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EVALUATION

of 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

{SWD(2021) 414 final}

Table of contents

1. INTRODUCTION 3
   1.1. Overall context of passenger rights 3
   1.2. Purpose and scope of this evaluation 5
2. BACKGROUND TO THE INTERVENTION 6
   2.1. Specific context of waterborne passenger rights 6
   2.2. Description of the intervention and its objectives 8
   2.3. Baseline and points of comparison 14
3. IMPLEMENTATION / STATE OF PLAY 17
   3.1. Description of the current situation 17
   3.2. Member States implementation and monitoring 19
   3.3. Major recent changes 24
4. METHODOLOGY 26
   4.1. Short description of methodology 26
   4.2. Limitations and robustness of findings 27
5. ANALYSIS AND ANSWERS TO THE EVALUATION QUESTIONS 28
   5.1. Effectiveness 28
   5.2. Efficiency 42
   5.3. Relevance 47
   5.4. Coherence 50
   5.5. EU added value 55
6. CONCLUSIONS 59

ANNEX 1: PROCEDURAL INFORMATION 62
ANNEX 2: SYNOPSIS REPORT OF STAKEHOLDER CONSULTATION 64
ANNEX 3: METHODS AND ANALYTICAL MODELS 75
ANNEX 4: REVIEW OF THE INTERVENTION LOGIC 87
ANNEX 5: COSTS – BENEFITS IDENTIFIED IN THE EVALUATION (OVERVIEW) 90
ANNEX 6: TABLES AND FIGURES 91

Glossary

Term or acronym	*Meaning or definition*
ADR	Alternative Dispute Resolution
CPC	Consumer Protection Cooperation
EC	European Commission
ECC	European Consumer Centre
CJEU	Court of Justice of the European Union
EEA	European Economic Area
EMSA	European Maritime Safety Agency
EU	European Union
EU27	The 27 Member States of the EU after 31 January 2020
IMO	International Maritime Organisation
NEB	National Enforcement Body
PRM	Persons with disabilities or reduced mobility
PSO	Public Service Obligation
SCM	Standard Cost Model
SMS	Short Message Service
TFEU	Treaty on the Functioning of the European Union
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities

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 in the EU, and their quality affects directly their attractiveness and the satisfaction of passengers. 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 minimum 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 information available to passengers, and ensure an immediate and proportionate assistance when required, including for persons with disabilities and reduced mobility (PRM).

EU passenger rights were mainly adopted between 2004 and 2011 through the following Regulations:

- 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 accidents[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];
- Regulation (EC) No 1371/2007 rail passengers' rights and obligations[6], which will be repealed and replaced by Regulation (EU) 2021/782 as of 7 June 2023[7];

[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 (OJ L 36, 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).
[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) 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).

- **Regulation (EU) No 1177/2010 concerning the rights of passengers when travelling by sea and inland waterway[8] whose ex-post evaluation is presented in this report** (hereafter "the Regulation"); 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 a "European vision for Passengers: Communication on passenger rights in all transport modes"[10] where the 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, underpinned by the so-called ten core passenger rights (presented in Table A6.5 in Annex 6). 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.[11] In this context, the passenger protection has become a cornerstone of EU transport policy[12], building on international conventions and the general consumer protection framework of the Union.

In its recent Sustainable and Smart Mobility Strategy[13], 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. This exercise is also in line with the recommendations presented by the European Court of Auditors in their special report on passenger rights in November 2018.[14]

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[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] Communication from the Commission to the European Parliament and the Council 'A European vision for Passengers: Communication on passenger rights in all transport modes', COM(2011) 898 final.

[11] Analysis of EU Transport in figures, Statistical pocketbook, European Commission https://ec.europa.eu/transport/facts-fundings/statistics/pocketbook-2020_en and Eurostat Statistics Explained https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Category:Passengers.

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

[13] Sustainable and Smart Mobility Strategy – putting European transport on track for the future, paragraph 92; Annex (Action Plan) Action 63, COM(2020)789 final https://ec.europa.eu/transport/sites/transport/files/2021-mobility-strategy-and-action-plan.pdf.

[14] ECA Special report no 30/2018: EU passenger rights are comprehensive but passengers still need to fight for them. 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

1.2. Purpose and scope of this evaluation

The purpose of this ex-post evaluation is to assess whether Regulation (EU) No 1177/2010 has delivered the intended rights to passengers in waterborne transport, in accordance with the Commission's Better Regulation Guidelines. This evaluation was initiated in 2019[15], more than eight years after its adoption, and more than six years after it started to apply (18 December 2012).

The evaluation covers the period from 18 December 2012 until February 2020. The scope of the study does not include the impact of the COVID-19 pandemic in 2020 and 2021. 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.

This evaluation, building inter alia on the evaluation support study (hereafter "the support study")[16] carried out by an external contractor, and the 2016 Commission's report on the application of the Regulation17, assesses the actual performance of the Regulation in terms of its:

- Effectiveness: analysing the progress made towards achieving the objectives of the intervention, looking for evidence of why, whether or how these changes are linked to the EU intervention;
- Efficiency: looking closely at both the costs and benefits of the EU intervention as they accrue to different stakeholders, identifying what factors are driving these costs/benefits and how these factors relate to the EU intervention;
- Relevance: looking at the objectives of the EU intervention being evaluated and see how well they (still) match the (current) needs and problems;
- Coherence: looking at how well the intervention works: i) internally and ii) with other EU interventions and international obligations; and
- EU added value: considering arguments about the value resulting from EU interventions that is additional to the value that would have resulted from interventions initiated at regional or national levels by both public authorities and the private sector.

The geographic scope of the study includes the EU 27 Member States, Iceland, Norway and the United Kingdom.[18]

(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.

[15] Roadmap on https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/11878-Sea-and-inland-waterway-transport-passengers-rights-evaluation-_en

[16] https://op.europa.eu/en/publication-detail/-/publication/b737f78e-1b4e-11ec-b4fe-01aa75ed71a1/language-en/format-PDF/source-231263313

[17] Report from the Commission to the European Parliament and the Council on the application of Regulation (EU) No 1177/2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004, COM(2016) 274 final.

[18] As regards the EEA countries, Regulation (EU) No 1177/2010 was incorporated in Annex XIII (Transport) and Annex XIX (Consumer Protection) to the EEA Agreement [2016/1299] by way of Decision No 116/2015 of 30 April 2015 of the EEA Joint Committee (OJ L 211, 4.8.2016, p. 74): DECISION OF THE EEA JOINT COMMITTEE - No 116 / 2015 - of 30 April 2015 - amending Annex

It is now appropriate to subject the Regulation to a full evaluation to determine whether it has reached its intended purposes and whether it continues to be justified in terms of the five criteria listed above.

2. BACKGROUND TO THE INTERVENTION

2.1. Specific context of waterborne passenger rights

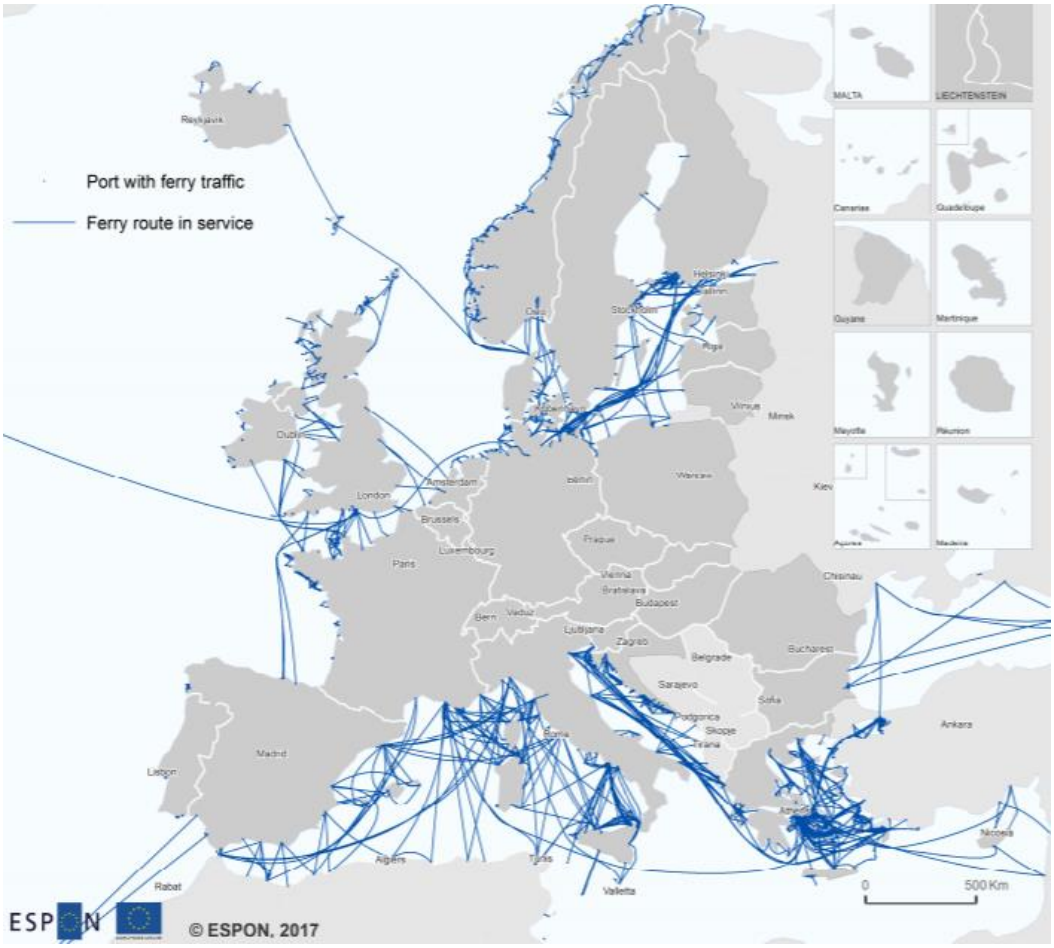
Waterborne services within the scope of European passenger rights legislation comprise sea and inland waterway ferry and cruise services.

Waterborne transport is heavily concentrated among Member States with main sea and inland waterways, particularly among Member States with well-populated islands. At the same time, traffic is concentrated between major ports: services between the top 20 European ports accounted for nearly 40% of the total number of passengers[19] as also visible in the map below showing ferry services in 2017.

XIII (Transport) and Annex XIX (Consumer Protection) to the EEA Agreement [2016/ 1299] (efta.int). The case of Liechtenstein, which is in the scope of Regulation (EU) No 1177/2010, was not analysed, given the small size of the country and the fact that no major sea and inland waterways exist. Switzerland was not included as the Regulation does not apply in this country.

[19] Analysis of Support study, Paragraph 1.22-1.25.

Figure 1 – European Ferry Network



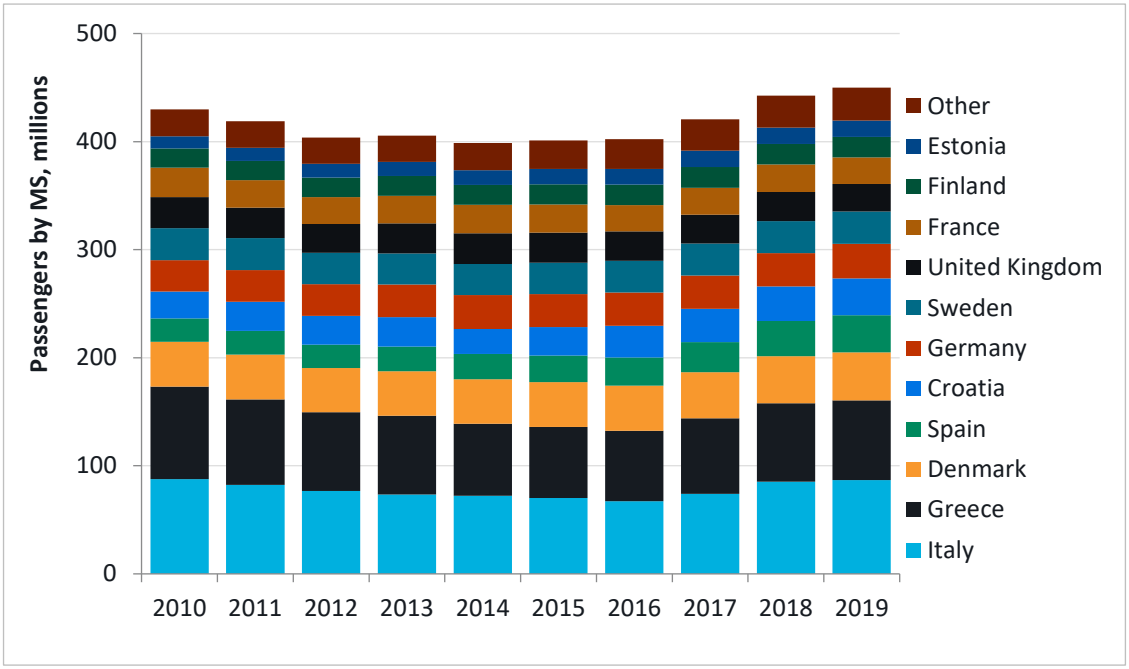
Source: EPSON Publication, Accessibility by the sea indicators, January 2017, Figure 13[20]

With respect to seaborne passenger traffic, the number of passengers embarking and disembarking at the ports of the EU27 Member States as well as Iceland, Norway and the United Kingdom reached almost 451 million passengers in 2019, equating to 225 million passenger journeys.21 Denmark, Greece, Italy and Spain account all together for more than half of the EU seaborne passenger traffic. Because they are landlocked, Austria, Czechia, Hungary, Luxembourg and Slovakia do not have any seaborne passenger traffic. After a decrease between 2010 and 2014, the total volume of passengers recovered between 2016 and 2019 as illustrated in figure 2 below.

[20] https://www.espon.eu/sites/default/files/attachments/AccessibilityBySea_D2_FinalReport.pdf

[21] Eurostat 'Statistics Explained': Passenger Transport Statistics, https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Passenger_transport_statistics&oldid=503247#Maritime_passengers. In order to understand these statistical figures, please note that in EU statistics in case of passengers carried by national or intra-EU ferry services, the same passengers are counted twice (once when they embark the ferry in one EU port and once when they disembark the same ferry in another EU port).

Figure 2 - Seaborne passengers (million) embarking and disembarking by EU Member State (ranked on 2019 passengers)



Source: Support study, Paragraph 1.20, analysis of Eurostat data.

The vast majority (96,4%) of seaborne traffic is made on ferry services, whilst cruises account for 3,3% of the total number of passengers only.[22] Most ferry services are operated privately, on a commercial basis or operated under public service obligations (PSO) contracts.

