (UNCRPD).

Consequently, it is likely that most Member States, including many with no legislation before 2008, would maintain some requirements to provide PRM travelling by air with assistance in their national law. However, given the different characteristics of the aviation industry in Europe it is reasonable to expect that Member States would have different approaches, therefore the rights of PRM and the obligations of carriers would be very different[148].

There would also be no guarantee that the PRM would continue to receive assistance services free of charge as they currently do. This would depend on the choice made by Member States when adopting their national legislation on the rights of PRM when travelling by air. If national legislations would revert to the situation before the

[146] See above under point 2

[147] As indicated above, both the absolute number of PRM passengers and their share within all passengers grew between 2008 and 2019. In 2006 less than 1% of all passengers were PRM in most Member States, but until 2018 their share grew to between 1% and 1,25% which is a quite important increase.

[148] It is likely that Member States with large network airlines and hub airports would regulate PRM rights differently from Member States that do not have a major flag carrier.

Regulation was adopted and airlines would be solely responsible for the assistance of PRM, the airlines would respond to commercial pressures to levy a separate charge at least for certain assistance services and reduce the ticket price that all passengers pay.

5.5.3. To what extent do the issues addressed in the Regulation continue to require intervention at the EU level?

Aviation is a global industry. As a consequence, PRM derive added value from a coherent and unique European framework of rights: they can expect to have the same rights everywhere no matter where they travel while airlines and airports benefit from a level playing field. In addition, airlines and airports do not need to adapt their procedures to the diverging requirements of the different jurisdictions where they operate. Hence, while in theory it would be possible to leave to Member States to further develop the legislative framework, in practice this would be likely to expose both passengers and operators to regulatory inconsistencies and anomalies.

6. CONCLUSIONS

The Regulation was adopted to provide PRM with opportunities for air travel throughout Europe comparable to those of other citizens. In particular, it aimed to ensure that their rights to non-discrimination and mandatory assistance were recognised by the air transport industry. It introduced a specific, enforceable framework of rights for PRM when travelling by air in the European Economic Area.

This evaluation, which began in July 2019, is based on the collection and analysis of published pan-European data and information from stakeholders and other industry sources over a two-year period. Although the quality of contributions from stakeholders can be considered good, the lack of detailed data on the air transport market for PRM and the profile and share of the population of PRM travellers complicated the analysis.

The purpose of the evaluation was to analyse the impact of policy changes brought by the Regulation. The evaluation addresses to a limited extent the consequences of the COVID-19 pandemic on PRM assistance.[149]

6.1. Effectiveness

Evidence gathered for this evaluation indicates that the Regulation has been very effective in meeting the objectives of the legislation. PRM have more freedom to travel by air at no extra cost to them, and barriers that may have prevented them from travelling before the entry into force of the Regulation have been substantially overcome. PRM options for travelling by air are now broadly comparable to those of other citizens.

[149] See above under points 1.2 and 3.5.4.

All stakeholders that took part in the consultation, including organisations representing PRM, agreed about the Regulation's overall effectiveness.

The main improvement in the treatment of PRM can be observed in the following terms:

- operators have greater awareness of the needs of PRM;
- assistance is available to any passenger who requests it, at all European airports and on board of airlines, at no extra charge for the PRM themselves;
- the treatment of PRM across airlines, airports and Member States has become more consistent;
- in general the quality of PRM services has also improved;
- the number of incidents of PRM being denied boarding declined.

At the same time, several factors undermined full achievement of the aims of the Regulation:

- There are no clear requirements for disability-related training of all staff who have a role to play in the delivery of a seamless travel experience for all passengers. This applies in particular to travel agents and tour operators (who need to understand the impact of different disabilities on air travel and record the special needs of PRM travellers) and security and immigration officers and ground-handlers (who load mobility equipment on board and can cause significant damage if they do it incorrectly).
- Current pre-notification procedures do not always allow PRM to specify what their assistance needs are, so the service cannot be tailored to their needs.
- Several stakeholders indicated that when the Regulation first began being implemented, operators focused more on the needs of passengers with reduced mobility to the detriment of the needs of passengers with other, often not visible disabilities (people with a hearing impairment, visual impairment or intellectual or developmental disability). In recent years there have been constructive initiatives at a number of airports (e.g. discreet symbols allowing persons with a hidden disability to signal their special need) that can be implemented throughout Europe.
- The Regulation contains several legal gaps. It does not specify what 'mobility equipment', 'medical equipment' or type of 'recognised assistance dog' airlines have to transport free of charge and which can cause disputes between airlines and PRM. In addition, several stakeholders indicated that they were uncertain whether certain categories of passengers (e.g. parents travelling with toddlers, pregnant women, obese persons) came within the scope of the Regulation or not.
- Denied boarding incidents continue to occur, and PRM representative organisations are sceptical about airlines refusing to transport PRM purely for aviation safety reasons (this is particularly the case where certain airlines limit the number of PRM, wheelchairs or assistance dogs transported while other airlines operating the same flight with the same aircraft do not have such restrictions). Safety rules and guidelines of airlines vary significantly and often there is

ambiguity surrounding their application. This applies in particular to the policy toward the transport of electric wheelchairs, batteries and oxygen bottles, leaving PRM exposed to the risk of being denied boarding. PRM representative organisations also point out that some airlines request that PRM travel with an accompanying person, even when this is not necessary to comply with safety requirements (e.g. to help PRM to eat or drink).

- Although in most cases the allocation of tasks between airlines, airport managing bodies and ground-handlers is clear, in the case of some tasks it is not: for example, it is unclear who is responsible for carrying mobility equipment to the aircraft hold and for loss of or damage to it (the airline, airport or ground-handling company).
- There is no financial compensation for PRM whose rights as granted by the Regulation were infringed, except in the case of compensation for lost or damaged mobility equipment.
- One of the most important issues relating to effectiveness concerns the liability ceiling for damaged or lost mobility equipment. This specific topic is not regulated by the Regulation (which refers to national, EU or international law) but by the Montreal Convention (transposed into EU law under Regulation (EC) No 2027/97) which currently sets this liability ceiling at approximately EUR 1 365; this ceiling does not reflect the real value and replacement cost of some tailor-made mobility equipment. This amount makes no distinction between luggage and mobility equipment and as this topic is regulated by the Montreal Convention, changing the rules could involve difficulties. In its 2013 proposal to revise Regulation (EC) No 261/2004 and Regulation (EC) No 2027/97, the Commission also aimed to solve the problem of compensation for lost or damaged mobility equipment by proposing to require airlines to automatically offer PRM the option of making a special declaration of interest laid out within the Montreal Convention, at no additional cost.[150] However, this proposal is still pending.
- Many of the NEBs cannot make binding decisions if a PRM passenger submits a complaint.
- While in principle the Regulation ensures equivalent PRM rights in the different Member States, in practice differences in interpretation among airlines, airports and NEBs and inconsistencies in the approach to enforcement (in terms of both proactive monitoring and sanctioning) adopted by NEBs across 31 jurisdictions continue to prevent PRM from exercising uniform rights throughout Europe.
- Several NEBs seem to deploy very low resources to the enforcement of the Regulation and their monitoring enforcement and sanctioning is mostly limited to reacting to complaints, which does not seem an acceptable approach to effectively enforcing the Regulation.
- Infrastructural constraints and lack of investment in airport accessibility undermines the effectiveness of the Regulation; however, as mentioned above,

[150] COM(2013)130 final

the Regulation does not impose any obligation regarding infrastructure accessibility.

6.2. Efficiency

The mechanism within the Regulation designed to ensure the funding of PRM assistance free of charge for passengers benefiting from it has worked efficiently, at least it did before the onset of the COVID-19 pandemic.

The cost of PRM assistance is shared across all air passengers. In 2019 it amounted on average to EUR 0.55 per passenger, a value low enough not to impact air ticket prices much. The average cost of assisting one PRM was EUR 75 in 2019, which is not trivial, being sometimes comparable with - or higher than - an average airline ticket.

PRM assistance requests increased between 2008 and 2019, as did the overall costs of providing assistance, but PRM still constitute a relatively low proportion of all passengers travelling by air.

Stakeholders that took part in the consultation did not complain about unreasonable costs related to PRM assistance. Airlines are conscious of the increase in overall costs because of the increased demand for assistance, and have called for greater transparency on behalf of assistance providers and airport managing bodies together with more oversight from the appropriate authorities to ensure maximum cost-efficiency. (Some airlines participating in the stakeholder consultation argued that it was less expensive for them to provide assistance before the Regulation was adopted and they could arrange the provision of assistance themselves.) NEBs reported that so far they did not have significant regulatory costs as a result of implementation of the Regulation, although it seems that a number of them are understaffed.