Domestic ferry services dominate intra-EU maritime passenger transport: 61% of seaborne passenger transport within the European Union is operated between ports situated in the same Member State, while cross-border seaborne passenger traffic amounts to 39%.[23]

With respect to inland waterway passenger traffic, comprising mainly river cruises and ferry transport, data is limited. Industry sources indicate that river cruises carried 1.62 million passengers in 2019 (of which 44% to 49% came from non-European countries) with 75% of the total traffic concentrated on Central European waterways (e.g. Danube, Main-Danube canal, Elbe-Oder, Main and Rhine).[24]

2.2. Description of the intervention and its objectives

Prior to the introduction of the Regulation **at EU level** legislation granted protection to passengers[25] in the event of death of or personal injury to a passenger and the loss of or

[22] Support study, Paragraph 1.22.
[23] Eurostat 'Statistics Explained': Passenger Transport Statistics (2019) https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Seaborne_transport_of_passengers_between_main_ports_in_the_reporting_country_and_their_partner_ports_grouped_by_main_geographical_areas,_2019.png
[24] Central Commission for the Navigation of the Rhine (CNNR), Inland navigation in Europe - market observation, Annual Report 2021, p. 102.
[25] Or the person(s) entitled to receive compensation in case the passenger's death in an accident.

damage to luggage in an accident on the basis of Regulation (EC) No 392/2009[26], which implemented certain provisions of the 1974 Athens Convention in EU law relating to the carriage of passengers and their luggage by sea (as amended by the 2002 Protocol).[27]

At **national level** the situation was complex. In some Member States national legislations did not protect passengers at all. If there was any legislation at national level, the rights protecting PRM passengers (non-discrimination and assistance), were not in the same piece of legislation as the rights protecting passengers in case of transport disruptions. In addition, the level of protection granted by national legislations varied Member State by Member State:

(a) prior to the introduction of the Regulation, national legislation protecting PRM waterborne passengers was in force in five Member States (Denmark, Finland, Italy, Spain and Sweden) as well as in Norway granting PRM similar levels of passenger rights as they currently receive from the Regulation. In nine Member States (Austria, Estonia, France, Germany, Ireland, Lithuania, Malta, Netherlands and Portugal), as well as in the United Kingdom, national legislation granted some rights to PRM before the introduction of the Regulation; however, this national legislation was not as comprehensive as the Regulation. No protection was available in two Member States (Cyprus and Poland).[28] There is no information on the situation in the remaining eleven Member States (Belgium, Bulgaria, Croatia, Czechia, Hungary, Latvia, Lithuania, Luxembourg, Romania, Slovakia, Slovenia) nor in Iceland.[29]

(b) regarding rights of passengers in the event of cancellation or delay, prior to the introduction of the Regulation the national legislation of six Member States (Denmark, Finland, Greece, Italy, Portugal and Sweden) as well as in Norway granted passengers similar levels of rights as they currently receive from the Regulation. Additionally, further six Member States (Estonia, Germany, Ireland, Netherlands, Poland and Spain) and the United Kingdom granted some rights to passengers in the event of disruption before the Regulation was introduced, however these legislations were not as comprehensive as the Regulation.[30] No protection was available in three Member States (Cyprus, France and Malta), while there is no information available related to the national legislation for the remaining twelve Member States (Austria, Belgium, Bulgaria, Croatia, Czechia, Hungary, Latvia, Lithuania, Luxembourg, Romania, Slovakia and Slovenia) and Iceland.[31]

[26]Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents (OJ L 131, 28.5.2009, p. 24-46).
[27]Regulation (EC) No 392/2009 has been evaluated in 2017, SWD(2017) 329 final.
[28]The Convention establishes a regime of liability for damage suffered by passengers carried on a seagoing vessel. It declares a carrier liable for damage or loss suffered by a passenger if the incident causing the damage occurred in the course of the carriage and was due to the fault or neglect of the carrier.
[29]Support study, Paragraph 1.12, Table 1.1.
[30]Analysis and assessment of the level of protection of passenger rights in the EU maritime transport sector, 2006, conducted by the Institute of Transport Economics Legislation, commissioned by DG Energy and Transport.
[31]Support study, Paragraph 1.14, Table 1.2.

The Commission's impact assessment (IA)[32] accompanying the 2008 legislative proposal[33] had identified four areas in which rights needed to be strengthened:

- the rights of PRM;
- quality of service;
- assistance to passengers in the event of delay or cancellation;
- the right to information and non-discrimination issues.

The specific objectives of the intervention included:

- asserting the principle of non-discrimination and assistance to PRM;
- asserting the principle of assistance in the event of travel cancellations and delays;
- ensuring a level of minimum quality standards of services and defining information obligations;
- setting up a procedure for handling complaints; and
- ensuring appropriate enforcement of applicable legislation.

The impact assessment identified a number of issues: passengers in general often received poor quality assistance in the event of a travel disruption (notably delays and cancellations), information to passengers was not sufficient, there were no authorities at national level to monitor compliance with the Regulation, PRMs needed more accessible ports and accessible information and assistance to enable them to use waterborne transport.

The final text was adopted on 24 November 2010 and it contained moderate changes compared to the Commission's original proposal:

- the Commission's proposal did not contain any limitation based on the size of the ship, while the Regulation excludes ships certified to carry up to 12 passengers;[34]
- compared to the Commission's proposal the right to information was reinforced by introducing the obligation to provide such information in accessible formats.

Lastly, the time thresholds for the respective rights were aligned to 90 minutes, although the Commission's proposal had foreseen a threshold of 60 minutes for the right to assistance and a threshold of 120 minutes for re-routing and reimbursement. The Regulation has put in place the following measures aimed to address the identified needs and to achieve the specific objectives: obligations on carriers to adopt and apply non-discriminatory transport conditions, to provide assistance to PRMs in order to enable them to use waterborne transport, to provide assistance to all passengers in case of

[32]Commission staff working document accompanying the proposal for a Regulation of the European Parliament and of the Council concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws - Impact Assessment concerning the rights of passengers travelling by sea and inland waterway, SEC(2008) 2950.

[33]Proposal for a Regulation of the European Parliament and of the Council concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws COM(2008) 816 final.

[34]2008/0246 (COD)
https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2008/0246(COD)&l=en

cancelled or delayed departures and to provide them with compensation under certain circumstances, re-route or reimburse them in case of cancellation or long delay, to publish and apply quality standards of services, to provide information to passengers, including PRM, and to establish a harmonised procedure to allow passengers to submit complaints to NEBs in case they consider that their rights are breached.

The Regulation was in particular meant to contribute to reducing the negative impact of travel disruption on users of waterborne transport and to improving service quality for passengers. It was also intended to contribute to the creation of a level playing field for waterborne operators in the EU and to provide a European standard of passenger protection. The Regulation requires NEBs to take the measures necessary to ensure compliance with the Regulation. These measures include imposing effective, proportionate and dissuasive penalties on operators in case of infringements. Other measures necessary to ensure compliance with the Regulation could for example include the promotion of passenger rights, the inspection of operators and monitoring of their websites, as well as regular contact with the industry and passenger (incl. PRM) organisations.

The Regulation was designed to address these issues as described in Table 1. This table summarises specifically the structure of the Regulation and the subject of its Articles.

Table 1: Content of Regulation (EU) No 1177/2010

Chapter			Subject of Articles	Content of Articles
I	General provisions	1	Subject matter	
		2	Scope	
		3	Definitions	
		4(1)	Tickets and non-discriminatory contract conditions	Carriers shall issue a ticket to the passenger. A ticket may be issued in electronic format.
		4(2)		Contracts and tariffs may not discriminate based on the nationality or place of establishment of the carrier/ticket vendor.
		5	Other performing parties	The carrier/travel agent/tour operator is liable for the acts and omissions of other performing parties (other carrier, ticket vendor etc.)
		6	Exclusion of waiver	Obligations to passengers shall not be limited or waived.
II	Rights of persons with disabilities and persons with reduced mobility or disability (PRMs)	7	Right to transport	Right to transport of PRM: A reservation, provision of a ticket or taking on board may not be refused or subject to additional cost.
		8(1)	Exceptions and special conditions	Right to transport may be refused if necessary to meet safety requirements or the design of the vehicle or the infrastructure makes it physically impossible.
		8(2)		In case of refusal, carriers, travel agents and tour operators shall inform the person concerned about any acceptable alternative services operated by the carrier.
		8(3)		In case of refusal, the person concerned shall be offered the choice between reimbursement or re-routing.

Chapter			Subject of Articles	Content of Articles
		8(4)		In case of refusal to transport the PRM, the carrier may request the person concerned to be accompanied by another person who can provide the assistance required and who shall be transported free of charge.
		8(5)		In case of recourse to paragraphs 8(1) and 8(4), the person concerned shall immediately be informed of its reasons and, upon request, in writing within 5 working days.
		9	Accessibility and information	Carriers and terminal operators shall establish non-discriminatory access conditions for the transport of PRM and such access conditions shall be made publicly available and physically distributed at the request of the passenger whilst assistance shall be confirmed by any means available
		10	Right to assistance in ports and on board ships	Carriers and terminal operators shall provide assistance free of charge to PRM
		11	Conditions under which assistance is provided	Carriers and terminal operators shall provide such assistance provided the request is notified in advance and the person presents herself on time.
		12	Reception of notifications and designation of meeting points	Carriers, terminal operators, travel agents and tour operators shall take all measures necessary for the request for and reception of notifications and such notification shall be transferred without delay while a meeting point for PRM shall be designated
		13	Quality standards for assistance	Terminal operators and carriers operating passenger services with a total of more than 100 000 commercial passenger movements during the previous calendar year shall set quality standards for PRM assistance
		14	Training and instructions	Carriers or terminal operators shall establish disability-related training procedures, including instructions, for their personnel, providing direct assistance to PRM and their personnel who are otherwise responsible for the reservation and selling of tickets or embarkation and disembarkation
		15	Compensation in respect of mobility equipment or other specific equipment	Compensation for loss of or damage to mobility equipment equal to the cost of its replacement or repair. Every effort shall be undertaken to rapidly provide temporary replacement equipment or devices, with similar technical and functional features.
III	Obligations of carriers and terminal operators in the event of interrupted travel	16	Information in the event of cancelled or delayed departures	In the case of reasonable expectation of a cancellation or a delay in departure, passengers shall be informed by the carrier or by the terminal operator as soon as possible or in any event no later than 30 minutes after the scheduled time of departure as well as of alternative connections, in accessible formats.

Chapter			Subject of Articles	Content of Articles
		17	Assistance in the event of cancelled or delayed departures	In the case of reasonable expectation of a cancellation or a delay in departure for more than 90 minutes, passengers shall be offered free of charge snacks, meals or refreshments and, where necessary, free of charge adequate accommodation on board, or ashore, and transport to and from the port terminal, which may be limited to EUR80per night, for a maximum of three nights.
		18	Re-routing and reimbursement in the event of cancelled or delayed departures	In the case of reasonable expectation of a cancellation or a delay in departure for more than 90 minutes or in the case of cancellation and delay, the passenger shall immediately be offered the choice between reimbursement within 7 days, or re-routing.
		19	Compensation of the ticket price in the event of delay in arrival	In the case of delay in the arrival at the final destination as set out in the transport contract, passengers may request compensation amounting to at least 25 % of the ticket price, without losing the right to transport
		20	Exemptions	Exemptions of Articles 17, 18 and 19 for open tickets, travel passes or season tickets, information before the purchase of the ticket or cancellation or delay caused by the fault of the passenger and delays caused by weather conditions endangering the safe operation of the ship or natural disasters.
		21	Further claims	No preclusion of damages in accordance with national law, including under Directive 90/314/EEC.
IV	General rules on information and complaints	22	Right to travel information	Passengers shall be provided with adequate information throughout the travel.
		23	Information on passenger rights	Passengers shall be provided with information regarding their rights at the latest on departure.
		24	Complaints	Carriers shall set up or have in place a complaint handling mechanism. A passenger shall submit a complaint within two months, and receive the reply within two months.
V	Enforcement and national enforcement bodies (NEBs)	25	National enforcement bodies	Provisions on national enforcement bodies. A passenger may submit a complaint to the NEB or other appropriate designated body.
		26	Report on enforcement	NEBs shall publish reports on enforcement every two years.
		27	Cooperation between enforcement bodies	Exchange of information on their work and decision-making principles and practice
		28	Penalties	The Member States shall lay down rules on penalties applicable to infringements of the provisions of this Regulation
VI	Final provisions	29	Report	Report by Commission to European Parliament and to the Council on the operation and the effects of the Regulation
		30	Amendment to Regulation (EC) No 2006/2004	Amendment in the Annex of Regulation (EC) No 2006/2004
		31	Entry into force	20th day following its publication and application starting on 18 December 2012

Source: Regulation (EU) No 1177/2010, analysis based on support study.

2.3. Baseline and points of comparison

The purpose of the analysis of the evaluation baseline was to model and analyse the impact of policy changes brought by the Regulation. As such, it captures how waterborne passenger rights and the industry would have evolved, had the Regulation not been adopted. The analysis aims at capturing the change that the intervention of the Regulation has brought over time, by comparing the actual recorded performance against a potential baseline scenario that would have happened without policy intervention.

The reference year is 2012 for the Regulation. For the purposes of modelling, it was assumed that it was in force from 1 January 2013 as the baseline is modelled on an annual timeline. To show "from 2012 until today what the situation would have been, had the Regulation or any other EU-level legislation not been implemented", the following was considered:

1. the situation regarding passenger rights in 2013 in the EU 27 Member States, as well as Iceland, Norway and the United Kingdom, for passengers within the scope of the Regulation;
2. the assumption that the legal framework in each Member State would have remained intact if the Regulation had not been introduced and that no harmonised rules across Member States would have been developed; and
3. the application of consumer law in each Member State.

The situation before the introduction of the Regulation was analysed and it was assumed that the resulting level of passenger rights in each Member State remained constant in the no policy intervention scenario. It was assumed that other variables, such as total passengers travelling from and within each Member State, remained the same across both scenarios. The situation across both scenarios between 2013 and 2018 was then evaluated.

Passenger rights in the event of major disruption

Since no Member State has exempted PSO services from the scope of the Regulation, all waterborne passengers have been in scope of the Regulation since its entry into force in December 2012.

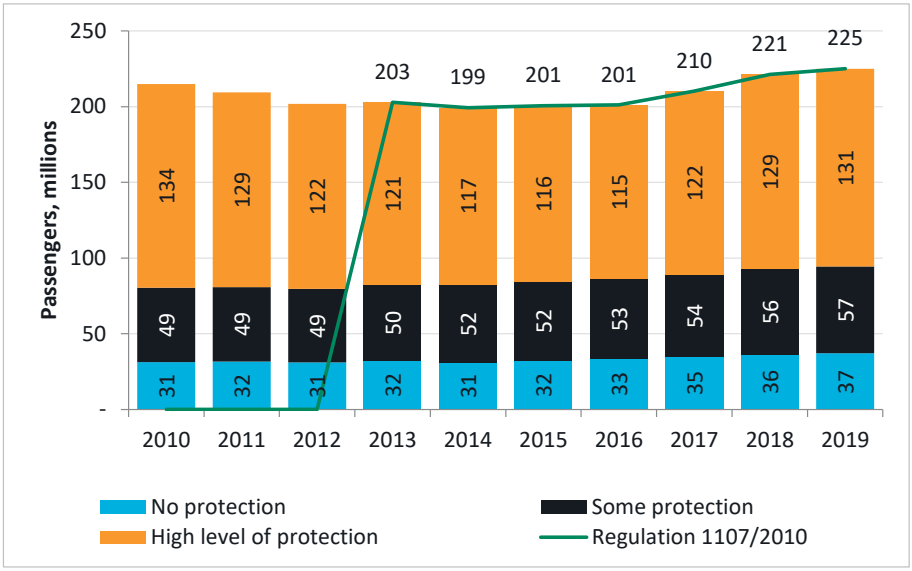
In 2012, before the Regulation became applicable, approximately 31 million passengers (15%) had no rights in the event of a major disruption, a further 49 million passengers (24%) were covered by some rights, which were not as comprehensive as those established by the Regulation. The remaining 122 million passengers (61%) were protected by national legislation that provided them a level of coverage and protection comparable to those provided under the Regulation.[35]

Assuming that the provision of rights available prior to the entry into force of the Regulation would have remained constant in Europe, the number of passengers, with no

[35] Support study, Paragraph 3.194.

rights would have risen to 37 million (17%) by 2019, whilst those receiving some rights would have risen to 57 million (26%). 131 million (58%) would have had rights comparable to those provided under the Regulation, as shown in Figure 3 below.