According to airlines and airports, PRM assistance costs could be reduced through a higher level of pre-notification for assistance requests (and also by enabling PRM to specify their assistance needs in more detail). Some airlines added that increased scrutiny of the cost of PRM assistance service provision by establishing procedural safeguards in the Regulation when setting the PRM charges, along with more proactive monitoring of PRM charges by NEBs, would also reduce PRM assistance costs. Additional savings in operational costs could be made by making airports and aircrafts more accessible and designing airports with the needs of PRM in mind. This would have to be assessed against the investment cost of such infrastructure changes. Stakeholders also indicated that costs could be reduced by giving more time for PRM to come to the airport earlier and reach their flight independently, and to offer (for free or for a small fee) wayfinding services to passengers who misuse PRM assistance because they cannot find their ways in complex airports. The Commission has not yet assessed such policy measures.

6.3. Relevance

The general objective of the Commission's proposal in 2005 (i.e. to provide PRM with opportunities for air travel comparable to those of other citizens) and its specific objectives (to provide increased, seamless assistance at all airports and to avoid giving airlines incentives to reduce the number of PRM carried) were aligned with the problems identified at the time. The needs of PRM have not significantly changed since the Regulation was drafted and adopted. Without the Regulation, these problems would most probably remain, so it can be concluded that the Regulation was relevant at the time of its adoption and is still relevant.

Since the adoption of the Regulation, significant technological and scientific advances have taken place (notably in the assistance of PRM and the mobility and medical equipment PRM wish to carry themselves also when travelling by air) and it is considered that the Regulation has not been an obstacle to those developments. The Regulation is not explicit as to which technologies should be used for the provision of assistance. Therefore, it has not created any barriers to the use of new technologies. The disadvantage of such an approach is that operators have been left to make key choices (but at the same time they have to comply with the wider safety regulatory environment mandated by EASA). This has meant that safety policies, for example concerning the carriage of mobility equipment batteries, have varied between airlines and it is difficult for PRM to understand and interpret such policies in practice.

It could be concluded that the Regulation remains relevant in the context of the travelling environment for PRM. However, while the Regulation is largely fit for purpose, there are a number of new and outstanding technological issues (transport of batteries, electric wheelchairs, oxygen bottles) which have not been addressed.

6.4. Coherence

The provisions of the Regulation are in general coherent and consistent with each other.

The Regulation is also coherent with other EU legislation relating to air transport, and with EU consumer rights legislation.

The Regulation relies on the provision of assistance to PRM and it does not oblige airlines, airports or Member States to make airport infrastructure and aircrafts more accessible. Moreover, there is little scope in the European Accessibility Act to progress towards increased physical accessibility of air transport, although it should ensure progress towards greater digital accessibility. This means that, in its current form, the Regulation may need to be complemented by other instruments than the European Accessibility Act if the accessibility objectives of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) for travelling by air are to be met in full, as the UNCRPD requires that its parties, such as the EU and the Member States, take the necessary measures - including adopting legislation - to ensure accessibility.

The Regulation is coherent with ECAC Doc 30, a document that provides guidance on the processes for delivering and assessing service quality. However, the non-binding nature of ECAC Doc 30 limits its usefulness.

The modal nature of the EU passenger rights legislation causes difficulties for PRM travelling on multimodal journeys, as they may not be legally protected when they transition from one collective mode to the other.

In addition, often different rules apply in the different modal passenger rights regulations for the same situations (liability for mobility equipment, pre-notification deadline, transport of accompanying person, procedural deadlines to submit and reply complaints), which might confuse PRM passengers.

6.5. EU Added value

Because aviation is an industry dominated by cross-border services, passengers and operators derive added value from a coherent single European framework of rights, while airlines and airports benefit from a level playing field.

Before the Regulation there was no appetite to adopt binding rules at international level to regulate this field. Only nine Member States had national legislation in force to protect the rights of PRM when travelling by air, which certainly set a positive precedent; however, it did not result in a coherent framework of rights that could be exercised across Europe, or in a level playing field for airlines and airports.

Consequently, the Regulation has helped to ensure a better travelling environment for PRM, enabling them to travel by air with greater confidence and less risk of discrimination.

The available evidence indicates that it is very likely that the Regulation contributed to the increased demand by PRM to use air services within Europe, but it is not possible to draw firm conclusions as to the extent; this is because travel decisions are influenced by a wide range of factors other than PRM rights.

Withdrawing the Regulation would be likely to result in a return to various different approaches to the provision of assistance services, although experience of European legislation on PRM rights would mean that some elements of a common approach would persist. PRM would not enjoy the same benefits: they would probably receive less comprehensive and consistent assistance and would need to pay for certain specific services.

ANNEX 1: PROCEDURAL INFORMATION

1. LEAD DG, DECIDE PLANNING/CWP REFERENCES

The Directorate-General for Mobility and Transport ("DG MOVE") is the lead DG for the evaluation of the Regulation (EC) No 1107/2006 of the European Parliament.

The evaluation was registered in the Decide Planning under reference PLAN/2019/5756.

2. ORGANISATION AND TIMING

The ex-post evaluation of the Regulation was launched in with an evaluation roadmap on 31 July 2019 in line with the procedural steps set forth under the Commission's Better Regulation Guidelines. The evaluation roadmap together with the context, the purpose and the scope of the evaluation has been published on 11 July 2019.

The ex-post evaluation of the Regulation was performed in cooperation with other interested Commission services coordinated under the Inter-Service Steering Group ("ISSG"), which was established early in the evaluation process for that purpose. The ISSG consists of representatives from Secretariat General (SG), Legal Service (LS), European External Action Service (EEAS), Directorate-General for Mobility and Transport (MOVE), Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (GROW), Directorate-General for Employment, Social Affairs and Inclusion (EMPL), Directorate-General for Justice and Consumers (JUST), Directorate-General for Neighbourhood and Enlargement Negotiations (NEAR), Directorate-General for Regional and Urban Policy (REGIO), Directorate-General for Communications networks, content and technology (CNECT).

The table below describes the milestones of the evaluation phase.

Table 4. The milestones of the evaluation

Date	Activity
11 July 2019	Publication of the Evaluation Roadmap on Better Regulation portal
13 September 2019	1st meeting of the Inter-Service Steering Group: draft ToR, outcome of the published roadmap, consultation strategy
23 October 2019	Launch of the call for tenders for the support study, under Framework Contract MOVE/A3/2017-257
18 February 2020	Signature of the contract by external contractor
20 February 2020	Kick-off meeting with the contractor
23 April 2020	2nd meeting of the Inter-Service Steering Group - Inception report

3 July 2020	Start of Public Consultation
18 September 2020	3rd meeting of the Inter-Service Steering Group: - First interim report
23 October 2020	End of Public Consultation
10 November 2020	Stakeholder workshop
22 January 2021	4th meeting of the Inter-Service Steering Group – Draft final report
19 March 2021	5th meeting of the Inter-Service Steering Group – Final report
27 July 2021	Submission of the final report of the evaluation study
29 July – 31 August 2021	Inter-service consultation on the Staff Working Document

3. EXCEPTIONS TO THE BETTER REGULATION GUIDELINES

None.

4. EVIDENCE, SOURCES AND QUALITY

The evaluation assesses the Regulation's impact from the date when it started to apply until the beginning of the evaluation in February 2020. The analysis does not specifically cover the impact of COVID-19 pandemic in 2020 and 2021, as it is still premature to assess all its effects. However, when stakeholders have made specific comments or where effects are already clear and unambiguous these points are presented in the evaluation. The evaluation findings mainly rely on the support study carried out by an external contractor, which develops through the analysis of the effectiveness, efficiency, relevance, and coherence and EU added value of the Regulation. The external consultant gathered data, made desktop research, performed stakeholder consultation and further gathered evidence for the study.

The evaluation was completed with additional information gathered by the Commission such as knowledge from participation at workshops and conferences, missions and bilateral meetings with stakeholders and NEBs.

ANNEX 2: SYNOPSIS REPORT OF STAKEHOLDER CONSULTATION

This annex presents the results of the stakeholder consultation activities undertaken in the context of the ex-post evaluation of Regulation (EC) No 1107/2006 aimed at identifying the issues arisen since the implementation of the Regulation.

As set out in the consultation strategy, the objective was to gather the views of stakeholders and collect evidence on the key implementation of the Regulation: both qualitative information (opinions, views, suggestions for improvement) and quantitative information (data, statistics).

Before the evaluation, the Commission published a roadmap to inform citizens and stakeholders about the upcoming evaluation to allow them to provide feedback and to participate in the consultation. Between 11 July 2019 and 06 September 2019 the Commission received ten responses from both industry and Member States. Overall, there was great support from stakeholders to the Commission's intention to evaluate the Regulation and all stakeholders were pro-active suggesting areas that could be revised or areas to focus on during the evaluation.

During the support study an in-depth stakeholder consultation was conducted by the contractor. A comprehensive stakeholder consultation report can be found as a supplement to the support study.[151] Stakeholders were identified by the Commission together with the external contractor and the Commission participated in workshops and guided the external contractor through the entire consultation.

For the evaluation, several methods were used such as pilot interviews, targeted interviews, targeted questionnaires, public consultation and a workshop.

Questionnaires

Targeted stakeholder questionnaires were designed to obtain detailed views as well as data from the industry, PRM representatives and NEBs.