Figure 3 - Availability of passenger rights in the event of disruption



Source: Support study, Paragraph 3.195, Baseline analysis.

Rights of passengers with disabilities and passengers with reduced mobility

A number of Member States had adopted legislation concerning waterborne transport of PRM prior to the Regulation. Prior to the introduction of the Regulation in 2012, the support study estimated that approximately 56.000 (5%) of passengers who would have requested assistance had no such rights, whilst a further 565.000 (51%) were covered by some rights, albeit not as comprehensive as those provided under the Regulation. The remaining 488.000 (44%) of passengers with disabilities or with reduced mobility were eligible for rights, providing a similar level of protection as the Regulation.[36]

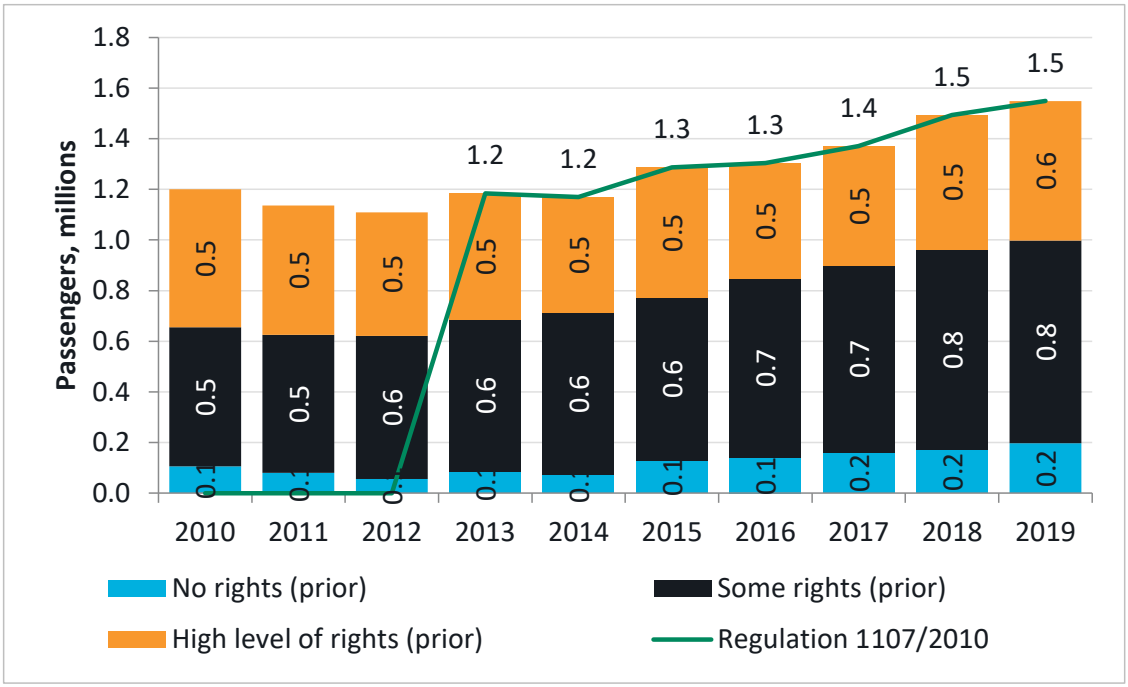
However, even for those PRM already benefitting from some rights established at the national level, at the time the Regulation was drafted, it remained unclear whether, and to what degree, they were able to demand access to maritime transport and assistance. National legislation specifically varied in scope and content, so that disparate rules applied to international routes, which resulted in difficulties for PRM when travelling across borders by sea. Had this situation remained, the protection provided to PRM would have varied considerably throughout the European Union, potentially reducing the confidence of PRM passengers when travelling.[37]

After the entry into force of the Regulation, all passengers requesting PRM assistance in the European Union could rely on a pan-European framework of rights, improving their access to travel opportunities and providing a right to assistance. Hence, approximately 600.000 passengers witnessed an improvement in the quality of rights as a consequence

[36] Support study, Paragraph 3.196.
[37] Support study, Paragraph 3.197.

of the Regulation, whilst a further 85.000 passengers were given access to rights were previously they had none. By 2019, approximately 800.000 passengers experienced an improvement in rights available and approximately 200.000 passengers were able to benefit from rights when prior to the Regulation they had none[38], as shown in Figure 4 below.

Figure 4 - Availability of rights to passengers with disabilities and passengers with reduced mobility



Source: Baseline analysis of support study, Paragraph 3.199.

[38] Support study, Paragraph 3.198.

3. IMPLEMENTATION / STATE OF PLAY

3.1. Description of the current situation

The Regulation is applicable to most ferry services departing from or arriving at EU ports:

- it applies in respect of passengers travelling on passenger services (ferries) where the port of embarkation is situated in the territory of a Member State; and
- it also applies on passenger services where the port of embarkation is situated outside the territory of a Member State and the port of disembarkation is situated in the territory of a Member State, provided that the service is operated by a Union carrier. The Union carrier as defined under Article 3(e) of the Regulation is a carrier established within the territory of a Member State or offering transport by passenger services operated to or from the territory of a Member State, which is a specifically broad notion compared to passenger rights in other modes, encompassing all passenger services operating from a third country to a port within the European Union.

In addition, the Regulation applies to cruises[39] where the port of embarkation is situated in the territory of a Member State with the exception of Articles 16(2) on information, Article 18 on re-routing and reimbursement, Article 19 on compensation and Articles 20(1) and (4) on exemptions.

The Regulation does not apply in respect of passengers travelling:

- on ships certified to carry up to 12 passengers;
- on ships which have a crew responsible for the operation of the ship composed of not more than three persons;
- on ships where the distance of the overall passenger service is less than 500 metres, one way;
- on excursion and sightseeing tours other than cruises; and
- on ships not propelled by mechanical means as well as original and individual replicas of historical passenger ships.

Additionally, cruise services of less than two overnight stays on board are also out of the scope of the Regulation.

In waterborne transport and from a broad perspective, passenger rights are protected by different pieces of legislation, including:

- Passenger rights legislation as such, i.e. Regulation (EU) No 1177/2010 concerning the right of passengers when travelling by sea and inland waterway;
- Other rights stemming from transport related regulations, including Regulation (EC) No 392/2009 on the liability of carriers of passengers by sea in the event of accidents;

[39] Article 3(t) defines cruises as transport services by sea or inland waterway, operated exclusively for the purpose of pleasure or recreation, supplemented by accommodation and other facilities, exceeding two overnight stays on board.

- Consumer rights in the broader perspective, distinguishing between instruments regulating rights, including in particular Directive (EU) 2015/2032[40] (the "Package Travel Directive") which becomes applicable where carriage of passengers by ships is combined with other travel services, and enforcement mechanisms as set out in Regulation (EU) No 2017/2394 on Consumer Protection Cooperation (CPC) which has applied since January 2020, repealing Regulation (EC) No 2006/2004 on enforcement of consumer protection laws.

In addition, waterborne passenger rights legislation interfaces with horizontal consumer protection rules or schemes such as Alternative Dispute Resolution (ADR) bodies, Online Dispute Resolution (ODR) bodies and European Consumer Centres (ECCs).[41]

In 2016, the Commission published a report[42] on the application of the Regulation. In this report, the Commission did not identify evidence supporting any amendment of the Regulation's provisions. The report identified some issues and put forward a list of non-legislative initiatives to improve the application and enforcement of the Regulation.

In this context, the Commission decided to take the following measures: (1) actions to raise awareness of passengers' rights and operators' obligations, including information campaigns, (2) actions to improve enforcement through regular contacts with NEBs and monitoring of their activities, and (3) actions to ensure the uniform application of the Regulation, including by providing non-binding guidance and clarifications during the annual expert group meetings with the representatives of NEBs and stakeholders, and through written correspondence with NEBs, stakeholder associations, individual operators etc.

Regarding the awareness of passenger rights, the Commission has included waterborne passenger rights in its information campaigns since the Regulation became applicable.

Regarding the awareness of passenger rights, 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 transport modes with passenger rights. Online communication campaigns (online advertising) have proved 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.[43]

[40] Directive (EU) 2015/2302 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).

[41] https://ec.europa.eu/info/live-work-travel-eu/consumer-rights-and-complaints/resolve-your-consumer-complaint/alternative-dispute-resolution-consumers_en and https://ec.europa.eu/info/live-work-travel-eu/consumer-rights-and-complaints/resolve-your-consumer-complaint/european-consumer-centres-network-ecc-net_en.

[42] COM(2016) 274 final.

[43] https://europa.eu/youreurope/citizens/travel/passenger-rights/index_en.htm and its content pages on Air passenger rights, Rail passenger rights, Bus and coach passenger rights, waterborne passenger rights, and https://europa.eu/youreurope/citizens/travel/transport-disability/reduced-mobility/index_en.htm.

The Commission regularly conducts Eurobarometer surveys on passenger rights. The results of the latest survey[44] showed that 45% of actual sea and inland waterway passengers are aware of their passenger rights, which is lower compared to air transport (49%), but higher compared to rail (43%) and bus and coach transport (39%). In addition, among respondents using waterborne transport, only 7% believe that they are very well informed of their rights and 24% consider themselves fairly well informed.

The Commission holds meetings with experts from the NEBs to exchange experiences and clarify the interpretation of the Regulation. The main points of discussion have concerned the state of play with the enforcement and legal interpretation of the Regulation. Other issues of attention included addressing the low awareness of passengers about their rights and improving the processing of complaints through a standard complaint form.

In the context of COVID-19[45], the Commission published Interpretative Guidelines on the passenger rights Regulations[46] and a Recommendation on vouchers.[47] It also updated the websites of Your Europe[48] and added information on the Coronavirus Response website.[49] In July 2020, the Commission launched infringement proceedings against two Member States for failure to comply with EU rules protecting waterborne passenger rights. The procedure has been closed in October 2020 because the Member States concerned amended their laws.[50] In August 2020, the Commission started informal dialogues[51] with all Member States and the United Kingdom regarding the application of passenger rights in all modes of transport in the context of COVID-19 and the obligations of NEBs to report on their activities. These procedures are still ongoing.

3.2. Member States implementation and monitoring

The choice to intervene at EU level through a Regulation had a direct impact on the extent of the implementation obligations for Member States. Member States were required to designate a new or existing body for the enforcement of the Regulation as a NEB, to inform the Commission thereof and to lay down effective, proportionate and dissuasive sanctions for infringements of passenger rights.

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[44] Special Eurobarometer 485 on passenger rights (survey carried out in February/March 2019) https://ec.europa.eu/commission/presscorner/detail/en/ip_19_6814.

[45] EMSA Report of 2021, EMSA-Impact-Of-Covid-19-On-The-Maritime-Sector-In-The-EU-2021_06.pdf (safety4sea.com).

[46] Commission Notice Interpretative Guidelines on EU passenger rights regulations in the context of the developing situation with COVID-19 - 2020/C 89 I/01 (OJ C 89I, 18.3.2020, p. 1-8).

[47] Commission Recommendation (EU) 2020/648 of 13 May 2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic C/2020/3125, OJ L 151, 14.5.2020, p. 10–16, http://data.europa.eu/eli/reco/2020/648/oj

[48] https://europa.eu/youreurope/index_en.htm.

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

[50] Infringement decisions of 2 July 2020,
See https://ec.europa.eu/commission/presscorner/detail/en/inf_20_1212. On 1 October 2020, it was decided to close the infringement procedure against Greece and Italy.

[51] The EU Pilot process, established by the Commission and the member states to exchange information and resolve problems concerning the application of EU law or the compliance of national law with EU law, is designed for the phase prior to the formal opening of an infringement procedure.

Member States are required to inform the Commission of the body or bodies designated in line with Article 25(2) of Regulation (EU) No 1177/2010, which the Commission publishes on a designated platform.[52] It can be summarised that the current situation of NEBs is the following:

- in 2020 there were 45 NEBs (including the Icelandic, Norwegian and the United Kingdom NEBs)[53];
- most States have a single national NEB for all waterborne services, and in several of them, the same body also enforces passenger rights for other modes of transport.
- Some States have designated more than one NEB at national or regional level.

The Regulation grants passengers the right to submit complaints to a NEB or to another body designated. NEBs may require passengers, as a first step, to submit the complaint to the carrier or port operator. Currently 19 Member States (Austria, Croatia, Cyprus, Denmark, Estonia, Finland, Germany, Greece, Ireland, Italy, Latvia, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Slovenia and Spain)[54] and Norway as well as the United Kingdom[55] require passengers to submit their complaint to the carrier or port operator first and only turn to the NEB if the carrier or port operator does not give a satisfactory answer to the complaint or does not reply to the complaint at all.

There are significant differences between the roles of the NEBs. It could be highlighted in particular that:

- Most States have a single national NEB, while some have designated more than one NEB, at the national, regional and local level or dealing with international/domestic affairs e.g. in Poland, where each regional NEB has a jurisdiction covering ports in its respective region;
- Most NEBs have the competence gathered in one NEB, whilst other have different authorities for different aspects such as the NEBs in Denmark and Hungary, where different authorities deal with the compliance with the Regulation by ports and by carriers, respectively, and in the Slovenian and Swedish NEBs, where separate NEBs deal with the enforcement of the Regulation's provisions related to the rights of PRM;
- Some NEBs handle individual complaints and others do not as is seen in Germany, where the NEB does not help individual passengers to receive redress as a result of infringements of the Regulations, but only deals with systemic monitoring and enforcement of the Regulation;
- Six NEBs act as both NEBs and ADR (Austria, Denmark, Estonia, Latvia, Romania and Slovakia).[56]

[52] https://transport.ec.europa.eu/document/download/0ae26167-3fd5-4125-8092-32e8987fb125
[53] Annex 6, Table A6.1: National enforcement bodies (NEBs) as well as **https://transport.ec.europa.eu/document/download/0ae26167-3fd5-4125-8092-32e8987fb125**.
[54] In instance of Finland, Ireland and Poland passengers can contact the NEB initially, but are generally asked to contact the operator first.
[55] Support Study, Annex D Country Fiches.
[56] Support study, Annex D Country Fiches.

Overall the roles of the NEBs (including complaint handling, monitoring and enforcement) are organised quite differently across the EU. The Regulation requires that passengers have the possibility to submit complaints to a NEB or to another body designated by a Member State, although Member States may require that the passenger must, as a first step, submit the complaint to the carrier. This means that the role of complaint handling may be performed by the carrier, a NEB, a dedicated complaint-handling body, a body providing alternative dispute resolution (ADR) or any other body.

Complaint handling

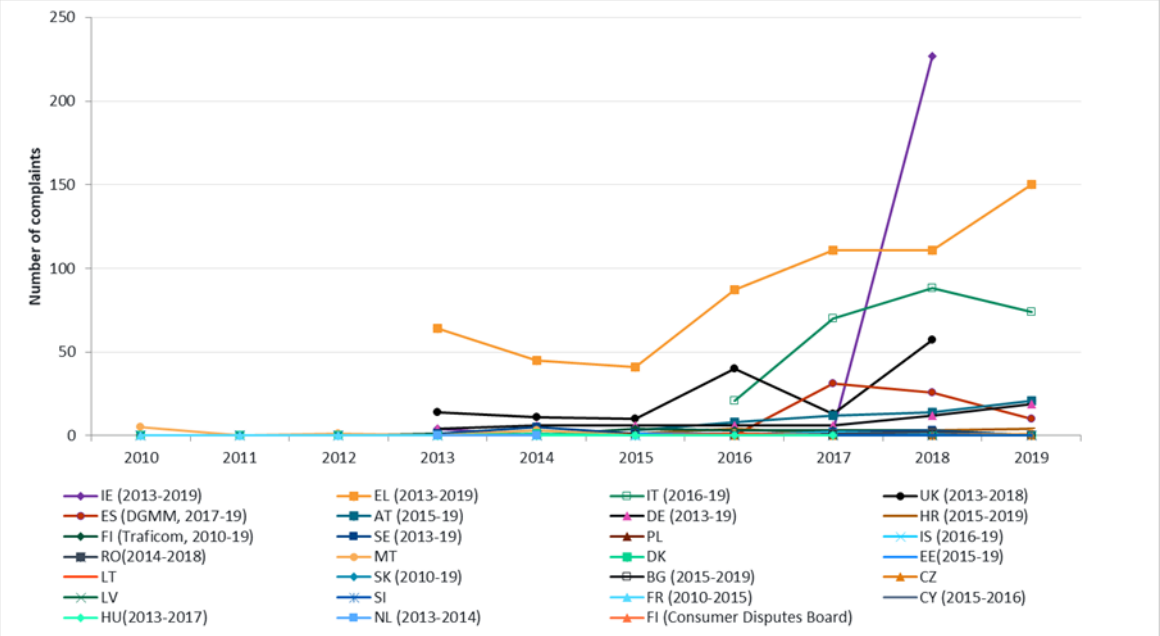
Different NEBs deal with a varying number of complaints. It must however be noted that different NEBs report on the complaints they receive differently: some include statistics and report complaints that are within the scope of the Regulation and others report any complaint received for any reason (e.g. complaints about the crew being rude to the passenger, theft of baggage, etc.). The overall number of complaints appears to be growing[57], which might be due to an increase in the number of passengers travelling, more breaches of the Regulation, better awareness of the right to complain, or more willingness to submit complaints. However there are still a large number of NEBs not receiving any complaints. The exact reasons for the complaint level are impossible to identify due to limited data available, in particular as regards the motivation for a passengers decision to complain or not to complain.

The total number of complaints received (approximately 560 in 2019 across all Member States as well as Iceland and the United Kingdom) is low, equating to one complaint per million waterborne passengers transported.

Figure 5 shows the average number of complaints reported by NEBs in years in which they provided data. Complaints are heavily concentrated among States with higher levels of waterborne passenger traffic (in particular Italy and Greece). On the other hand Czechia, Cyprus, Hungary, Latvia, Slovenia and Slovakia did not report any complaints between 2013 and 2019.[58] The preliminary numbers for 2020 show the same trend of a growing number of complaints in the Member States with much waterborne traffic and few to none complaints in other States, however it is still to be determined how COVID-19 has affected these numbers and passenger behaviour.[59]

[57] Figure 5, below.
[58] Support study, Table 3.1.
[59] Data from NEBs reporting in accordance with Article 26.

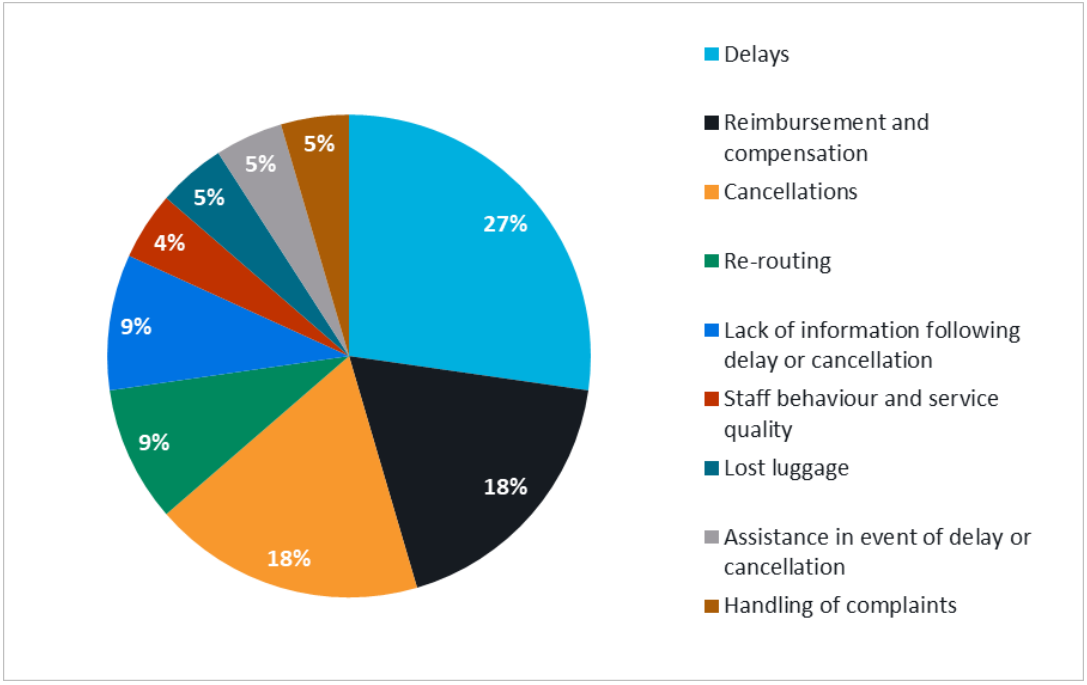
Figure 5 - NEB reports of complaints 2010-2019, in years provided, by NEBs[60]



Source: NEBs providing data for at least one year 2010 to 2019, Support study, Paragraph 3.9.

The complaints submitted concern primarily delays of services, followed by reimbursement and compensation issues and cancellations, as presented in Figure 6.

Figure 6 - Nature of complaints received by NEBs



Source: Support study analysis of stakeholder consultation, Paragraph 3.14.

[60] The Irish NEB, which received between 1 and 3 complaints in 2015 - 2017, received more than 200 complaints in 2018. The reason behind this is that a ferry company cancelled ferry sailings on a new route due to a delay in the delivery of a new ship. As a result, it had to arrange the re—routing of approximately 20.000 affected passengers, some of whom considered that the ferry company did not fully respect their passenger rights, see also the related judgment of the CJEU 2.9.2021, Irish Ferries Ltd v National Transport Authority, C-570/19, ECLI:EU:C:2021:664.

There has been no emergence of claim agencies to handle complaints from passengers against waterborne carriers on the basis of the Regulation contrary to what has been observed in air transport for instance.

Monitoring activities

The Regulation sets a general obligation upon the NEBs to take the measures necessary to ensure compliance with the Regulation. The Regulation offers flexibility in the way NEBs may take action to monitor the implementation of the rules by carriers and port infrastructure managers. Some NEBs report that they take a proactive approach to the protection of passenger rights and the monitoring of how the Regulation is applied, while others have reported to do little beyond complaint handling.[61] In concrete terms, most of the 25 (out of 30)[62] States that participated in the stakeholder consultation indicated that they, with a significant degree of variety, carry out one or more of the following monitoring activities:

- monitoring of the homepages of waterborne carriers (e.g. to ensure that carrier's general terms and conditions are not contrary to the Regulation) and ports and terminals (e.g. to check whether their quality standards are published);
- audits of ports and terminals and some also carriers;
- targeted inspections of carriers or ports and terminals;
- contact with port and terminal operators and carriers (in the form of meetings or by written correspondence) to inform them of 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);
- collection of data from carriers or ports and terminals concerning the application of the Regulation (by two NEBs at least).[63]

Based on their monitoring activities, NEBs are supposed to be able to identify carriers' recurrent non-compliance with the applicable rules and to take the necessary measures ensuring compliance with the Regulation, as appropriate. From the information provided by NEBs it is clear that the passenger focused maritime transport varies a lot between Member States and NEB monitoring activities like so. It is worth recalling that, in the context of the support study, the NEBs that participated provided information about their monitoring activities for the period 1 March 2013 – 31 December 2019, as summarised in Table A6.2 in Annex 6.

Sanctions

Only NEBs from four Member States (Croatia, Greece, Italy and Spain) indicated that they imposed sanctions until 2019: the Croatian NEB imposed two sanctions, the Greek NEB imposed 25 sanctions, Italy and Spain imposed 60 sanctions each.

[61] Annex 6, Table A6.2 and support study, Appendix D. Responses reflect the period before COVID-19.
[62] Stakeholder Consultation Report, Paragraph 2.33.

[63] Support study, Appendix D.

The amount of sanctions differs a lot between NEBs with e.g. the total amount of penalties imposed by the Greek NEB was EUR 6,530 compared to total amount of EUR 877,495 which the Italian NEB imposed on operators as penalties. The minimum amount of penalty imposed by the Greek NEB was EUR 50 compared to the minimum EUR 500 penalties imposed by the Italian and Spanish NEBs. The maximum amount of penalty imposed was EUR 1,000 in case of the Greek NEB and EUR 106,300 by the Italian NEB.[64]

NEBs from 17 other countries (Austria, Belgium, Czechia, Denmark, Estonia, Finland, Germany, Ireland, Latvia, Malta, Poland, Portugal, Romania, Slovakia, Sweden, United Kingdom and Iceland) indicated that they did not impose any sanctions.[65]

Litigation before national courts

The support study found that there is very little litigation based on the Regulation before national courts and tribunals.[66]

Litigation before the Court of Justice of the European Union

In September 2021, the Court of Justice of the EU (CJEU) delivered its first preliminary ruling related to the Regulation (C-570/19).[67]

3.3. Major recent developments

Since the Regulation began to apply in 2012, there have been two major changes to the EU waterborne market with potential implications for passengers' needs.

Firstly, along with the increasing digitalisation in the sector, carriers sell a majority of tickets and provide much information online or via an app, rather than at ports. Since 2010, there has been strong growth in online bookings and the use of IT-tools to plan journeys has increased the demand for real-time information available to passengers. This trend towards increasing digitalisation and greater use of online and app-based services by consumers reflects global developments in information and communication technology affecting the EU economy as a whole. In many industries, including the waterborne market, digitalisation has improved services for the majority of passengers but has resulted in the exclusion of citizens who have no access to new technologies, unable to use them or for whom the digital information is not provided in an accessible format. This was confirmed by many stakeholders, including operators, NEBs and passenger groups.

Secondly, the unexpected outbreak of COVID-19 caused disruptions in waterborne traffic and made the health aspects of travel much more important for passengers. It also forced NEBs to take swift action with regard to the provision of information to

[64] The sanction was calculated by multiplying the amount of the fine per passenger (between EUR 100 and EUR 600) by all passengers (1063) travelling on the ship delayed at departure, Support study, Paragraph 3.20.
[65] Support study, Appendix D.
[66] Support study, Appendix D.

[67]CJEU 2.9.2021, Irish Ferries Ltd v National Transport Authority, C-570/19, ECLI:EU:C:2021:664 Reference for a preliminary ruling from High Court (Ireland) made on 26 July 2019 — Irish Ferries Ltd v National Transport Authority OJ C 328, 30.9.2019, p. 30–32.

passengers and ensuring effective reimbursements. Associations representing operators indicated to the Commission that reimbursement of passengers in case of cancelled services by the operators put certain carriers in a very difficult financial situation. However, they did not quantify this issue during the stakeholder consultation.

Apart from these changes occurring in several sectors, no specific changes to the waterborne market have been observed.

4. METHODOLOGY

4.1. Short description of methodology

The evaluation of the Regulation started with the publication of a roadmap[68] on 11 July 2019 and was overseen by an Inter-Service Steering Group (see details in Annex 1). It builds on the outcome of the public consultation conducted from 3 July 2020 to 23 October 2020[69], and, to a large extent, on the support study carried out by an external contractor for the Commission between February 2020 and July 2021. The support study relied on a combination of sources and methods, including desk research and extensive stakeholder consultation.[70]

The support study findings are supplemented by additional information gathered by the Commission during its monitoring of the Regulation's implementation across Member States, from issues raised by NEBs at the Commission's annual expert group meetings or at various meetings with stakeholders in Brussels or during missions in Member States, as well as from individual complaints received from people affected by the Regulation.

This evaluation is based on the collection and detailed analysis of published pan-European data and information from stakeholders and other industry sources over a two-year period.

The support study referred to above was based on:

- Analysis of the public consultation responses;
- Targeted stakeholder consultation, via questionnaires and interviews;
- Desktop research;
- Three case studies;
- Country fiches developed for all EU27 Member States, Iceland, Norway and the United Kingdom;
- A participatory workshop with selected stakeholders;
- Development of a baseline position; and
- A cost-benefit analysis.

The stakeholder consultation targeted the following six stakeholder groups:

- passenger organisations, including representatives of persons with disabilities;
- NEBs;
- ferry, cruise and inland waterway operators and their associations;
- port operators and their association;
- ADR bodies and ECCs; and
- other relevant industry associations (e.g. travel agents).

A cost-benefit assessment was carried out, to estimate the costs and benefits accrued as a result of the Regulation. The targeted questionnaires formed a good basis for the

[68] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/11878-Sea-and-inland-waterway-transport-passengers-rights-evaluation-_en
[69] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/11878-Sea-and-inland-waterway-transport-passengers-rights-evaluation-_en
[70] Support study, Chapter 2.

collection of information for this task, supplemented by estimations where necessary to fill the gaps. The methodology that was applied for this assessment is the Standard Cost Model (SCM), which allows to address the costs of the Regulation for Member States (NEBs), industry stakeholders and passengers. It allowed for the quantification of actual costs (i.e. financial or monetised time costs) resulting from the requirements of the Regulation.

4.2. Limitations and robustness of findings

While Eurostat has data related to maritime passenger transport in the EU based on figures communicated by Member States, there is little accurate and up-to-date information on the particularities of the market affected by the Regulation and the specific profile of passengers benefitting from it (e.g. there is no information on the number of PRM travelling by waterborne transport or passengers travelling with their cars). Consequently, it is difficult to quantify the benefits of the legislation with any precision, although costs and benefits have been quantified where possible.

During the evaluation, inputs from a range of stakeholders were gathered: NEBs, passenger organisations (including PRM organisations), carriers, ports and their organisations, ADRs, etc. including from NEBs. In addition, the biennial activity reports of NEBs – and the homepages of major European carriers were analysed, together with data from recognised industry sources.

However, carriers from the Baltic and ports from Mediterranean region were underrepresented in the stakeholder consultation. In addition, some of this information was provided in the context of the support study on a confidential basis. Furthermore, quantity and quality of data was limited in several instances, for example sources do not always differentiate between cruise and non-cruise passengers and there is very little information available on passengers travelling on inland waterways. Also, the number of passengers requiring assistance was not recorded. In these instances, it was necessary to derive assumptions from a combination of data.

Further appropriate assumptions, based on information provided during the stakeholder consultation and industry press articles, were used to make up for a relatively low availability of data. When data directly related to the waterborne industry were not sufficient to build these assumptions, e.g. on PRM, more robust data from the support study to the ex-post evaluation of Regulation (EC) No 1107/2006 was incorporated.

5. ANALYSIS AND ANSWERS TO THE EVALUATION QUESTIONS

This chapter presents the findings on how the Regulation performs against the five key criteria of effectiveness, efficiency, relevance, coherence and EU added value.

5.1. Effectiveness

Evaluation questions

5.1.1. What progress has been made towards the general objective of ensuring an equivalent level of protection and assistance to passengers travelling by sea and inland waterway transport throughout Member States? To what extent have the measures adopted in the Regulation ensured the same level of passenger rights protection across the EU?