Seven sets of questionnaires tailored to each key stakeholder group (NEBs, airports, EU airlines, non-EU airlines, passenger and PRM representatives and passenger associations, ADRs and ECCs) were distributed. The questionnaires addressed the following evaluation topics: relevance, effectiveness, cost efficiency, coherence and, EU added value.

[151] Final report: https://op.europa.eu/en/publication-detail/-/publication/d8b8bd04-1b4d-11ec-b4fe-01aa75ed71a1/language-en/format-PDF/source-231259999
Executive summary: https://op.europa.eu/en/publication-detail/-/publication/621740d2-1b4f-11ec-b4fe-01aa75ed71a1/language-en/format-PDF/source-231261208
Stakeholder consultation report: https://op.europa.eu/en/publication-detail/-/publication/327ffbfa-1b4e-11ec-b4fe-01aa75ed71a1/language-en/format-PDF/source-231261449

Identified limitations

It was recognised that the questionnaires were lengthy and time consuming for stakeholders to complete comprehensively. Therefore, the level and quality of responses often reflected the stakeholders' interest in the Regulation. Some participating stakeholders (particularly passenger associations not specifically representing PRM), do not focus on air transport and thus their experience with and knowledge of the Regulation was very limited.

Interviews

A total of 26 interviews were conducted with selected stakeholders.

Table 5. Organisations interviewed for the support study

MS	Stakeholder type	Organisation
N/A	Airline	IATA - International Air Transport Association
N/A	Airline	ERAA - European Regions Airline Association (Regional carriers)
IE	Airline	Hibernian
N/A	Airline	A4E - Airlines for Europe
ES	Airline	Albastar
HU	Airline	Wizzair
DE	Airline	Lufthansa
NL	Airline	KLM
N/A	Airport	ACI-Europe
IE	Airport	Shannon airport
UK	Airport	Glasgow airport
CY	Airport	Larnaka airport
LT	Airport	Vilnius airport
ES	Airport	AENA (Spanish airport operator)
UK	Airport	London Heathrow Airport
IT	NEB	Italian CAA (ENAC)

MS	Stakeholder type	Organisation
NL	NEB	Environment and Transport Inspectorate (ILT)
CH	NEB	Federal Office of Civil Aviation (FOCA)
N/A	Other	European Aviation Safety Agency (EASA)
UK	Other	OCS Group (ground-handler)
N/A	Other	European Travel Agents and Tour Operators Association (ECTAA)
EL	Passenger representative	Consumer Protection Centre (ΚΕΠΚΑ)
N/A	PRM representative	European Disability Forum (EDF)
ES	PRM representative	Spanish Committee of Representatives of People with Disabilities (CERMI)
N/A	PRM representative	EDF
IE	Airport	Dublin Airport

Source: Steer stakeholder consultation report Tables 2.10 and 2.11

Candidates for interviews were selected taking into consideration the representativeness and diversity of the sample.

Workshop

A full-day participatory workshop with selected stakeholders was conducted on 10 November 2020 to collect views from participants. The discussion was centred on three themes: 1) pre-notification, 2) the relationship between aviation safety and the right of PRM to transport, and 3) how it can be ensured that the Regulation remains fit for purpose. The workshop was led and organised by the contractor, with the European Commission as an observer.

The workshop was attended by the following 28 stakeholders.

Table 6. Organisations that participated in the workshop

MS	Organisation	Group
-	Airport Council International (ACI) -Europe	Airports
DK	Copenhagen	

MS	Organisation	Group
UK	Heathrow	
CY	Larnaka	
CZ	Prague	
IT	Verona	
-	Airlines for Europe (A4E)	Airlines
ES	Albastar	
UK	EasyJet	
-	European Regions Airline Association (ERAA)	
-	IATA	
HU	WizzAir	
CH	Swiss CAA (FOCA)	NEBs
DE	German CAA (LBA)	
HU	Hungarian Ministry of Innovation and Technology	
IT	Italian CAA (ENAC)	
LT	Lithuanian Transport Safety Administration	
NL	Human Environment and Transport Inspectorate	
SE	Transportstyrelsen	
UK	UK Civil Aviation Authority	
N/A	European Union Aviation Safety Agency (EASA)	Other
IT	Italian ECC	
N/A	European Disability Forum (EDF)	Passenger and PRM

MS	Organisation	Group
N/A	Skywise Solutions (PRM trainer)	representatives
N/A	European Passengers Federation (EPF)	
N/A	European Blind Union	
N/A	European Union of the Deaf	
N/A	PassePartout (PRM Trainer)	

Source: Steer stakeholder consultation report Table 2.12.

Public Consultation

A public consultation was launched on 3 July 2020 and ended on 23 October 2020.

A total of 41 responses were received. The largest number of responses was given by PRM Representatives (10) and EU (8) and non-EU (1) citizens, making up just under one-half (19 of 41) of the sample. A significant number of responses were also received airlines (7), airports (5) and their associations.

Respondents gave the following answers to the five evaluation questions:

Effectiveness

In general, a significant majority (30 of 41) stakeholders assessed that the Regulation has improved access to air travel for PRM and their opportunities to use air transport is now comparable to the opportunities of other citizens –.

A number of positive and negative impacts of the Regulation were identified. In terms of the positive effects, a majority of respondents assessed that:

- The Regulation improved PRM's protection against discrimination;
- Airlines and airports are more proactive to satisfy the needs of PRM;
- The availability of information for PRM has improved (notably on airline's safety rules); and
- Complaint handling by NEBs has improved.

With respect to the Regulation's negative impacts, views varied by stakeholder groups. Airlines assessed that the definition of who qualifies for free PRM assistance service is too broad. PRM representatives and citizens assessed that some of the Regulation's provisions are unclear or open to diverging interpretation by carriers and NEBs.

EU Relevance

A majority of stakeholders stated that some of the Regulation's provisions are obsolete (e.g. the rules of transmission of information between travel agents, airlines and airports).

Alongside this, most stated that there are issues which the Regulation fails to address, for example whether certain categories of passengers like drunk passengers or pregnant women belong to the definition of PRM, the definition of mobility equipment, the accessibility of airports and aircrafts).

This highlights that there is still further work required to make progress against the original objectives of the Regulation, although a significant portion agree that the Regulation has improved the protection of persons with disabilities and PRM.

Efficiency

Most stakeholders stated that they had experienced difficulties implementing the Regulation. Airports and airlines stated that the cost of providing the free PRM assistance service has risen greatly as more PRM make use of the service. Airports and airlines also suggested that misuse of the service[152] has also become more common, although this suggestion was not substantiated. PRM representatives and citizens also stated that pre-notification was inconvenient and occasionally onerous. VDF, the German national association for ground handlers, stated that identifying appropriate training for staff to comply with the training requirements was difficult.

EU added value

The stakeholders did not address the question of EU added value.

Coherence

One stakeholder stated that different pre-notification periods between the EU and US PRM regulations has caused confusion for transatlantic passengers. No other points were raised.

Targeted consultations

The targeted questionnaires were designed to obtain data and stakeholder views, and drafted to ensure that similar questions were posed to each stakeholder group. It is important to note that stakeholder responses were not analysed using statistical approaches due to the highly qualitative nature of the responses received. Therefore, although response rates were closely monitored, the focus was more on the quality and detail provided in the responses, rather than the number of responses *per se.*

The majority of responses received were generally well detailed and provided valuable quantitative and qualitative information for the study. Responses were mostly received within the timeframe agreed. Nearly all responses were supplied in English and there is no evidence that this affected the quality of the submissions.

[152] E.g. people who do not live with a disability, but struggling with way-finding, seeking priority treatment when queuing or who do not want to carry their heavy baggage themselves request free PRM assistance service.

Interviews proved effective to investigate gaps in the qualitative data and gave stakeholders the opportunity to raise or stress particular points of importance.

However, it should be noted that the response rate of some key industry participants remained limited. This was particularly the case for the ground handlers which were particularly challenging to engage given the ultra-competitive nature of the sector and extreme pressure that COVID-19 brought to their business at the time of the consultation. Only one ground handler (OCS, a large UK PRM handler) participated at the consultation. This was partially offset, however, by engagement with European airports who are principally responsible for the delivery of the PRM service.

National Enforcement Bodies

Almost all NEBs (29/31) provided response, however, there was a large range in response quality and some questions were often left unanswered.

With respect to the effectiveness of the Regulation, most NEBs were uncertain whether the Regulation had changed the level of protection provided to PRM.

All NEBs to provide a view (13[153]) assessed that the Regulation's efficiency costs are proportionate to the benefits of the Regulation.

With respect to EU-relevance, NEBs overall assessed that the original objectives of the Regulation are indeed relevant to the current needs of PRM when travelling by air. Nevertheless, they mentioned that the Regulation could be better suited to some of the more recent trends (e.g. carriage of lithium-ion batteries for mobility devices and medical equipment, the use of PRM lifts and other tools as a replacement for manual handling into an aircraft of PRM passengers).

In terms of EU added value, the main benefit highlighted by NEBs was the ability for smooth travel for PRM anywhere in Europe and, albeit to a lesser extent, to anywhere in the world.