The objective of the Regulation is to ensure a high level of protection for passengers, comparable to the level of protection in other modes of transport. This objective is reflected in the preamble of the Regulation, where it is recognised that the maritime and inland waterway passenger is the "weaker party to the transport contract" and that all passengers should be granted "a minimum level of protection" within the scope of the Regulation covering most types of waterborne services within the European Union.

The Regulation granted harmonised substantive rights to passengers travelling throughout the Member States. As mentioned earlier, in some Member States national legislation did not grant rights to waterborne passengers, and there were significant differences between the levels of national protection of waterborne passengers.

The comprehensive scope of the Regulation contributes to the general objective of the Regulation. In particular as no major exemptions were made. Whilst Article 2(4) of the Regulation permits Member States to exempt services covered by PSO from the application of the Regulation, provided that the rights of passengers under the Regulation are comparably guaranteed under national law, this exemption has not been used in any Member States. This contributes significantly to an equivalent protection of passengers.

There are significant variations between the NEBs powers to enforce the Regulation and their approach to monitoring and sanctioning. In addition, many NEBs decisions related to complaints are not legally binding. As a result, the Regulation so far did not ensure in practice the same level of passenger protection across the EU. However, data on monitoring and enforcement is very limited to provide a more detailed assessment on the differences across Member States.

There are a few external circumstances of the waterborne sector which can significantly affect the implementation of waterborne passenger rights:

- Vessel accessibility varies across operators and it affects whether PRM can use the respective waterborne services: usually there is a strong correlation between the age of a vessel and its accessibility among others because Directive

2009/45/EC on safety rules and standards for passenger ships[71] establishes requirements for certain categories of ships which were built later than 2004. Consequently, it can be very important from the point of view of accessibility whether the ship was built before or after this date. In addition, accessibility of different ports also differs and accessibility of ports is not regulated neither by this Regulation nor any other EU legislation;

- Services offered, frequency and the number of operating carriers vary significantly by route, and this can limit the scope for offering passengers re-routing options with comparable conditions; and
- Terminal and port facilities differ across Member States and at specific locations, affecting the extent to which passengers, particularly PRMs, are provided with assistance and information.

As regards service offers, passengers not travelling with their cars or by coach (the so called "foot passengers"), are not allowed on services operated by a number of carriers, including those operating on some of the most important routes in Europe.[72] It is unclear why operators impose these restrictions, which tend to be route- or timetable-specific. The restrictions may reflect a lack of port handing services or a lack of availability of customs or immigration services able to handle this category of passengers. In practice, foot passengers are mostly travelling on rural services or on those operating to tourist destinations.

5.1.2. What progress has been made towards the specific objective of ensuring that:

(a) Non-discriminatory fares and contract conditions apply to every passenger?

The Regulation requires that "without prejudice to social tariffs, the contract conditions and tariffs applied by carriers or ticket vendors shall be offered to the general public without any direct or indirect discrimination based on the nationality of the final customer or on the place of establishment of carriers or ticket vendors within the Union". Unfortunately the scarce data available on this aspect is not sufficient to make any conclusions related to this aspect.

Analysing the available NEB reports covering the years 2013-2018, only one Member State reported complaints concerning discriminatory contract conditions or tariffs, whilst another Member State reported complaints concerning ticket sales. However, in both instances, no additional details on the substance of complaints were provided.[73] NEBs indicated in the stakeholder consultation that they monitor the application of this provision of the Regulation through audits and based on passenger complaints.[74]

An analysis of the terms and conditions of the largest ferry operators by revenue in each of the top four Member States by numbers of embarking and disembarking seaborne passengers and has shown that none of these include provisions which discriminate

[71] Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (OJ L 163, 25.6.2009, p. 1–140).
[72] Support study, Paragraph 3.52 and Table 3.7 shows that Brittany Ferries, DFDS, Irish Ferries, P&O, Stena Line and TT Line all have restrictions on foot passengers on some of their routes or in specified time periods.
[73] Support study, Paragraph 3.3.
[74] Support study, Stakeholder Consultation.

directly or indirectly based on nationality. A random check on fares for specific ferry services available on carriers' websites confirmed that fares for a given service did not differ between country websites.[75] All carriers consulted indicated that the Regulation has not influenced how they ensure that non-discriminatory fares and contract conditions apply to every passenger.[76]

(b) Passengers are informed of their rights and are able to exercise them by complaint procedures set up by carriers?

The text of the Regulation is generally available on operators' and NEBs' websites as well as on the dedicated website of Your Europe.[77] In addition, passengers can access information related to cancellations, delays, re-routing, complaint handling and reimbursement more easily thanks to increasing reliance by operators on information technology which leads to a more effective contact with passengers in case of disruption.

As several provisions of the Regulation require carriers and operators to communicate their legal responsibilities to passengers with respect to passenger rights and PRM assistance, communicating information is a broad issue and involves provision of information about rights before, during and after the journey.

The only indicator of the increasing awareness of the passenger rights, including the right to complain is the recent increase in the number of complaints submitted to NEBs and ADRs.[78] Although NEBs count and report the number of complaints they receive differently (as mentioned earlier, some NEBs include in their statistics all complaints received while others only include complaints within the scope of the Regulation) and differences with respect to handling complaints can be based on different structures of NEBs and ADRs, an increase in the number of complaints can be measured. The increasing trend in complaints in the countries with the highest level of waterborne traffic does not appear to correlate with the fluctuating traffic levels since 2012, thus suggesting that passengers have become more aware of their rights. It must however be noted that as the number of complaints is low, it is not possible to draw firm conclusions from the analysis. Also, the evidence is insufficient to draw firm conclusions on the degree of compliance with the requirements of the Regulation as the number of complaints may be increasing solely because passengers are more aware of their rights, or alternatively because instances of non-compliance are increasing.

It seems from the information gathered by the support study that there are no complaints related to the breach of PRM rights, either because according to PRM representatives PRMs are less likely to complain than other passengers or because NEBs do not need to distinguish between complaints related to PRM rights and complaints related to other passenger rights when registering them.[79] Another reason might be that PRM passengers could be less likely to face some of the issues they experience on other transport modes, especially in case of car ferries which can be accessed by PRM with their own vehicle,

[75] Support Study, Paragraph 3.5.
[76] Support study, Stakeholder consultation, Paragraph 3.15.
[77] https://europa.eu/youreurope/citizens/travel/passenger-rights/ship/index_en.htm.
[78] Figure 5 - NEB reports of complaints 2010-2019 provided by NEBs.
[79] Support study, Paragraph 3.14.

thus solving issues of assistance and accessibility when embarking or disembarking the ferry.

In any case, as explained above, according to the latest Eurobarometer survey, awareness of waterborne passenger rights is still lower compared to awareness of passenger rights in aviation.

Most carriers have indicated that the Regulation has influenced their approach to communicating information. They also indicated that the Regulation has affected their customer care departments, as it was necessary to provide sufficient resources.[80]

(c) PRMs have opportunities for waterborne travel comparable to those of other passengers.

PRM tend to book their travel in the same way as other passengers and afterwards notify the carrier or terminal operator of their need for assistance. This leads to a cumbersome process for PRM, as the booking for them involves two steps as compared to the one-step process for other passengers. However, it ensures that PRM are not denied boarding. Also, according to the Regulation, pre-notification is not compulsory, ensuring that PRM are not penalised for failing to pre-notify, and that "carriers and terminal operators shall nonetheless make all reasonable efforts to ensure that the assistance is provided in such a way that the person with disability or person with reduced mobility is able to embark, disembark and travel on the ship".

The stakeholder consultation indicates that most NEBs consider that the Regulation has provided PRM with more opportunities for waterborne travel, and that such opportunities are mostly comparable to those of all other passengers.

There is evidence suggesting significant room for improvement of the assistance provided to PRM. In particular, the entrance to the port area is often far from the boarding terminal and it is not always clear where assistance is available between the two locations.[81] Although PRM assistance tasks on board vessels and at ports are listed in Annexes II and III of the Regulation, the allocation of responsibilities of PRM assistance between carriers and port operators could be further clarified. Several stakeholders have also noted the critical importance of making both vessels and ports more accessible, which might need investment. Furthermore, whilst the Regulation determines that travel agents and tour operators should communicate the relevant information, it leaves them the choice of liaising with ports or carriers. It is also not clear whether these agents and operators can be relied upon to liaise with one another to ensure that assistance is seamless. Furthermore, unlike in air transport, no specific communication channels exist between agents, ports and operators, which requires them to contact one another using ad hoc channels, based on information available.

With respect to the obligation of the Regulation requiring terminal operators and carriers operating port terminals or passenger services with more than 100.000 passenger movements per calendar year to publish quality standards for assistance of PRM (Art. 13 of the Regulation), the support study examined the homepages of several ports and

[80] Support study, Paragraph 3.6.
[81] Support study, Paragraph 3.32.

carriers: while only a very limited number of ports and ferry companies published on their website information on such quality standards, all cruise operators examined published such information on their websites.[82]

(d) inconvenience to passengers due to cancellation or significant delay is reduced?

It cannot be determined whether the obligations imposed by the Regulation on operators have created an incentive to improve reliability and therefore to reduce the number of cancellations or delays, as no quantitative data can be identified on trends in the number of cancellations, the number and duration of delays, or the scale and type of re-routing available.

It can however be concluded that the inconvenience to passengers has been reduced as a result of the obligations in the Regulation to reimburse or to re-route in the case of cancellation or significant delay of the service. The Regulation includes multiple provisions in the case of cancellation or delay, notably the obligation to provide information (Article 16), assistance (Article 17), options for re-routing or reimbursement (Article 18), and compensation (Article 19), which must be paid independently of when such cancellation or delay is communicated to passengers. However, according to the Eurobarometer 2019 survey, only 38% of respondents who experienced significant disruptions during their waterborne journeys benefitted from some form of remedy.

Re-routing, can be in practice a complex process, as it depends on the service frequency and availability of alternative service providers on different routes, and therefore re-routing options must be established case-by-case.

With respect to compensation, a majority of stakeholders during the stakeholder consultation expressed the view that the flat rate of 25 and 50% of the ticket price (depending on the length of delay) were set at appropriate levels. Two NEBs however noted that the time thresholds are longer comparable to those for other transport modes.[83]

In the cruise sector (both maritime and inland waterways cruises), delays tend to be less important during the cruise than delays at the destination, which may lead to passengers missing their land connection.

Around 70% of carrier stakeholders participating (8 out of 11) in the consultation consider that the Regulation has not had an impact on carriers' operating practices. Those carriers indicating that the Regulation impacted their operating practices indicated that this impact did not relate to vessel operations, but rather to investments on notification of information to passengers.

(e) Member States and National Enforcement Bodies take the measures necessary to ensure the enforcement of the Regulation?

The Regulation relies heavily on NEBs fulfilling their roles effectively, as enforcement is delegated to Member States. At the same time, the Regulation allows flexibility to the Member States to design the enforcement mechanism in the national legislation. As a

[82] Support study appendices C (notable the case study on cruises) and E ("Carrier Review") and paragraph 3.33.
[83] Support study, Paragraph 3.26.

result, the legal powers and practical capabilities of NEBs towards the enforcement of the Regulation as well as their approach to monitoring implementation and enforcement (among other actions the use of sanctions) vary significantly from one Member State to another, as mentioned in Chapter 3, which may hinder the effectiveness of the Regulation.

The **low number of complaints** filed to NEBs can be explained by different reasons, however it is important to take note of the fact that the evidence available is often insufficient to make any final conclusions on the root cause of the low number of complaints.

The following reasons are nevertheless reckoned to contribute to the fact that passengers submit very few complaints:

- Many passengers may still not be aware of their rights;
- NEBs in certain countries only deal with the systemic enforcement of the Regulation and do not handle complaints of individual passengers;
- Passengers in general do not experience many cancellations or delays;
- Carriers deliver a high degree of service on the spot, e.g. when a delay occurs or they handle the complaints they receive to the satisfaction of the passenger;
- Passengers consider that submitting a complaint to a NEB might not be beneficial to them as in most countries NEBs do not have the power to issue a binding decision in the event of a breach of the Regulation. When NEBs' decisions are not binding on operators, passengers must seek another instrument to obtain redress, resulting in passenger rights not being effectively enforced.[84]

It is difficult to determine whether the low level of complaints to NEBs, as mentioned above, represents 'the tip of the iceberg' or the actual level of concern among passengers about the service they receive.

Although there is in general a low number of complaints, there has been an increasing trend in the amount of complaints to the NEBs in recent years from under 100 complaints before 2015 to more than 500 complaints in 2018 and 2019. It remains that the number is still very low taking the number of passengers carried into consideration (one complaint per million passengers).[85]

Monitoring activities of carriers, terminals and other parts of the industry's supply chain carried out by the NEBs contribute to ensure the enforcement of the Regulation. This may help improve the effectiveness in the implementation of the Regulation. Although the Regulation obliges NEBs to take all the measures necessary to ensure compliance, there is no uniform approach to monitoring activities. Where most NEBs have informed that they "monitor and oversee compliance with the Regulation" other NEBs have added

[84]As shown by Special Eurobarometer Survey No 485 on passenger rights the share of those who experienced a disruption experienced a disruption, which say that remedial action was taken was relatively low in respect to other modes: 38% in waterborne, compared to 53% in air, 43% in rail, 38% in bus & coach.

[85] Figure 5 - NEB reports of complaints 2010-2019 provided by NEBs.

more proactive monitoring such as anonymous purchase tests, they inspect the safety and accessibility of passenger ships, audit terminals and ticket vendors and others again check carrier websites.[86] Where such monitoring activities are undertaken, they consist of periodic assessments of carriers' and terminal operators' websites to ascertain whether information on passenger rights is available and the carriers' general conditions of carriage are compliant with the Regulation. In other Member States, no such proactive monitoring was reported during the consultation.

Moreover, some Member States use PSO contracts, which gives the contracting authority a greater ability to oversee the performance and behaviors of carriers (including aspects related to passenger/consumer) than if they were operating on a purely commercial and competitive basis.

It is to be noted that some Member States have also worked on supporting the enforcement through other means, e.g. through information campaigns and runs information services.

Whether the approaches taken by Member States, especially the approach based mainly or exclusively on responding to complaints, have been efficient and effective to ensure compliance and consistency in enforcement across Member States, carriers, routes and PSO and non-PSO services, cannot be assessed firmly, given the scarcity of data on this question as explained above when analysing the number of complaints.

A common approach among Member States with respect to **imposing sanctions** is also missing. As mentioned in Chapter 3, only four NEBs (Croatia, Greece, Italy and Spain) have imposed penalties[87], which means that the sanction procedures remain untested in most Member States. The total number of sanctions were very low (only 127 penalties imposed by all NEBs in the period between 2013 and 2019) and often the sum of the penalties is low (e.g. most of the 25 penalties imposed by the Greek NEB are of a sum of EUR 150 or less).[88]

Only a limited number of NEBs provided information on the maximum values of the penalties they can impose. Where such data is available, it can be noted that there are significant differences in the minimum and maximum amount of the penalties that can be issued.[89]

The relatively low amounts of penalties could raise doubts whether the penalties are proportionate and more importantly dissuasive, while providing a strong incentive to comply with the Regulation, especially when combined with no pro-active monitoring and a low level of awareness of passengers about their rights. Given the data available, no firm conclusion on effectiveness, proportionality and dissuasiveness of the sanctions can be drawn.

[86] Annex 6, Table 6.2 – Enforcement approach of NEBs.
[87] The majority of sanctions concerned the breaches of the Regulation with respect of obligations to provide information for passengers, re-routing and reimbursement and the lack of appropriate complaint handling.
[88] Table A6.3: Financial Sanctions issued by NEBs.
[89] Table A6.2: Enforcement approach of NEBs.