With respect to coherence, all NEBs judged that the Regulation's provisions were coherent and consistent with one another. With respect to other EU legislation, however, it was noted that the relationship between Regulation (EC) No 261/2004 and Regulation (EC) No 1107/2006 can be complex (for example it is not clear whether Article 11 of Regulation (EC) 261/2004 applies in the context of denied boarding as a result of delays in the assistance service).

[153] DK, EE, HR, HU, IS, IT, IE, PT, MT, NL, NO, UK (+ 1 confidential).

Airlines

All responses received by airlines were detailed with each answering the vast majority of questions.

Similar to NEBs, only few airlines provided a view on the extent to which the Regulation had increased the protection afforded to PRM when travelling by air. Nevertheless, of those airlines which took position (4), all agreed that protections had improved relative to the time before the Regulation's implementation. Nevertheless, they highlighted that airlines have had self-regulation in this area already decades before the adoption of the Regulation (e.g. IATA Resolution 700 on the standards for the carriage of passengers requiring assistance) and many were already committed to improving accessibility before the Regulation's implementation.

Airlines did not assess whether the intervention's regulatory costs (compliance, administration, etc.) were proportional to its benefits. Nevertheless, two highlighted that the Regulation had increased demand for air travel from PRM and had created a common legal framework for PRM assistance across Europe, reducing compliance costs. At the same time some airlines criticised the Regulation claiming that it increased significantly their costs: they argued that before the Regulation when it was their responsibility to provide the assistance service, they could do it at a much lower cost compared to the system created by the Regulation where airport managing bodies are responsible for organising the assistance and they impose very high PRM charges.

In terms of coherence, one major US flag carrier highlighted that the obligations of airlines are different between the European Regulation and its US equivalent.

On relevance, airlines generally agreed that the original objectives of the Regulation are relevant to the priorities of PRM when travelling by air today. Technological changes in the form of different batteries for different mobility equipment and a wider variety of assistive devices have generated challenges, such as tension with IATA's Dangerous Goods Regulations[154].

With respect to EU added value, airlines unanimously assessed that the use of legislation at a European level has been beneficial for ensuring fair competition within Europe and regulatory consistency and so lower compliance costs for airlines operating within Europe.

Airports

Five airports[155] which commented on effectiveness noted that the Regulation improved the protection for PRM.

[154] See https://www.iata.org/en/publications/dgr/?gclid=EAIaIQobChMI98ma48-87QIVQuztCh3cHAiHEAAYASAAEgJ-0fD_BwE.

[155] Copenhagen Airport, Dublin Airport, Larnarca Airport, Shannon Airport, +1 anonymous airport.

With respect to cost efficiency 7[156] airports responded that compliance costs are proportionate to the benefits of the Regulation. More, however, highlighted that costs could be reduced by making pre-notification mandatory or obliging PRM to prove their disabled status to prevent misuse of free assistance.

On relevance, airports agreed that the priority needs for PRM were safety, comfort, assurance and the preservation of their dignity when travelling.

In terms of EU added value, as with other stakeholder groups, airports assessed that the Regulation provides significant value by providing a consistent European framework. Furthermore, the clarity which the Regulation provides ensures that all parties are aware of their rights and obligations, leading to a better overall service for PRM.

Regarding coherence, the majority of airports stated that the provisions within the Regulation are coherent. Those who disagreed (2[157]) asked to further clarify the responsibilities of airports and airlines.

Passenger and PRM representatives

On effectiveness, PRM representatives reported that the Regulation had been somewhat effective at encouraging a similar level of protection for PRM when travelling by air throughout the EU. In general, the majority stated that the Regulation has helped to ensure that PRM have equal right to air travel, but also highlighted potential practices of discrimination and mentioned that travelling by air may still cause disproportionate costs to PRM (e.g. cost of accompanying persons, insurance against loss or damage of mobility equipment, etc.) and the lack of proper staff training at some airports.

On efficiency, PRM representatives shared a view that more effective monitoring and when necessary imposing financial sanctions would dissuade operators (e.g. airports and airlines) from breaching the Regulation. They also indicated that if the Regulation would allow to grant financial compensation to passengers whose rights were not respected that would also act as an additional incentive for operators to comply with the Regulation.

On relevance, PRM representatives concluded that the current needs of PRM travelling by air are similar to their needs when the Regulation was adopted.

On coherence, one PRM representative commented that the spirit of the Regulation and the safety derogations are, to an extent, conflicting. It was also mentioned that further work is required to ensure that the Regulation is coherent with the United Nations Convention on the Rights of Persons with Disabilities.

[156] Copenhagen Airport, Larnarca Airport, Prague Airport, Shannon Airport, Vilnius Airport, +2 anonymous airports.
[157] AENA, Dublin Airport.

European Consumer Centres (ECCs)

Almost all ECCs to respond had received no or very few complaints relating to the Regulation, and therefore could not provide a view on the effectiveness of the complaints handling process.

On the point of relevance, a significant majority of ECCs stated that their decisions are not binding for transport operators and they also cannot award additional damages or compensation beyond what is stated in the Regulation.

ECCs made no responses relevant to efficiency and coherence.

Alternative Dispute Resolution (ADR) organizations

As with ECCs, almost all ADRs to respond had received no or very few complaints relating to the Regulation, and therefore could not provide a view on the effectiveness of the complaints handling process.

ADRs' had no significant comments relating to relevance, efficiency or coherence.

Others

Two other stakeholders, the European Travel Agents and Tour Operators Association (ECTAA) and PRM ground handler OCS have also participated in the stakeholder consultation. .

In terms of effectiveness, the ECTAA stated that, according to their survey, two-thirds of travel agents provide the option to book assistance via their website.

OCS stated that the Regulation has been relatively effective in achieving its original objectives, although PRM still faces issues regarding the consistency of the assistance service across airlines and airports.

None commented directly on the Regulation's efficiency, although OCS commented that cost of assistance is not driven solely by the Regulation. For example, it is common for costs to vary across airports depending on passenger demographics, infrastructure, etc.

On relevance, OCS responded that wayfinding and navigation within the airport (i.e. to designated collection and check-in points) is a priority for PRM.

On coherence, the ECTAA sees no gaps or inconsistencies between the Regulation and the Package Travel Directive. OCS noted that there are differences between the EU, US and Canadian PRM legislation which require service options to be provided on their part to ensure compliance for flights to/from the US and Canada.

Problematic questions

Effectiveness

Many stakeholders did not provide a response on how effective the Regulation had been in achieving its general and specific objectives, with most finding it difficult to do so due to a lack of data (both quantitative and qualitative) or analysis of such. Data from those who were able to provide it was however collected, thus enabling an analysis of the Regulation's effectiveness. Nevertheless, of the small number of stakeholders to provide a response, most stated that the Regulation has been beneficial in bringing about the realisation of at least *some* of the Regulation's objectives.

EU added value

Although this question was answered in agreement with the Commissions understanding by the majority of stakeholders, a small minority misinterpreted the question as an assessment of how much value the Regulation contributed to their Member State or their individual organisation rather than the EU as a whole, However, this did not have a negative impact on the study because those who interpreted the question correctly responded similarly.

ANNEX 3: METHODS AND ANALYTICAL MODELS

This Annex is intended to provide detailed information on the approach already described under Chapter 4 of the Staff Working Document, as regards the methods and models used throughout this evaluation.

1. Short description of methodology

The methodology of this evaluation has been developed and structured in light of the key evaluation criteria of effectiveness, efficiency, relevance, coherence and EU added value in order to address the 24 evaluation questions set forth by the Commission at the design stage of the evaluation. The evaluation approach relies on a series of techniques and methods for the data collection and data analysis including evaluation matrix, desktop research, field research and case studies.

Stakeholder consultation

The stakeholder consultation consisted of pilot interviews, targeted interviews, targeted questionnaires, public consultation and a participatory workshop.

The consultation targeted the following stakeholder groups: passenger and PRM organisations, NEBs, carriers and their representative associations, airports and their representative association, ADR bodies, ECCs and other relevant stakeholders (disability awareness training providers, the association of travel agents and tour operators).

Case studies

The evaluation included three case studies which addressed the following topics: Safety condition applied by air carriers related to the transport of PRMs, Quality standards of airports related to PRM assistance and PRM charges applied by airports.

Table 7 - Case studies

	Choice of case study	Rationale
1	Safety conditions applied by air carriers related to the transport of PRMs	Safety of aviation operations is paramount, but safety can be used by air carriers to deny transporting of PRM. The case study examined the interplay between aviation safety rules and the right of PRM to travel by air.
2	Quality standards of airports relating to PRMs	Quality standards for handling PRMs and their luggage are essential in ensuring high levels of service quality. The case study examined the standards that are in place across Europe, how they vary, and how they are implemented. Coherence with the Ground handling Directive was also considered.

	Choice of case study	Rationale
3	PRM charges applied by airports	PRM assistance is free at EU airports and is paid by all passengers as part of their ticket prices. PRM costs are recorded separately and charges are set by airports. This case study examined how charges are set, how they vary across Europe and whether they are monitored by the relevant authorities. Coherence with the Airport Charges Directive was also considered.

Support study Table 2.2

Country-fiches

Country-specific information were created for each of the 27+4 countries included under the geographic scope of the evaluation. The information provided by the country-fiches focused on the description of the national enforcement systems and their SWOT analysis.

Carrier review

A review of 32 European airlines' websites was performed in December 2020 and January 2021 with the objective to understand their approach to PRM rights and how they present their safety rules relevant to PRM passengers.

Workshop

A full-day workshop took place on 10 November 2020. 29 stakeholders participated, including 8 NEBs, 7 PRM and passenger representatives, 6 airports and their representative, 7 airlines and their representatives and one representative of EASA.

The discussion was centred on three themes: pre-notification, the interplay between aviation safety and PRM rights, and ensuring that the Regulation remains fit for purpose.

Analysis of the evaluation baseline

The analysis of the evaluation baseline aims at assessing the impact of the policy changes introduced by the Regulation over time through comparing the actual recorded performance against a potential scenario without policy intervention. The aim of the analysis was to assess what the situation would have been, had the Regulation or any other EU-level legislation not been implemented.

The situation between 2003 and 2008 was analysed, which preceded the implementation of the Regulation (EC) No 1107/2006 and it was assumed that the resulting level of passenger rights in each Member State would have remained constant in the "no European policy intervention" scenario. It was assumed that other variables, such as total passengers and passengers by route

type remained the same across both scenarios, with and without policy intervention. The situation across both scenarios between 2008 and 2019 was then evaluated.

Cost-benefit analysis

A cost-benefit assessment was carried out, to estimate the costs and benefits accrued as a result of Regulation (EC) No 1107/2006.

The Standard Cost Model (SCM) method was applied, which allows to address the costs of Regulation (EC) No 1107/2006 for Member States (NEBs), industry stakeholders and PRMs. It allows for the quantification of actual costs (i.e. financial or monetised time costs) resulting from the requirements of Regulation (EC) No 1107/2006.

The model was originally designed for the assessment of the administrative burdens of competent authorities, individuals and organisations. However both an estimation of benefits derived through better rights of travel for PRMs and the estimated administrative burdens based on a complete implementation of the requirements in the Regulation has been used to reinforce and complete the approach chosen.

The table below presents a summary of all the costs and benefits incurred by all applicable parties.

Table 8 - Overview of costs – benefits identified in the evaluation

I. Overview of costs – benefits identified in the evaluation (EURm, 2018)						
	Citizens/ Consumers	Airports	Airlines	NEBs	PRM Passengers	
	Quantitative / monetary	Quantitative / monetary	Quantitative / monetary	Quantitative / monetary	Qualitative	Quantitative / monetary
Administrative	-	-	-	-EUR 45	-	-
Service provision	-EUR 2,699	-	-EUR 3,307	-	-	-
Claims	-	-EUR 29	-EUR 55	-	-	-EUR 19
Sanctions	-	-EUR 0.2	-EUR 0.3	-	-	-
Benefits	-	EUR 637	EUR 111	-	Very high	-
Total	**-EUR2,699**	**EUR 608**	**-EUR3,251**	**-EUR 45**	**Very high**	**-EUR 19**

Source: Steer analysis and evaluation Support study Appendix H Table H.1

2. Intervention logic

The following section will describe the intervention logic, which takes into account the situation in place in terms of passenger rights before the entry into force of the Regulation. It provides analysis of the ex-ante situation and an overview of the issues identified which led to the adoption of Regulation (EC) 1107/2006.

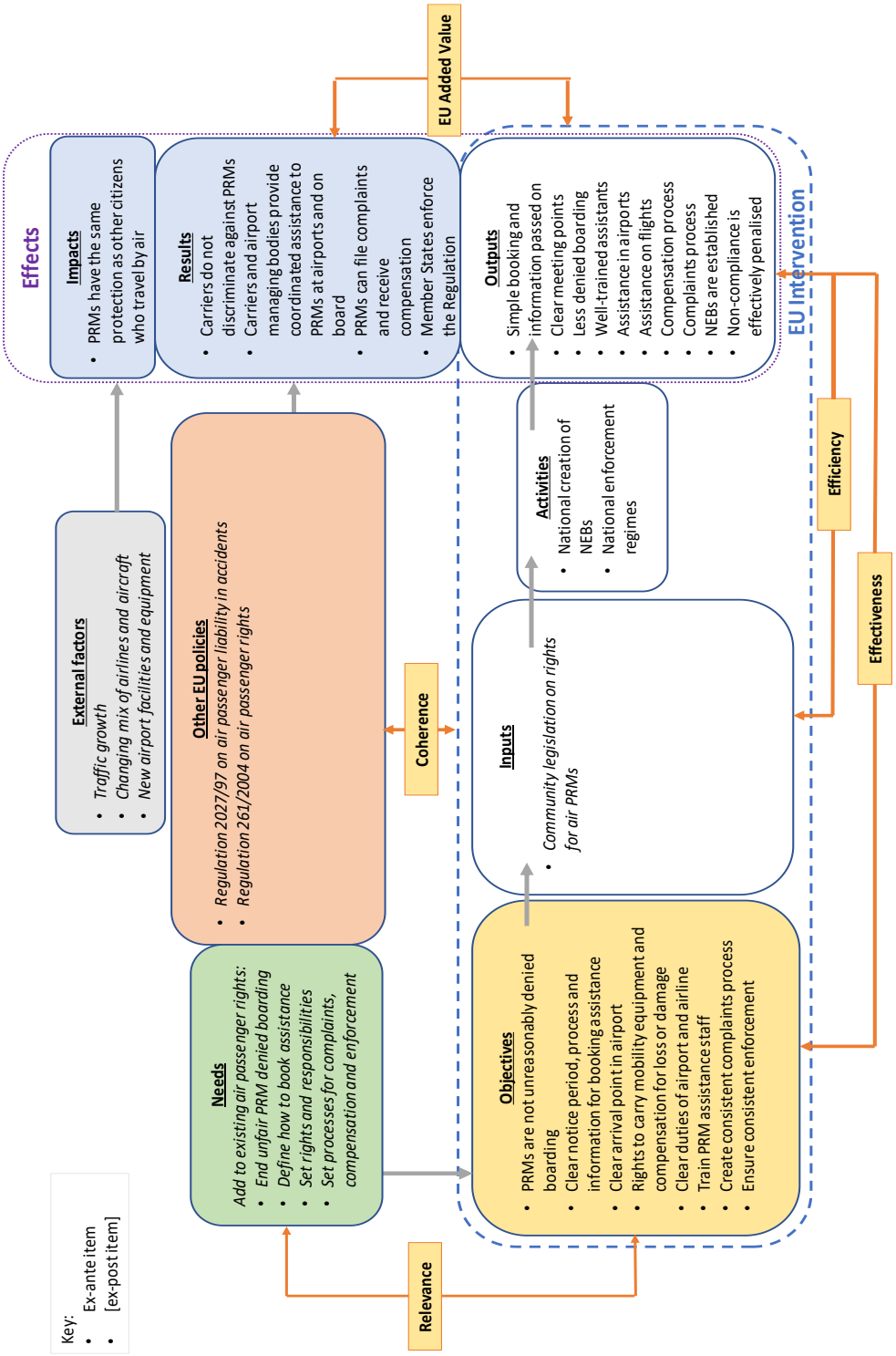
The legislative proposal

The legislative proposal is "Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning the rights of persons with reduced mobility when travelling by air" (COM(2005) 47 final). At that time no formal impact assessment supported the legislative proposal, however it was proceeded by an Explanatory Memorandum based on a public stakeholder consultation.

Figure 3 summarises the ex-ante intervention logic and supplements this with some ex-post items, drawing on a number of sources including:

- the 2005 legislative proposal;
- the Regulation as adopted;
- the exploratory stakeholder interviews.

Figure 3 - Intervention logic and the five key evaluation criteria – Air *PRMs*



Source: Support study Appendix B. Figure B.1

General objectives

The legislative proposal aimed at achieving that equal opportunities for air travel should be available for PRM. PRM should be confident that their needs will be met throughout the European Community, whatever airline or airport they plan to use.

Regulation (EC) No 261/2004 on air passenger rights already entered into force when the legislative proposal was adopted. Articles 9, 11 and 14 of Regulation (EC) No 261/2004 had created limited specific rights for PRMs. The stakeholder consultation undertaken then[158] received 47 contributions, with a consensus that, in addition:

- unjustified refusal of carriage of passengers on the grounds of reduced mobility must be prohibited; but
- carriers should be allowed to refuse transport for safety reasons; and
- PRMs should not be charged for assistance, and the costs should be borne by passengers in general.

There was, in contrast, disagreement over whether airports or airlines should be responsible for assistance in airports. It was decided that this should be organised centrally at each airport and funded through a charge on each airline proportional to the number of passengers it carries to and from the airport.

Specific objectives

The proposal set out two specific objectives:

- first, to ensure that assistance was given in an extended and seamless form at all airports; and
- second, to avoid giving airlines incentives to reduce the number of persons with reduced mobility that they carry.