In addition, the NEBs are obliged to **publish bi-annual reports on their activities** as of 1 June 2015. These reports are a valuable source of data.[90] If not foreseen under national law or by Article 13 of the Regulation, the NEBs cannot rely on reports of carriers, because these are not in general obliged to report on certain service quality standards as it is the case for rail passenger rights.[91] The reports of the NEBs have to contain in particular a description of actions taken in order to implement the Regulation and statistics on complaints and sanctions applied (Article 26).

When coming to the establishment of some NEBs and their enforcement, some weaknesses have been identified: The Italian and the United Kingdom NEBs are for instance not empowered to impose sanctions if certain provisions of the Regulation are not respected.[92]

In addition, although most NEBs can impose sanctions directly as an administrative procedure, the Irish and the United Kingdom NEBs must refer the matter to a court, whilst the Danish and Portuguese NEBs must report the infringement to another body which decides whether to impose sanctions or not.

Without sufficient monitoring activities and enforcement measures backed up by effective sanctions, the effectiveness of NEBs' powers is and will remain limited. This leads to the conclusion that in practice, differences do occur with respect to the effective level of protection provided to passengers in different Member States, which is especially an issue for passengers travelling across borders. It also leads to differences in an otherwise level-playing field across the European Union because operators do not compete on a similar basis.

Furthermore, EU carriers competing on specific routes with carriers established outside the EU, such as routes to or from North Africa, might have disadvantages compared to their non-EU competitors. Whilst the Regulation applies to carriers established outside the EU and operating to and from Member States, non-EU countries do not necessarily have regulatory bodies with responsibilities comparable to those of NEBs. The fact that these carriers are established outside the EU might lead to difficulties to ensure the payment of penalties (this particular observation by is based on anecdotal evidence by EU carriers and no other supporting evidence was identified to confirm these difficulties).

In order to assess the effectiveness of the enforcement of passenger rights by NEBs in the context of the COVID-19 pandemic, recent information has been analysed, focusing on the reimbursement of tickets to passengers in the event of cancellation of travels.

[90] See also Annex 3 on Limitations and robustness of findings and Annex 6, Table A6.4: Reports by NEBs according to Article 26 of the Regulation.

[91] Regarding rail passenger rights, railway undertakings are obliged to report annually on certain service quality standards (Article 28 and Annex III of Regulation (EU) No 1371/2007) and Article 29 of Regulation (EU) 2121/782.

[92] The IT NEB cannot impose sanctions for infringement of Article 19, and the UK NEB can only impose sanctions for infringements of some provisions (see those articles in the UK legislation adopting sanctions The Merchant Shipping (Passengers' Rights) Regulations 2013). Support study, Paragraph 3.45.

Only in about half of the Member States where passengers were affected by a service cancellation were they refunded or at least granted the choice between reimbursement and vouchers, in the event of journeys cancelled by carriers. Specifically, based on the data received, the solutions found on the issue of reimbursement in the form of vouchers include refunds granted on demand, refunds upon NEB request and resolution of complaints in an amicable way. Nevertheless the data available so far of complaints to NEBs do not show a significant rise in the number of complaints in 2020.

As mentioned above, the Commission started in August 2020 informal dialogues with all Member States regarding the application of passenger rights in all modes of transport including waterborne in the context of COVID-19 and the obligations of NEBs to report on their activities. These procedures are still ongoing.

The protection of the waterborne passenger rights can be complemented by wider public enforcement mechanisms established under the Consumer Protection Cooperation Regulation as underlined by Recital 28 of the Regulation. So far, this Regulation has not been used for waterborne passenger rights.[93]

Passengers may also seek individual redress by turning to Alternative Dispute Resolution (ADR) bodies or national courts. Turning to ADR bodies can be a comparatively efficient and effective way to seek redress for waterborne passenger rights complaints.

However, 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 sector and direct the disputes to a generic ADR body. In addition, in some Member States where NEBs are entitled to adjudicate on passenger rights claims the participation of carriers in the procedure is voluntary. The Commission has supported the launch of Travel-Net,[94] 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.

In any case, the interaction between the specific system of redress dedicated to passenger rights (carriers and NEBs) by the Regulation and the other enforcement tools available more widely (ADR, courts), also adds to the complexity of the system.

5.1.3. Which factors have contributed to/hindered the achievement of objectives?

Several factors have contributed to the achievement of the objectives of the Regulation:

- the Regulation entrusted NEBs with monitoring compliance and with enforcement, following a similar approach to that followed in other European passenger rights legislation;

[93] Recently the CPC-Regulation has been used for the better enforcement of air passenger rights, https://ec.europa.eu/info/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/air-travel_en

[94] 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.

- the Regulation built on a pre-existing requirement to ensure the accessibility of vessels providing passenger services within the European Union imposed by Directive 2009/45/EC;
- the expansion of digital technology and the availability of services and information via smart devices have complemented the Regulation by improving accessibility of information and broader aspects of customer service.

Other factors have prevented the potential benefits of the Regulation from being realised:

- some NEBs have been less proactive than others in enforcing the requirements of the Regulation. The lack of consistent enforcement activities and the limited level of interaction suggests that potential for common approaches to the same issues remains unused;
- the availability and quality of services and facilities (such as waiting rooms, toilets and facilities offering refreshments) vary considerably across ports across the European Union. This can be explained by the fact that most ports are heavily geared towards freight traffic and less focussed on passengers or are only equipped for passengers arriving and leaving the terminal by vehicle. Limited terminal facilities can constrain carriers seeking to meet their obligations under the Regulation. Also, a lack of PRM assistance points in ports was identified;
- the availability or opening times of catering facilities can hinder the realisation of the obligation to provide free of charge snacks, meals or refreshments in reasonable relation to the waiting time which is an obligation for carriers in case of delayed or cancelled services;
- it is unclear whether channels of communication between carriers, ports, travel agents and passengers are adequate as in instances where tickets are purchased other than from the carrier, such information of contact details must be passed to the carrier or port;
- The general lack of sanctions could also suggest that incentives to comply with the legislation can be weak.

5.1.4. What have been the effects (positive or negative impacts) of the Regulation? Were there any unintended or unexpected effects? Could all the changes observed since the entry into force of the Regulation be credited to the Regulation?

Some evidence can be found that the Regulation has led to improvements for passengers, including PRM, across the European Union. In particular, the following improvements can be named:

- greater awareness of the needs of passengers during disruption in terms of information provision as well as broader care and assistance;
- greater awareness of the needs of PRMs, even if the situation remains varied across Member States;
- greater consistency of treatment across operators, ports and Member States; and
- a system for addressing complaints.

As indicated in the baseline analysis, in 2013, 50 million passengers benefitted from an improvement in the quality of rights, and the Regulation benefitted passengers by

providing access to assistance in the event of a cancellation to 1 million passengers, and improving the quality of rights available to further 1.4 million passengers.

However, it must be taken into account that few NEBs commented on the impact of the Regulation in the course of the consultation exercise. Also, one NEB stated that no specific studies on the effect of the Regulation have been undertaken, suggesting that no firm conclusion can be drawn. The scarce evidence provided indicates that, in practice, the effects have varied between Member States, partly as a result of variations in the extent to which NEBs have been empowered to enforce the requirements of the legislation:

- two NEBs reported that the Regulation has influenced the behaviour of many carriers, while one noted it reflected in the improved information on passenger rights and on complaints procedures;
- one NEB explained that operators are aware of costs, so they ensure to have replacement vessels at their disposal, although another NEB stated that carriers have not increased their operational times to reduce the risk of delays.[95]

It must also be noted, that some elements of the Regulation have not been fully implemented. This must be said with respect to the information on passenger rights on ports' websites that often have no such mention but in a few instances with the indication of passenger facilities or contact details.[96]

A further concern, which cannot be directly attributed to the Regulation, relates to the transport industry's increasing reliance on information technology. Foremost, it can be considered positive that the use of such technology allows carriers to forward information to passengers in real time, and can be particularly helpful in managing cancellations, delays, re-routing, complaint-handling and reimbursement. Whilst this is helpful to the majority of passengers, a substantial proportion of whom have access to a smart device, it can result in some passengers being 'left behind', particularly where it leads to a decline in the use of other methods of communication, including the provision of ticket offices and information desks.

Whilst it is not clear which changes can be linked to the Regulation and which changes would have occurred also as a result of competition, technology and broader changes in social awareness, most stakeholders have indicated that carriers did not change their operational practices such as service schedule and fleet allocation to routes as a result of the Regulation. A number of carriers also emphasised that customer satisfaction is an important business objective by itself.[97] Thus, the management of customer relations would be undertaken regardless of the requirements of the Regulation.

No unexpected effects, neither positive nor negative, related to the Regulation were identified. Especially, no evidence could be found that fares have been affected by the Regulation. These depend mainly on demand, price elasticity, competition scenarios, and target return on investment.

[95] Support study, Paragraph 3.39.
[96] Support study, Paragraph 3.40.
[97] Support study, Paragraph 3.42.

5.1.5. Did the Regulation lead to legal clarity? Does the Regulation leave gaps that might hamper its effectiveness?

The effectiveness of the Regulation has been limited due to the fact that several of its provisions have been difficult to interpret, particularly because there has been an absence of case law of the CJEU until recently.

NEBs and carriers indicated that they had difficulties in particular in interpreting the following notions: "re-routing under comparable transport conditions" and "at the earliest opportunity", the scope of extraordinary circumstances, or what is comprised in the ticket price which serves as the basis to compensate for delays and cancellation.[98]

In its recent preliminary ruling (C-570/19)[99], delivered in September 2021 (i.e. after the evaluation period), the CJEU interpreted some of these notions. Among others, the CJEU ruled that:

- passengers are entitled to receive compensation in case they request rerouting and their service arrives later than the initial booking at the final destination even if the carrier informed passengers well in advance about the cancellation of the original service or change in the schedule;
- the concept of 'ticket price' includes costs related to the additional optional services chosen by the passenger, such as the booking of a cabin or a kennel, or access to premium lounges;
- in case there is no alternative ferry service on the same route, the carrier is required to offer the passenger, by virtue of the passengers right to re-routing under comparable conditions and at the earliest opportunity to the final destination provided for in that provision, an alternative service that follows a different itinerary from that of the cancelled service or a maritime service coupled with other modes of transport, such as rail or road transport, and is required to bear any additional costs incurred by the passenger in re-routing to the final destination;
- the right of passengers to be re-routed at "no additional costs" means that the carrier must bear any additional costs incurred by the passenger in re-routing to the final destination, "such as fuel or road tolls which the passenger incurred in order to travel to the alternative port of embarkation, or to leave the alternative port of disembarkation and travel to the port of disembarkation originally scheduled, or costs incurred by the passenger when travelling by road or rail in connection with a landbridge"[100];
- the term of "extraordinary circumstances" must be interpreted strictly, by taking into account recitals 17 and 19 of the preamble as well as the CJEU case-law relating to that concept, developed in the context of Regulation (EC) No 261/2004 on air passenger rights. In the Case Irish Ferries, the Court specifically stated that "Article 20(4) of Regulation (EU) No 1177/2010 must be interpreted as meaning that

[98] Example C.46, C.64, footnote 95 and Table C16 of the support study.
[99] CJEU 2.9.2021, Irish Ferries Ltd v National Transport Authority, C-570/19, ECLI:EU:C:2021:664.
[100] CJEU 2.9.2021, Irish Ferries Ltd v National Transport Authority, C-570/19, ECLI:EU:C:2021:664, Paragraph 66.

> the late delivery of a passenger transport vessel which led to the cancellation of all sailings to be operated by that vessel in the context of a new maritime route does not fall within the concept of 'extraordinary circumstances' within the meaning of that provision".[101]

The CJEU's preliminary ruling is a significant step towards improving the legal clarity of certain provisions although it does not solve all the legal questions related to these provisions.

Lack of clarity and gaps

Compensation of the ticket price in the event of delay at departure

The right to compensation in the event of delay at departure needs clarification, as the Regulation does not specify whether a "delay" should be calculated at the time the ship berths or the time the doors are opened.

The Regulation requires carriers to pay compensation for delays even though these delays may depend on the efficiency of towage operations or port berthing activities. Whilst in other Regulations such as Regulation (EC) No 261/2004 on air passenger rights (Article 13) it is clarified that the rights of carriers regarding redress against any third party responsible for the disruption are not to be interpreted in such a way as restricting this right of redress, no such clarification is made in the Regulation on waterborne transport.

Information in the event of cancelled or delayed departures

The provision of information about delays and cancellations is a dynamic process including regular updates on the status of the service. The Regulation mandates carriers, or where appropriate the terminal operator, to inform passengers about delays and cancellations. Communication via contact details provided by passengers can be essential in this context. The recollection of such information may however be difficult. The Regulation neither requires passengers to provide contact details, nor does it set out obligations on carriers or terminals to exchange such contact details with the aim of informing the passengers about cancellations and delays. When contact details have not been passed on in the case of a booking with a travel agent or tour operator, no such information can be given. Particularly, sharing this type of personal data is governed by the General Data Protection Regulation (GDPR).[102] Travel agents or tour operators also regard such contact details as commercially sensitive, since these passengers form their customer base. Another key issue is the actual capacity to provide passengers with real time information on the status of the service, regardless of where the passenger is at a given time and which technologies the passengers are in possession of. Contact details

[101] CJEU 2.9.2021, Irish Ferries Ltd v National Transport Authority, C-570/19, ECLI:EU:C:2021:664, Paragraph 177.

[102] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance) OJ L 119, 4.5.2016, p. 1–88.

would need to be in a format such as an e-mail or a mobile device number that allows carriers to provide information both regularly, with updates on the status of the transport service, and independently of the location of the passenger. Information should furthermore be provided in several different accessible formats, rather than only through voice message or only through display screens.

Lack of differentiation with respect to passengers travelling with their car

Whilst data on the number of passengers travelling by ferry with a car are not generally reported, there is consensus across the industry that such passengers represent a very high proportion of total ferry traffic. The Regulation however is silent on the special issues that passengers travelling with their cars might face. If a passenger is entitled to compensation as a result of a delay or cancellation, does the "ticket price" of the "passenger service" which serves as the basis to calculate compensation include the costs of transporting the car?[103] When passengers are informed of delays only after they have boarded with their vehicle it is impractical to disembark them (which would cause even more delays) are they then still allowed to renounce travelling and disembark?

Extraordinary circumstances

The notion of "extraordinary circumstances" is an area where there is a lack of clarity. The passenger is entitled to compensation of the ticket price in the event of a delay in arrival in accordance with Article 19 of the Regulation. However, Article 19 does not apply if the cancellation or delay is caused by weather conditions or by extraordinary circumstances. A further explanation of extraordinary circumstances is provided by Recital 17[104], however this definition is not exhaustive, which can lead to differences in interpretation between NEBs and can make it difficult for passengers to be sure of their rights. The recent CJEU case defines that the term of "extraordinary circumstances" should be interpreted strictly and has given a ruling on the specific case. Nevertheless, there are still many other circumstances, not in the scope of the individual case, which might be of relevance in this respect, depending on the case at hand, on which the CJEU did not yet have to decide. It is also noted that "extraordinary circumstances" also is an issue concerning air passenger rights resulting in many court cases. During spring 2020, the Commission advised NEBs and carriers on the assessment of the pandemic as an extraordinary circumstance in order to ensure an EU-wide approach.[105]

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

[103] CJEU 2.9.2021, Irish Ferries Ltd v National Transport Authority, C-570/19, ECLI:EU:C:2021:664 touches on the notions of ticket price, however does not mention the notion of cars.