Operational objectives

The specific objectives were not subdivided into more detailed operational objectives, however the operational objectives can be reconstructed on the basis of the legislative proposal (see Table 9 below).

[158] Airlines' contracts with passengers. Consultation paper of Directorate-General for Energy and Transport, 21.6.2002. See also the summary of this consultation, COM(2005) 47 final, p. 3-4.

Table 9- Objectives implicit in proposed Regulation for the rights of PRM when travelling by air

Draft Article	Objective
3	Prohibit air carriers or tour operators from refusing PRMs carriage on the grounds of reduced mobility, with exceptions and derogations for justified safety reasons established by law.
5	Give PRMs the right to a specified package of assistance at airports on departure, on arrival and in transit and create provisions on prior notification of the need for this assistance.
6	Make the managing bodies of airports responsible for providing this assistance free of charge to PRMs and allow them to levy charges on air carriers to fund it.
7	Require the managing body of an airport to lay down quality standards for the assistance, after proper consultation.
8	Require air carriers to provide specified assistance on board aircraft, free of charge to PRMs.
9	Require air carriers and tour operators to make certain arrangements on prior notification of the need for assistance.
10	Forbid the limitation or waiver of obligations created by the regulation.
11	Require Member States to designate bodies responsible for enforcement of the regulation and for dealing with complaints.
12	Require Member States to lay down sanctions for infringements.

Source: COM(2005) 47 final, articles of Regulation 1107/2006 are numbered differently.

Issues and drivers

The issues and drivers set out in the proposal were the following

- Only limited rights had been granted to PRMs in Regulation (EC) No 261/2004.
- Denied boarding of PRMs was not being restricted to justified safety reasons.
- The duties of airports and airlines to provide assistance were unclear.
- There were no consistent processes for booking assistance, communicating the requirement between the relevant parties, enforcement and sanctioning infringements.

Proposed option

The proposal considered whether responsibility for assistance to PRMs departing from or arriving at airports should be given to airports or airlines,

It concluded that a provision of a seamless service at reasonable cost would be greatly facilitated if only one body was responsible at each airport, and therefore proposed that the airport managing body should be made responsible for organising and financing assistance.

3. Evaluation matrix

For this evaluation, a number of operational sub-questions were identified to support the development of response to the main evaluation question set out by the Commission in the terms of reference. The evaluation matrix has been further specified and updated through the whole evaluation process.

This section presents the updated version of the evaluation matrix as developed by the Commission through the input of the contractor. The operational sub-questions are summarised in the table below along with the methodology used for each question.

Table 10 Operational sub-questions

	Operational sub-questions	Methodology
Effectiveness		
A1.1	How many PRMs travel by air and how does this number compare with the extent of PRM travel before the regulation (taking account of any general growth in traffic)?	• Data gathering through questionnaires from airports and airlines on the volume of PRM travel and the share of PRMs in total airport passengers for 2019 and previous years. • Comparative analysis of gathered data with data from 2010 report. This provided evidence of any overall effect on the propensity for PRMs to travel by air following implementation of the Regulation. • Check of share of PRM travel was made against data from the recent Eurobarometer report on passenger rights. • Comparative analysis was conducted on the differences in values reported by airports and airlines to determine whether there is any relationship between the share of PRM traffic and the level of service offered in each case.
A1.2	To what extent do PRMs complain of discriminatory treatment? What barriers to travel continue to exist for PRMs?	• Information from airports, airlines, travel agents and tour operators (agents), NEBs and PRM representative organisations on complaints was gathered through questionnaires and interviews to identify evidence of discriminatory treatment and/or ongoing barriers to PRM travel. • Actions by airports, airlines and NEBs was monitored and compared to 2010 report to identify any key changes. This supported the case study on quality standards. • High-level review of airline conditions of carriage for PRMs for the five largest European airlines • Analysis compared to data on denied boarding.

	Operational sub-questions	Methodology
A1.3	What assistance is provided to PRMs in practice (by airlines and airports)?	• Comparative analysis of services provided to PRMs by airports and airlines based on data gathered during consultation period. • An analysis of airport and airline quality standards for PRMs was made as well as a comparative analysis to the 2010 report on parameters such as waiting times for pre-booked and non-pre-booked passengers, the proportion of airports and airlines publishing quality standards, the ease with which standards can be obtained (e.g. the number of website links that must be followed to view standards). • An update of the analysis of types of assistance from the 2010 report was made identifying changes in assistance required. • An analysis of training in PRM assistance was made on the basis of qualitative information gathered during consulting period.
A1.4	How do PRMs perceive the experience of travelling by air in Europe? To what extent does this differ between airlines, airports and routes?	• Quantitative analysis based on the 2020 Eurobarometer report on passenger rights, which includes information on requests for, and satisfaction with, PRM assistance on different transport modes, as well as a broader dataset to determine how PRMs view other aspects of the service compared to other travellers. It was not possible to identify any data allowing a systematic comparison of the findings of the 2020 Eurobarometer report with those for an earlier period. • Questionnaire survey and interviews with PRM representative organisations on the experience of PRMs travelling by air and how far this has changed since the Regulation was implemented. • Information gathering from airports, airlines and NEBs on the experience of PRMs.

	Operational sub-questions	Methodology
A1.5	How does the experience of travel by air differ between PRMs with different disabilities?	• Questionnaires to and data gathering from stakeholders, in particular PRM representative organisations, to provide any available survey data distinguishing between the experiences of PRMs with different disabilities and from airports, airlines and NEBs to provide, complaint data by type of disability or assistance requested. • Information was asked from stakeholders regarding the quality of service provided to different groups of PRMs. • Data gathering to provide evidence on whether the Regulation has helped to address the varying needs of PRMs and whether there is any evidence that airports and airlines have focused on specific groups at the expense of others in responding to the regulation.
A1.6	How many complaints from PRMs are handled and how has this changed over time?	• Qualitative data gathered through questionnaires on the number of complaints received by airports, airlines and NEBs. • Analysis on potential changes in processing concerning handling of PRM based on the implementation of the Regulation.
A1.7	What prevents airlines and airports from offering further assistance to PRMs?	• Gathering of data from all stakeholders through questionnaires and qualitative analysis of the data. • Cost-Benefit analysis based on cost-related data from airports and airlines to analyse the strength, or lack, of commercial incentives on airports to improve assistance.
A1.8	What are the channels available for making complaints? How easy is it to make a complaint? To what extent does this differ between airlines, airports and routes?	• Investigation of complaints channels for five airports and five airlines, simulating a mystery shopping process (but stopping short of actually registering a complaint). For each channel (letter, telephone, email, website, app, other) the usefulness of any guidance provided and the number of languages in which it is provided was analysed. • Gathering of qualitative data from NEBs and PRM representative organisations on the adequacy and quality of channels for making complaints. The findings from this exercise were used to cross-check the conclusions of own review.

	Operational sub-questions	Methodology
A1.9	To what extent does the Regulation provide clarity on obligations towards PRMs in extraordinary circumstances such as the outbreak of COVID-19 and subsequent government action to contain it?	• Questionnaires on stakeholder views on the interpretation of the Regulation in extraordinary circumstances such as those prevailing following the response of national governments to the COVID-19 outbreak. • Qualitative analysis of responses
A.1.10	Have there been any unexpected impacts following implementation of the Regulation?	• Questionaries' and focus interviews to stakeholders on their views on whether the Regulation has had any unexpected consequences, whether good or bad. They were asked to provide evidence of the link between specific aspects of the legislation and the impacts identified.
A1.11	How the requirement for non-discrimination is applied in practice and how does this compare with its interpretation in other sectors?	• Questionnaires and interviews with PRM representative's organisations and NEBs focused on their views on the extent of discriminatory behaviour. These organisations were also asked for a view on how application of the non-discrimination principle varies between sectors. • Gathering of empirical data on the extent to which airports and airlines invoke other legislation (for example, safety legislation) in order to refuse boarding. Airlines were asked to provide data on denied boarding broken down by reason. This supported the case study on safety conditions applied by carriers in accommodating PRMs.
Efficiency		
A2.1	What is the cost of compliance for airlines and airports?	• Case study on PRM fees. • Gathering of qualitative data on the costs of compliance with the Regulation from airports and airlines. • Calculation of cost per PRM passenger value • Revision of PRM charges per passenger at a sample of airports
A2.2	What are the administrative costs for NEBs?	• Gathering of quantitative data from NEBs on administrative costs incurred by them in implementing and enforcing the legislation.

	Operational sub-questions	Methodology
A2.3	How are costs recovered?	• Data gathered for A2.1 also used for A2.3. • Information from airlines and airports on their approach to recovery of costs of assisting PRMs, including a description of the process for setting any charges and of any associated consultation process applied in accordance with Directive 2009/12/EC on airport charges was gathered and analysed. • Case study conducted on PRM charges
A2.4	What additional facilities or services for PRMs are provided on board aircraft and at an airport?	• Analysis on airports' and airlines' specific facilities and services provided to PRMs that give rise to significant additional costs (for example, accommodation of mobility equipment and medical equipment). • Case study conducted on safety • Analysis of views on the operational implications of meeting the needs of PRMs at each stage of the journey.
A2.5	How are PRMs travelling by air protected in countries outside Europe? Is the level of protection and cost of compliance comparable?	• Review of protection provided through relevant legislation or voluntary codes of practice in ten countries. • Gathering of relevant data from relevant regulatory authorities, airlines and PRM representative organisations. • Comparative analysis conducted on the base of gathered data on the levels of protection.
A2.6	What proposals exist for reducing regulatory costs while maintaining the level of protection?	• Gathering of data through questionnaires on stakeholders' views on how costs might be reduced while ensuring the same level of protection and/or enhanced protection might be provided at the same cost. • Critical assessment of proposals, for example by testing them with different stakeholders during follow-up discussions to gauge reactions from a passenger and supplier perspective.

Relevance		
A3.1	What needs do PRMs travelling by air currently have and how do these compare with those identified before the Regulation?	• Gathering of stakeholder views on priority PRM needs when traveling by air and on how these have changed over the last 15 years including questions on whether the requirements of the Regulation are still well-aligned with PRM needs. • Gathering of views from airports and airlines on how the level of protection for PRMs currently offered compares with that provided before implementation of the Regulation and/or how it has changed over time. • Analysis of list of needs per PRM provided by stakeholders
A3.2	What technological advances providing general assistance of PRMs have there been since 2006? To what extent have airlines and airports made use of these?	• Gathering of data through questionnaires on views on (1) how technology has changed the way in which PRMs plan and make journeys by air and (2) how it has enabled airports and airlines to better respond to PRM needs. • Analysis of stakeholder responses to a request for relevant reports or trade press articles illustrating the application of technology to support the desk research.
Coherence		
A4.1	Is there any evidence of difficulties in interpreting individual provisions in the light of others?	• Quantitative data received from airports, airlines, NEBs and transport ministries on questionnaires to indicate any difficulties in interpreting the Regulation. • Desk research to identify any infringement issues that might indicate loopholes or lack of clarity. • Systematic analysis of gaps and inconsistencies in the legislation was made.
A4.2	Are there any aspects of PRM travel by air that are not addressed by the Regulation?	• Data gathered through questionnaires • Gap analysis made based also on responses on A1.4, A1.7, A2.5 and A3.1.

A4.3	What are the specific requirements of the international regulatory framework applying to PRM travel by air? How do these compare with the requirements of the Regulation?	• Data gathering through questionnaire
		• Document review of the following:
		  ◦ Other EU legislation, including Regulation (EC) No 261/2004, Directive 2006/2004/EC, Directive 2009/12/EC, Directive 2015/2302/EU and Directive 96/67/EU
		  ◦ Relevant international regulatory frameworks, including IATA resolution 700, Annex 9 (8H) of the ICAO Convention, ECAC Doc 30, the Montreal Convention and the UN Convention on the Rights of Persons with Disabilities.
		• Desk research into legal commentary on the legislation and its relationship with other regulatory frameworks.
		• Comparative analysis made on requirements and inconsistencies between the Regulation and other frameworks.

A4.4	Have stakeholders identified any inconsistencies between international rules and the Regulation?	• Analysis was made of stakeholder answers to questions on inconsistencies between the Regulation and the wider international legal and regulatory framework. They were also asked to give examples of specific cases in which courts have considered inconsistencies or other issues of potential relevance to the Regulation.
EU Value added		
A5.1	To what extent is assistance to PRMs now embedded within the operational practices of airlines and airports?	• Data gathering through questionnaires. • Analysis of information on relevant operating procedures and training material from airports and airlines, as well as material provided from some NEBs audits. • Findings from A2.4 were analysed in regards to how far airports and airlines accommodate PRM travel as part of their standard approach to passenger care.
A5.2	How important is PRM travel to airlines in terms of revenue and reputation?	• Airports and airlines were consulted in regards to how important they perceived accommodating the needs of PRM in establishing their reputation. • Information obtained under A1.4 was drawn upon to gauge the impact of such comment on reputation.

A5.3	Was there any national legislation in place before the Regulation?	• Data collection from Transport ministries and NEBs on national legislation in place before the implementation of the Regulation as well as any supplementary legislation introduced subsequently. • Construction of a baseline scenario. • An analysis on to which extent national regulatory frameworks in different Member States might substitute for the provisions of the Regulation was made.

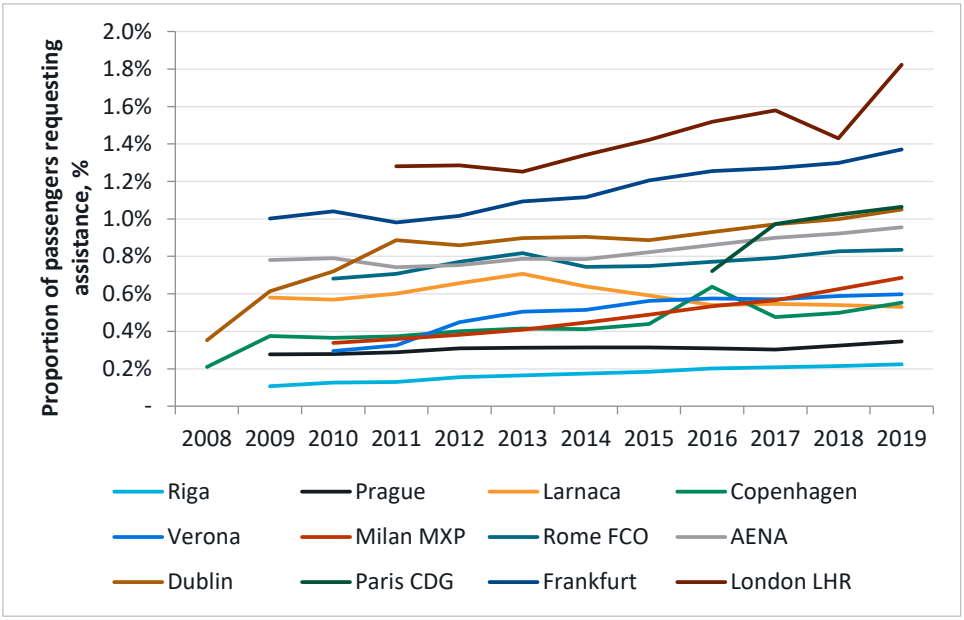
Support study Appendix 1. Table A.1

ANNEX 4: TABLES AND FIGURES

The following annex will present tables and figures used in or made for the evaluation.

Figure 4 shows the PRM traffic growth at selected European airports from 2008 to 2019

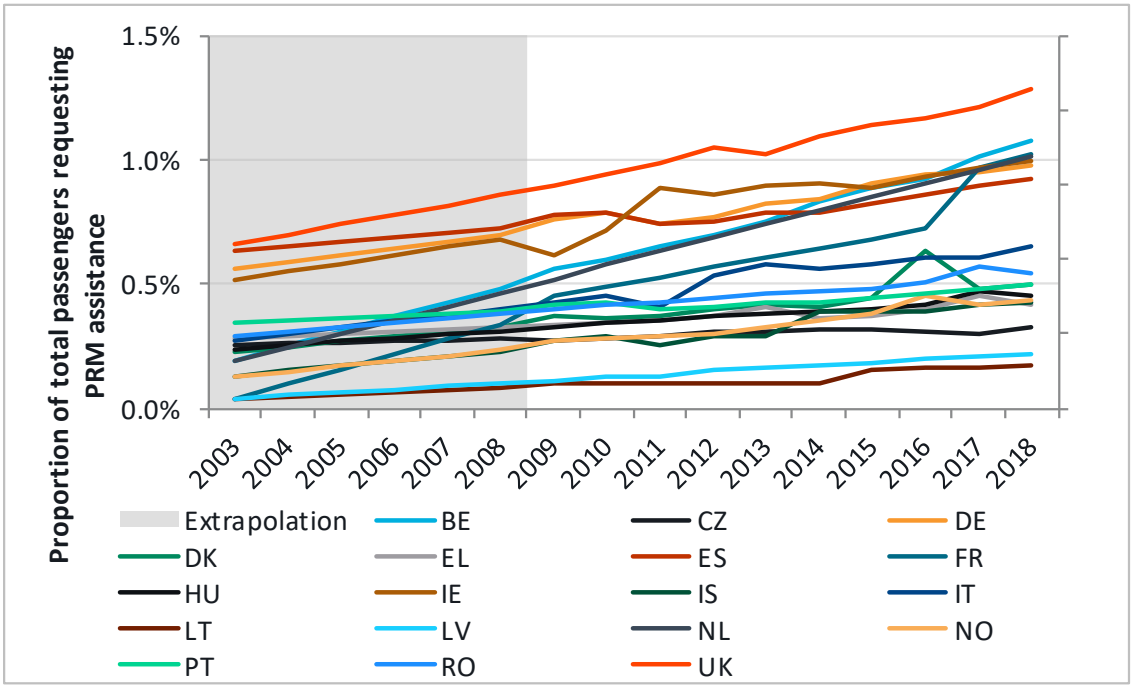
Figure 4: PRM traffic growth at European airports, 2008-2019



Source: support study Figure 3.9

Figure 5 shows the proportion of passengers requesting assistance by Member State proportionate to the total amount of passengers.