[104] Recital 17 of the Regulation indicates that: "Extraordinary circumstances should include, but not be limited to, natural disasters such as fires and earthquakes, terrorist attacks, wars and military or civil armed conflicts, uprisings, military or illegal confiscations, labour conflicts, landing any sick, injured or dead person, search and rescue operations at sea or on inland waterways, measures necessary to protect the environment, decisions taken by traffic management bodies or port authorities, or decisions by the competent authorities with regard to public order and safety as well as to cover urgent transport needs".

[105] Interpretative Guidelines on EU passenger rights regulations in the context of the developing situation with COVID-19, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0318(04)&from=EN

First and foremost, passengers must be aware of their rights in order to claim them. As noted in Chapter 3 a lack of awareness among waterborne passengers is still prevalent.

The analysis of carriers' websites[106] demonstrates that most of the main ferry and cruise operators provide information on the Regulation to passengers. This is confirmed by the consultation where carriers noted that the Regulation has affected their approach to providing information (in contrary to the ports, where such passenger oriented information rarely can be found as explained above).

However, a lack of information provided to PRMs can be identified. In several instances, no clear explanation on how PRMs can request assistance from ports can be found, and in other instances, the focus is on certain types of disability. This is confirmed by statements of organisations representing PRMs noting that complaint procedures are difficult to access or to understand. Most NEBs have indeed not sought to introduce harmonised complaint forms that can easily be used by all passengers.[107]

5.2. Efficiency

Evaluation questions

5.2.1. What are the costs and administrative burdens associated with the Regulation? How significant are they and what are they influenced by? How are they distributed among the stakeholders?

The specific regulatory costs associated with the Regulation are mainly monitoring and enforcement costs and are as such not extensive.

Stakeholders' views on specific regulatory costs, including in relation to monitoring and enforcement, are analysed in detail in the cost-benefit analysis part of the support study, which provides rough estimates and can be found in Annex 5. While stakeholders highlighted a range of costs as a result of the Regulation, the majority of the costs can be considered transfers from carriers and terminal operators to passengers, the costs of which are subsequently recovered through higher fares and absorbed through lower profit margins.

Monitoring and enforcement costs are expected to be incurred mostly by NEBs and carriers, although neither stakeholder group provided estimates of these costs. Different stakeholder groups incur different costs:

- Passengers bear enforcement costs with respect to time required to research rights, collect evidence and correspond with the carrier/port operator or NEB when he or she submits a complaint, with respect to inconvenience and risk and with respect to legal fees where advice is procured and especially where NEBs' decisions are non-binding and they have to sue the carrier or port operator at national courts;

[106] Support study, Annex E.
[107] Support study, Paragraph 3.59.

- NEBs bear enforcement costs with respect to monitoring (communication with stakeholders, collection and verification of evidence, assessing compliance of carriers' and terminal operators' procedures, general conditions of carriage and websites, and inspections and audits) and to enforcement;
- Both carriers and terminal operators bear implementation costs with respect to monitoring (collection and submission of evidence of compliance to NEBs and internal quality audits) and to enforcement (additional staff training, updating company policies, operating procedures, general conditions of carriage and websites, and the if sanction by a NEB, payment of penalties.

The cost-benefit analysis estimates that in the period between 2013 and 2018 NEB costs amounted to EUR 20.3 million (in 2018 prices). This suggests that the bulk of compliance costs are likely to be incurred by carriers responding to passenger complaints as very few cases are escalated before NEBs as well as ADRs. The analysis further delivers the estimate that costs of processing complaints for carriers amounted to EUR 57 million in the same period (also in 2018 prices). For passengers, the cost-benefit analysis estimates that their costs amounted to EUR 6.5 million in 2018 prices, however their benefits were EUR 26.3, which gives an added value of EUR 19.8 million for the passengers. In addition, the cost-benefit analysis estimates that the extra cost for carriers per passenger associated with the Regulation (i.e. the costs incurred from providing assistance, re-routing, reimbursement and compensation) amounted to approximately EUR 0.05 per passenger.[108]

The majority of these costs would not be incurred in the absence of the Regulation, as for example carriers and terminal operators would probably not have addressed complaints as thoroughly in the absence of the Regulation. However, for passengers pursuing legal action, the Regulation may not have reduced the associated costs materially although a more consistent legal framework was established, and for NEBs, the costs cannot always be attributed to the Regulation, notably where Member States had implemented similar national legislation prior to the Regulation's entry into force.

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

Different benefits of the Regulation can potentially accrue to different stakeholder groups:

- passengers receive direct benefits from the establishment of rights across Europe and a framework through which they can exercise their rights. This can lead to increased passenger confidence and improved accessibility to services for PRM.
- NEBs receive no direct benefits, although they develop a better understanding of operators' processes.
- carriers may receive indirect benefits from better operational processes, reputational benefits and possible increased passenger demand; however few carriers indicated having direct benefits from the Regulation;.

[108] Annex 5 – Costs and Benefits identified.

- terminal operators may benefit from harmonised operational processes and increased legal certainty.
- travel agents and tour operators receive no direct benefits, although service is better delivered for their customers, including PRM.

For passengers, the overall impact of the Regulation has been positive, in that the Regulation increased their rights, although in some cases the enforcement of those rights is rather complex or not efficient. In particular, the stakeholder consultation named several benefits for passengers:

- increased travel confidence and, as a result, increased demand for waterborne services;
- time saving based on a single set of enhanced rights for passengers, including PRM;
- compensation in the case of disruption to be claimed from carriers with clear time limits with a further means of mechanism to seek redress before NEBs;
- PRM assistance services are free of charge for PRM (generally recovered through general ticket prices as an economic transfer from other passengers to PRM, although data to precisely allocate costs is lacking);
- assistance services in the case of transport disruption for passengers, offering the choice of continuation, re-routing or reimbursement (although in practice, constraints can be noted);
- formal complaint procedure for passengers, before NEBs (although not all NEBs processes are set up for individual passenger redress as some are unable to investigate complaints on behalf of passengers, the non-binding nature of some NEB decisions tends to dilute the benefit as passengers need to turn to courts, and the ability of some NEBs to thoroughly investigate a complaint can be questioned due to a lack of investigative resources and enforcement powers).

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

The Regulation primarily places the economic burden onto carriers and terminal operators, who in turn pass it on to passengers, through waterborne fares, although theoretically it could be absorbed through reduced margins. In addition, the legislation creates additional regulatory costs (in the form of compliance and enforcement costs) for some groups of stakeholders. The evidence provided by stakeholders offered various views on the distribution of costs and benefits.

Passenger representatives of PRM and non-PRM passengers mostly confirmed that the passenger benefits attributable to the Regulation exceeded any costs incurred by them. Thus, most stakeholders named several benefits for passengers and named the proportionality of costs “positive” or “somewhat positive”. The only costs to passengers identified by these stakeholders are those represented by the time commitment and inconvenience to pursue complaints.

The vast majority of the NEBs considered the costs associated with the Regulation to be proportionate to the benefits brought by the Regulation. They highlighted the realisation of significant indirect benefits, primarily relating to greater passenger welfare. Such indirect benefits identified were mainly:

- service quality improvements;
- an established process for complaint-handling;
- timely access to information regarding delays;
- greater transparency and accountability of operators;
- simplification through the harmonisation of passenger rights regimes across Europe;
- improved passenger confidence and greater consistency across operators;
- clarity on stakeholders' rights and obligations; and
- improved understanding of the operators' complaint handling procedures.

NEBs carry mostly administration costs, while it can be noted that:

- NEBs' costs ranged from 0.25-4.3 FTEs with other costs (e.g. legal) being relatively insignificant in all but one Member State;
- no information was provided on the distribution of administration costs between complaint-handling, monitoring and enforcement tasks. NEB costs generally appear to be correlated with the average number of complaints received;
- many NEBs reported little workload related to the Regulation, considering complaint-handling, the inspection of operators and monitoring of websites, regular contact with the waterborne industry, promotion of passenger rights, imposing of sanctions and drafting the biennial reports.[109]

Carriers expressed diverging views on the proportionality of costs of the Regulation compared to its benefits. The carriers which participated in the stakeholder consultation mentioned the following:

- smaller carriers do not appear to have incurred significant compliance costs, while one rather large carrier highlighted the costs of developing passenger information systems and reimbursement platforms;
- no carrier however indicated that the ongoing costs associated with compliance were significant, except for structural changes to vessels in order to improve accessibility, which is outside the Regulation's scope;
- the costs of compensation tends to be lower than the cost of re-routing and reimbursement, whilst it is possible that several of these costs would also have been incurred in the absence of the Regulation;
- no data is available on the costs associated with the provision of the PRM assistance service.[110]

One port operator considered the costs incurred as a result of the Regulation disproportionate, while the other port operators had a neutral view. They have incurred

[109] Support study, Appendix D Country Fiches.
[110] Support study, Paragraph 3.110-3.114.

direct costs as a result of the Regulation while enjoying relatively few indirect benefits. Particularly:

- substantial costs were arising from fixed, one-off capital investments relating to the purchase of mobility equipment;
- port operators highlighted investments in terminal redesign for the purposes of improving accessibility, although this is outside the Regulation's scope;
- only two port operators noted that they benefitted indirectly from an improved passenger experience, passenger confidence or greater accessibility for PRM passengers.[111]

In summary, the evidence suggests that the Regulation has delivered benefits for passengers and, indirectly for NEBs e.g. because of simplification of rules through harmonisation and clear complaint processes. The transfer of benefits is recovered by carriers and terminal operators to some degree through higher fares.

Administration costs appear relatively low and are primarily borne by NEBs, whilst no carrier or terminal operator highlighted these costs and passengers only incur significant costs when they have to submit a complaint, primarily the time required to submit the complaint and to retrieve supporting information.

5.2.4. Were the positive impacts for passengers achieved at a "reasonable" cost? Could the same results have been achieved with less funding/lower cost? Is there any potential for the reduction of the regulatory costs for any of the stakeholder groups?

The analysis confirms that the overall impact of the Regulation for passengers has been positive, and in the case of those travelling in Member States which previously had no passenger rights legislation the Regulation has clearly delivered a significant improvement to the level of protection. Whether the cost was reasonable for passengers can only be partly assessed, due to limited evidence.

The costs of the Regulation, consisting mostly of monitoring and enforcement costs, are generally not extensive, which suggest the reasonability of the associated costs. This can possibly be explained by the following:

- Carriers and terminal operators receive a relative low number of complaints, thus keeping the costs incurred by every category of stakeholders down;
- carriers and terminal operators may have already been observing most of the requirements of the Regulation, thus not leading to a substantial increase in costs for any party.

In practice, both these explanations appear to be true in part, as passenger representatives noted that the costs of making a complaint can be greater than the expected compensation, and carriers highlighted that re-routing costs were incurred prior to the Regulation's introduction. It is likely that the volume of complaints increases as

[111] Support study, Paragraph 3.115-3.116.

passengers become more aware of their rights, which may lead to a fuller realisation of the Regulation's benefits, also causing costs for more parties to rise.

Several ways are identified in which costs could be lowered. First, costs to passengers of raising a complaint could be lowered by encouraging carriers to automate the complaint-handling process and disseminate delay information more effectively. Secondly, disputes could be more efficiently resolved by encouraging the creation of simple and inexpensive, out-of-court-dispute resolution procedures and agencies such as ADRs, as some NEBs already stated that they were not as competent as ADRs in mediating disputes due to a lack of relevant legal expertise, especially when complaints involved consumer law.
On the other hand, both carriers and terminal operators considered there was little scope for reducing costs without affecting the services provided to passengers.

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, 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. Choosing a Directive could have also created a higher risk that Member States would implement certain provisions differently.

It can be observed that the Regulation allows for some flexibility with respect to enforcement and monitoring, thus recognising the different national regulatory frameworks in place in different Member States, as the instruments listed in the Articles on enforcement rely on the application of the relevant national framework of consumer protection legislation in each Member State. This is also demonstrated in the variety of approaches taken by Member States to enforce passenger rights. While it is marked positive that the referral on national consumer protection or equality frameworks already in place reduces the costs of implementation, it makes enforcement procedures more difficult for passengers and other stakeholders to navigate and introduces inconsistencies in the degree of enforcement across the European Union, thus tending to reduce the efficiency of the instrument.

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 passengers (including PRM) travelling by sea and inland waterways identified at the outset of the intervention?

The Commission's impact assessment (IA)[112] accompanying the 2008 legislative proposal[113] had identified four areas in which rights of persons using waterborne transport needed to be strengthened, as well as passengers', including PRMs', needs when planning and taking journeys using waterborne transport within the European Union, and developed specific objectives, which each contribute to the Regulation's overarching objective to ensure an equivalent level of protection of and assistance to passengers in waterborne transport throughout the European Union.

For all passengers, the needs identified are met by the establishment of rights in the Regulation in terms of assistance needs, including in the case of disruption of travel, and in terms of information access. A gap however can be identified in the need related to quality standards that are not explicitly included in the Regulation, as only Article 13 of the Regulation refers to such standards, solely encompassing the context of assistance of PRM. The need to create a framework for complaint handling, compensation and enforcement was also met, however, it remains highly relevant.

In summary, the needs of passengers, including PRM, that were identified before the intervention, are matched by the Regulation.

5.3.2. Do the original objectives of the Regulation still correspond to the current needs of passengers travelling by sea and inland waterways?

Since the Regulation began to apply in 2012, there have been no major or long-term changes to the EU ferry and cruise market, thus no potential implications for passengers' needs and the objectives of the intervention could be identified. The structure of both the ferry and cruise market has remained stable. Potential implications reshaping the market can in the future result from the COVID-19 pandemic as well as Brexit.

Only a limited number of stakeholders took a stance in the consultation exercise, however all of them stated that they did not consider that the needs of passengers had changed relative to those identified when the legislation was introduced. This means that the needs identified at the outset of the intervention are still valid today. Specific passenger needs highlighted included:

- by passenger and PRM representative organisations:
    - quick and safe journey in exchange for a value for money price;
    - clear information on journey times and fares;
    - clean, safe and comfortable vessels, piloted to a high standard;
    - information on delays and how impacts can be mitigated;
    - full accessibility of vessels and ports.
- by operators:
    - safety, comfort and quality of service;
    - accommodation of passengers with disabilities; and
    - accommodation of the needs of passengers travelling by car.
- by ports:

[112] SEC(2008) 2950.
[113] COM(2008) 816 final.

    - quick and safe boarding, good Wi-Fi connection and easy access to facilities;
    - smooth transit through the ports in order to catch the service; and
    - good and sufficient service for PRM.
- by NEBs;
    - readily available information in the event of major disruptions;
    - availability of information detailing their rights in the event of major disruptions;
    - assistance following major disruptions;
    - PRM assistance; and
    - recognition by operators that individual passenger needs will vary with the journey.

Several stakeholders identified areas where the Regulation could be improved to better address such needs already highlighted. These areas include:

- in the event of a major disruption, passengers should receive all relevant information as soon as possible, also via SMS or e-mail to telephone and/or e-mail addresses provided upon booking (and if necessary as transmitted to operators by travel agencies).
- PRM require maximum transparency of information, including before the journey, on the accessibility of the vessel and available cabins that are tailored to their needs.