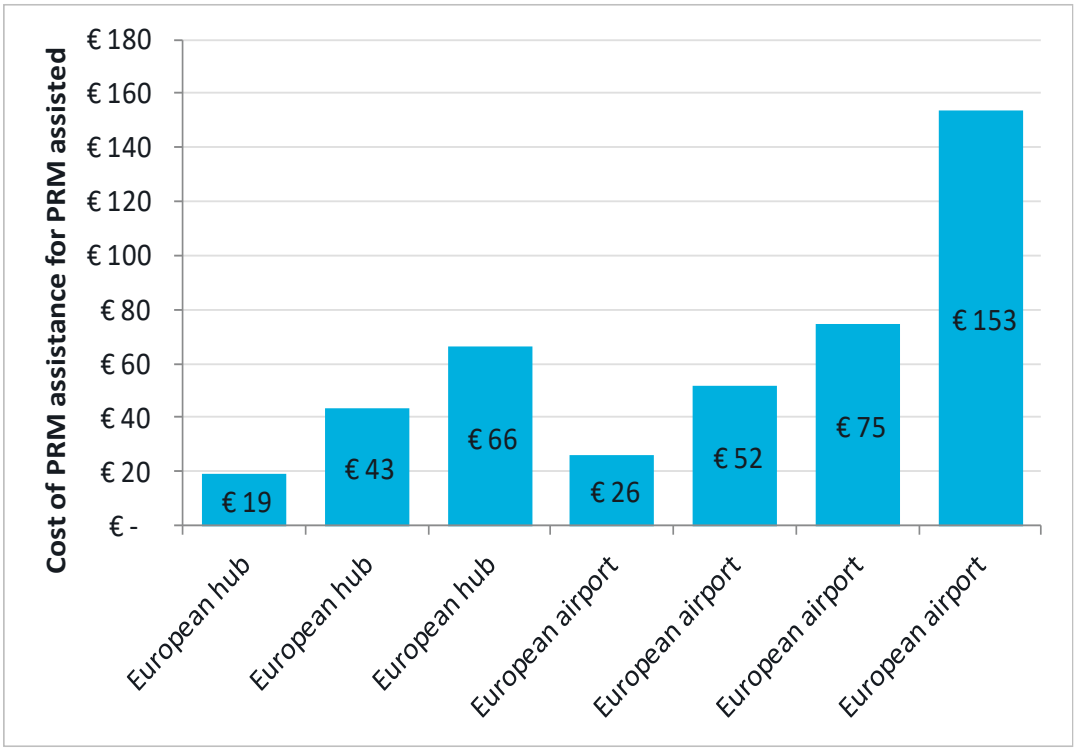
Figure 5 Proportion of PRM passengers travelling by air by Member State



Source: Evaluation of Regulation (EC) 1107/2006, 2010, Heathrow airports, Gatwick airport, Study on the current level of protection of air passenger rights in the EU, 2020, Steer analysis and modelling

Figure 6 shows the cost of PRM assistance from seven European airports/hubs in 2018 and 2019 respectively.

Figure 6 - Cost of PRM assistance per PRM assisted (latest year available 2019 or 2018)



Source: Steer analysis of stakeholder consultation material. Data is anonymous because of confidentiality

Table 11 shows the running costs and perceived benefits of 1107/2006 pr. Member State. The data was gathered through the Stakeholder Consultation questionnaires asking the Member States their perceived benefits of the Regulation.

Table 11 - Running costs and benefits according to the NEBs

MS	Running costs	Benefits
BE	2.4 FTE for all passenger rights (not just air)	No specific benefits identified for the NEB, but wider benefits for PRMs (improved travel confidence).
BG	2 FTE (For both 261/2004 and 1107/2006)	No specific benefits identified for the NEB, but wider benefits for PRMs (improved travel confidence).
CZ	1 FTE	No specific benefits identified for the NEB, but wider benefits for PRMs (higher service quality).

MS	Running costs	Benefits
DK	1 FTE	No view
DE	8 FTEs for all air passenger rights functions.	No specific benefits identified for the NEB, but wider benefits for PRMs (higher service quality) and the sector (reputational benefits).
EE	2 FTE (it is not clear whether these posts are dedicated to all passenger rights Regulations, or just 1107/2006)	No specific benefits identified for the NEB, but wider benefits for PRMs (improved travel confidence).
IE	5 FTEs for all air passenger rights functions.	No specific benefits identified for the NEB, but wider benefits for PRMs (improved travel confidence).
EL	1 FTE	No view
ES	40 FTE's working in complaints management (wider remit than just 1107/2006, also includes 261/2004)	No view
FR	No view	
HR	4 FTEs for all air passenger rights functions.	No specific benefits identified for the NEB, but wider benefits for PRMs (improved access to information).
IT	2 FTEs (5 FTEs for all air passenger rights functions).	No specific benefits identified for the NEB, but wider benefits for PRMs (improved travel confidence).
CY	5 FTEs have responsibility for air passenger rights, but do not work on air passenger rights full time.	No specific benefits identified for the NEB, but wider benefits for PRMs (improved travel confidence).
LT	0.25 FTEs	No specific benefits identified for the NEB, but wider benefits for PRMs (equal access to aviation) and the sector (reputational benefits and an increase in passenger demand).

MS	Running costs	Benefits
LV	0.25 FTEs 2 Cabin Safety Experts, each of which 10% of their workload devotes for the oversight of Regulation (EC) 1107/2006 according to their job descriptions	"Not relevant as no additional costs are dedicated for the enforcement of Regulation (EC) 1107/2006 within our NEB"
LU	No questionnaire response	
HU	1-3 FTEs	No view
MT	No questionnaire response	
NL	7 FTEs who spend around 40% of their time on Air Passenger Rights	No specific benefits identified for the NEB, but wider benefits for PRMs (improved travel confidence).
AT	6 FTEs jointly for Regulations 1107/2006 and 261/2004	No specific benefits identified for the NEB, but wider benefits for PRMs (improved travel confidence).
PL	There are 15 officers within the Commission on Passenger' Rights Protection, but these officers are not dedicated to Regulation (EC) 1107/2006	No specific benefits identified for the NEB, but wider benefits for PRMs (improved travel confidence).
PT	1.5 FTEs working on PRM issues	No specific benefits identified for the NEB, but wider benefits for PRMs (improved travel confidence).
RO	No questionnaire response	No view
SI	2 FTEs working on Air Passenger Rights issues	No specific benefits identified for the NEB, but wider benefits for PRMs (improved travel confidence).
SK	1 FTE	No specific benefits identified for the NEB, but wider benefits for PRMs (improved travel confidence).

MS	Running costs	Benefits
FI	2.5 FTE working directly on passenger rights at Traficom (although support for certain issues can be received from other experts at Traficom). The NEB indicated that the resource levels available make it challenging to carry out its enforcement activities	No specific benefits identified for the NEB, but wider societal benefits through improved equality of access to transport.
SE	4 FTE, but not dedicated solely to the Regulation. Includes 261/2004 activities	No specific benefits identified for the NEB, but wider benefits for PRMs (improved travel confidence).
UK	(3 FTEs)	No specific benefits identified for the NEB, but wider benefits for PRMs (improved travel confidence), airlines (increased demand) and airports (reputational benefits).
IS	2 FTEs for all air passenger rights functions.	No specific benefits identified for the NEB, but wider benefits for PRMs (improved travel confidence).
NO	No questionnaire response	
CH	5.9 FTEs for all air passenger rights functions (majority for Regulation (EC) 261/2004).	No specific benefits identified for the NEB, but wider benefits for PRMs, airports and airlines.

Source: support study Table 3.7.

ANNEX 5: TEN CORE PASSENGER RIGHTS

In 2011 the Commission described a set of core passenger rights that cover all transport modes[159]. The principles are based on three cornerstones: non-discrimination; accurate, timely and accessible information; and immediate and proportionate assistance.
Table 12 presents these ten core passenger rights.

Table 12 - Ten core passenger rights

	Core passenger rights
1	Right to non-discrimination in access to transport
2	Right to mobility: accessibility and assistance at no additional cost for passengers with disabilities and passengers with reduced mobility (PRM)
3	Right to information before purchase and at the various stages of travel, notably in case of disruption
4	Right to renounce travelling (reimbursement of the cost of the ticket) when the trip is not carried out as planned
5	Right to the fulfilment of the transport contract in case of disruption (re-routing and rebooking)
6	Right to get assistance in case of long delay at departure or at connecting points
7	Right to compensation under certain circumstances
8	Right to carrier liability towards passengers and their baggage
9	Right to a quick and accessible system of complaint handling
10	Right to full application and effective enforcement of EU law

Source: COM(2011) 898 final. Annex.

[159] See COM(2011) 898 final.