The COVID-19 pandemic has brought to the surface the issue of health important for most passengers, especially for groups at risk. For these passengers, a priority has been the possibility to keep their distance from other passengers, which can be difficult where carriers have been allowed to sell all seats. NEBs did not report that passengers' needs have specifically changed as a result of the pandemic. Rather, most NEBs stated that they were following the Commission's guidelines in relation to extraordinary circumstances pertaining to the COVID-19 crisis in relation to compensation for delayed or cancelled journeys. No significant issues on this point were raised by NEBs as most issues could be monitored, analysed and settled. One NEB however mentioned that the case in which the services continued to operate but passengers were unable to travel because of government measures remains unaddressed by the Regulation.[114]

Whilst the collection of data is still ongoing, the COVID-19 pandemic has already illustrated the need for:

- rapid and coordinated approaches of the Commission and NEBs during mass disruption; and
- rapid and clear information to passengers and industry.

In conclusion, it can be noted that the needs of passengers have not significantly changed since the Regulation entered into force. Stakeholders have identified several areas where,

[114] Support study, Paragraph 3.227.

in their view, the needs of passengers could be better addressed by the Regulation, however these relate primarily to needs previously identified.

5.3.3. How well is the Regulation adapted to technological or scientific advances that may help passengers and PRM travelling by sea and inland waterways?

Increased digitalisation has had a substantial impact on the waterborne industry in recent years. Since 2010, the booking processes and information provided to passengers has generally improved, as passengers can buy tickets online or on their mobile devices and receive real-time information about the status of their journey. These advances have been available to all passengers with access to a smartphone. For these passengers, access to passenger information was significantly improved and facilitated.

At the same time, service quality has deteriorated to passengers who do not have or cannot use computers or smart phones, because information desks are less and less used and call centres have less personnel answering phone calls. In the case of PRM passengers, depending on their specific needs and on the specific response of operators, terminals or NEBs to their accessibility and assistance requirements, these developments with respect to digitalisation may either represent an opportunity to improve accessibility or a new barrier to such access.

Further technological developments described during stakeholder consultation were the equipment of gangways with escalators, the greater use of electrical wheelchairs by PRM, and improved port infrastructure. Whilst many stakeholders noted the importance of the design of both ports and vessels in facilitating accessibility and assistance, especially for PRM,[115] it must be noted that the Regulation does not directly address this issue but rather issues such as the accessibility of information, while the European Accessibility Act covers mainly digital products and services rather than transport infrastructure, vessels and vehicles.

5.4. Coherence

Evaluation questions

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

In general, the provisions of the Regulation are coherent and consistent with each other. However, especially one irregularity exists in the Regulation.

Compensation of the ticket price in the event of delay in arrival

Whilst no explicit Article governs the relation between Articles 18 and 19, it must be noted that the redress available under Article 19 of the Regulation, the right to compensation in the event of delay at arrival, and the redress provided for under Article 18 of the Regulation, the right to re-routing and reimbursement in the event of cancelled

[115] Support study, Paragraph 3.233.

or delayed departure, are not mutually exclusive. Thus, passengers are eligible for compensation irrespective of when the carrier informs them of a delay or cancellation. Particularly, even if a carrier re-schedules a service and gives passengers advance notice, passengers still have the right to compensation according to Article 19 of the Regulation as also determined by the CJEU in the case of the Irish Ferries case presented in 5.1.5.

5.4.1. To what extent are the provisions of the Regulation coherent and consistent with the EU legal framework and international legislative acts (external coherence)? Are there any overlaps, contradictions or inconsistencies?

Legislation on safety

EU maritime legislation on passenger ship safety includes Directive 2009/45/EC on technical requirements for passenger ships on domestic voyages. The scope of the Directive is limited to passenger ships made of steel or equivalent material and high-speed craft used to operate on domestic services over 24 metres long. Where applicable, the Directive is based on internationally agreed standards, namely the International Convention for the Safety of Life at Sea (SOLAS) 1974.[116] It also includes specific access and public information requirements for persons with disabilities or with reduced mobility.

Furthermore, Directive 2003/25/EC provides for additional measures for certain passenger vessels, used throughout the European Union on both international and domestic voyages, to ensure their stability following damage. Other specific legislation governing mandatory inspections for these passenger ships and high-speed craft in regular service are included in Directive (EU) 2017/2110. Additionally, Directive 98/41/EC on registration of persons on board also introduced the requirement to register passenger data digitally using harmonised administrative procedures according to Directive 2010/65/EU to facilitate search and rescue operations in case of emergency.

No issues of coherence concerning the relationship between EU maritime safety legislation and the Regulation were identified, as these areas of legislation do not overlap in substance.

Legislation on the liability of carriers in case of accidents

Regulation (EC) No 392/2009 on the liability of carriers of passengers by sea in the event of accidents sets out harmonised rules on liability and insurance for shipping companies and aims at an adequate level of compensation in the event of an accident. The Regulation applies irrespective of the kind of operation of the vessel, and therefore to all carriers engaging in international carriage, including between EU Member States, and certain types of domestic carriage over five miles from the coastline. Passengers are under certain conditions entitled to compensation for death or personal injury, loss or damage to luggage or valuables, vehicle and mobility or other special equipment.

[116] https://www.imo.org/en/About/Conventions/Pages/International-Convention-for-the-Safety-of-Life-at-Sea-(SOLAS),-1974.aspx

On coherence with the Regulation on waterborne passenger rights, it can be confirmed that as far as passenger rights policy is concerned, both Regulations are complimentary, as Regulation (EC) No 392/2009 is more specific and the Regulation on waterborne passenger rights is concerned with a more general passenger rights framework. Both frameworks are coherent, in particular through the Regulation's information and advance payment requirements, as well as the special provisions on mobility equipment for persons with reduced mobility.

Package Travel Directive

Directive (EU) 2015/2302 on package travel and linked travel arrangements[117] sets out a framework of governance and the obligations of operators in relation to package travel. There is some overlap between the Directive and the Regulation in case any part of a travel package includes waterborne transport.

Directive (EU) 2015/2302 is consistent with the Regulation inasmuch as operators are required to provide re-routing for passengers in the case of disruption, even though the length and nature of disruption is not as clearly defined as in the Regulation.

The rules in relation to provision of accommodation in the case of disruption of the trip are also consistent. The Regulation states that in the case of disruption where a stay of one or more nights becomes necessary, operators must provide accommodation, whose length may be limited to a maximum of three nights. According to the Directive, the organiser shall also bear the cost of necessary accommodation for a period not exceeding three nights. The Directive also applies to disruption on any transport mode and states that accommodation must be provided for longer than three nights if such longer periods are foreseen in existing or future Union passenger rights legislation.

Another issue relates to cruises, which are included in the scope of the Regulation although they are a leisure product rather than a pure mode of transport. As a leisure product combining transport, accommodation and tourism services all for one price, they are also in the scope of the Package Travel Directive. Cruise passengers accordingly have two sets of rights deriving from the Regulation and the Directive.

In particular, differences in these rights concern:

- compensation, although the Package Travel Directive clarifies that compensation under the Regulation and the Directive shall be deducted from each other in order to avoid overcompensation;
- PRM assistance, which is only available under the Regulation;
- protection of passengers in the case of carrier insolvency, which is only available under the Package Travel Directive.

[117]Directive (EU) 2015/2302 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).

The scope of the Regulation and the Package Travel Directive also differs, whilst both legislative acts apply regardless of whether they concern maritime or inland waterways:

- the Regulation excludes cruises of less than two nights duration, and cruises on ships operated by a crew of less than four persons;
- the Package Travel Directive excludes packages and linked travel arrangements of less than 24 hours unless overnight accommodation is included.

These overlapping scopes may result in confusion for passengers on which rules apply.

EU consumer policy and consumer protection network

The EU programme for consumer action is expressed in the New Consumer Agenda[118], which has several objectives, including enhancing knowledge of consumer rights, strengthening the enforcement of consumer rules through coordinated action, integrating consumer interests into key sectoral policies and empowering consumers through choice, information and awareness. The Regulation is clearly consistent with that policy as it supports the achievement of each of the objectives of the Agenda, in particular through the provision of information and enforcement/NEBs.

Since January 2020, Regulation (EU) 2017/2394 on cooperation between national authorities responsible for the enforcement of consumer protection laws (CPC Regulation) provides an enforcement cooperation framework for the national authorities where cross-border consumer law infringements are concerned. It refers explicitly to the passenger rights framework. The CPC Regulation links national competent authorities to form an enforcement network, enabling authorities to share best practices and to provide a mechanism of mutual assistance. 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.

EU competition policy

Competition policy as set out in the TFEU and passenger rights legislation address different issues, although they both aim at well-functioning internal market and contribute through creating a level-playing field. On the other hand, it is possible that a common framework of rights has helped to establish a level playing field for competing services operated between and within Member States.

Other passenger rights regulations

Although the needs of passengers might differ in the other transport modes, it is worth noting that the Regulation displays some inconsistencies with other EU passenger rights legislation.

For instance, waterborne passenger rights cover compensation linked to the ticket price as is seen in rail and bus & coach, whilst Regulation (EC) No 261/2004 on air passenger rights foresees compensation of fixed amounts. Further differences relate to the length of

[118] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0696.

delay, which entitles to compensation as well as the liability of carriers for passengers and for luggage in terms of its maximum amount.

Passenger needs might be different in a situation where a ticket is valid on more than one mode of transportation which entitles the passenger to diverging rights on each mode, although such a situation arises relatively rarely, mainly in case of PSO services in remote areas. Inconsistencies may, therefore, be considered to be minor and related mainly to delay on departure or on arrival. Passenger needs may also differ for passengers in the EU outermost regions limited transport connections in these regions.[119]

Table A6.6 in Annex 6 presents a comparison of the Regulation with other passenger rights regulations.

Directive (EU) 2019/882 on the accessibility requirements for products and services (the European Accessibility Act) and Directive (EU) 2016/2102 (the Web Accessibility Directive)

Article 9 of the Regulation stipulates that carriers, travel agents and tour operators shall ensure that all relevant information, including online reservation and information, concerning the conditions of carriage, journey information and access conditions is available in appropriate and accessible formats.

The European Accessibility Act and the Web Accessibility Directive complement this requirement on the accessibility of information.

When it will become applicable in 2025, the European Accessibility Act (EAA)[120] will oblige carriers and port terminal managers 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. Therefore there are no issues of consistency between the two legislative instruments.

As far as ports, vessels and services are managed by public sector bodies, the Web Accessibility Directive (2016)[121] already stipulates that their homepages have to comply with certain harmonised accessibility requirements.

Therefore there are no coherence issues between the Regulation and these two directives.

United Nations Convention on the Rights of Persons with Disabilities

The Convention on the Rights of Persons with Disabilities (UNCRPD)[122] was adopted in 2006 and entered into force in May 2008. It creates a legal obligation on the Member

[119]The EU Outermost Regions are located in the Atlantic Ocean, the Caribbean basin, South America and the Indian Ocean and home to almost 5 million EU citizens. Article 349 TFEU provides for positive discrimination towards these regions including specific measures e.g. of access to EU programmes to help these regions address the major challenges they face.

[120]Directive (EU) 2019/882 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).

[121]Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016L2102.

States that have ratified it to incorporate accessibility requirements in national legislation. The EU, its Member States and the other four countries examined in the evaluation are all parties to the UNCRPD.

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 the accessibility of waterborne transport. The Regulation imposes on carriers and port managing bodies the obligation to assist PRM, but it does not require ports and vessels to be accessible or Member States to make port infrastructure and vessels accessible for PRM. It is to be noted that in the future, alignment with the Strategy for the Rights of Persons with Disabilities (2021-2030)[123] to support the UNCRPD policies to gain full accessibility of ports, vessels, information and other services will gain importance.

Directive 2009/45/EC on safety rules and standards for passenger ships establishes accessibility requirements for certain categories of ships which were built later than 2004. However, this directive does not cover all the ferry and cruise ships operated in the EU. In addition, EU law does not regulate the accessibility of port infrastructure.

Relevant rules adopted under the International Maritime Organisation (IMO)

The IMO adopted Recommendations on the design and operation of passenger ships to respond to elderly and disabled persons' needs. Article 13(2) of the Regulation explicitly requires carriers and terminal operators to take into account these IMO's Recommendations when setting quality standards. These Recommendations focus mostly on ship and terminal accessibility for PRMs from a physical barrier perspective (and particularly on wheelchair access and, to a lesser extent, access for passengers with visual impairment). There is only limited mention of barriers created by policies, procedures and systems, barriers in accessing information, barriers caused by management, staff or customer attitudes, or other accessibility issues (for example, arising from hidden disabilities). Therefore there are no coherence issues between the Regulation and these guidelines.

As the IMO's Recommendations were adopted in 2006, several years before the Regulation became applicable, where Member States decided to follow them, they may have already enhanced PRM accessibility quality standards and consequently have helped to ensure that carriers and terminals are compliant with the Regulation. However, as these are guidelines and require ship and terminal infrastructure changes, it is not clear how many Member States have adopted them.

5.5. EU added value

Evaluation questions

[122]United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html.

[123]https://op.europa.eu/en/publication-detail/-/publication/3e1e2228-7c97-11eb-9ac9-01aa75ed71a1

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

Before the entry into force of the Regulation, no international legislation was in place on the rights of waterborne passengers in the event of major disruptions or on the rights of PRM passengers specifically. Also, no relevant party such as the International Maritime Organisation was taking forward an intervention on these matters. No non-EU legislation was identified in this area that might have generated impetus for international intervention.

At European and international level, as described in depth above, waterborne passenger rights were only addressed by general legislation on consumer protection, including Council Directive 90/314/ECC on package travel, package holidays and package tours, as well as by the Athens International Convention of 1974 relating to the carriage of passengers and their luggage by sea and the Protocol of 2002 to the Convention.

Before the Regulation became applicable only a few States had legislation that provided a protection to passengers comparable to the Regulation. Other States did not have legislation on waterborne passenger rights at all, or the protection was more limited compared to the Regulation. The pre-existing rights generally focused on either rights during disruptions or rights for passengers with disabilities or with reduced mobility. Hence the Regulation provided a more broad framework to the passenger rights.

Several carriers developed policies on these issues to offer their passengers some rights in case of major disruption of travel. One of these industry level interventions is the CLIA Passenger Bill of Rights.[124] However, there was considerable variation in these policies adopted by the companies, not leading to European common practices on either information, assistance, re-routing, or compensation in the event of major disruptions.

The intervention at European Union level thus brought clear added value in establishing a consistent framework of rights across all Member States.

In the case of rights for PRM passengers, there had been some national intervention, including in some of the largest markets for waterborne transport. However, the practical implications of these rights remained unclear and varied between Member States, leaving passengers undertaking international journeys exposed to differences in the level of accessibility and assistance provided. These differences may have also complicated the efforts of operators to comply with national legislation. This leads to the conclusion that in the area of PRM rights, the added value of the intervention has also been substantial.

5.5.2. What would be the most likely consequences of stopping or withdrawing existing EU intervention? To what extent do the issues addressed in the Regulation continue to require intervention at the EU level?

[124]CLIA is a cruise industry trade association, representing the global cruise community. Its Passenger Bill of Rights is not accessible at the moment from its homepage, but only from the homepage of several of its members: https://www.crystalcruises.com/legal/clia-passenger-bill-of-rights

Participants of the stakeholder consultation indicated that the main achievement of the Regulation is the establishment of a clear framework of passenger rights leading to passenger confidence with respect to protection in terms of major disruption or, in case for PRM, with respect to assistance required.

Passenger rights in the event of transport disruptions

As noted above, before the implementation of the Regulation, the level of rights for passengers, including PRM, varied between Member States. If the Regulation was to be withdrawn, one possibility is that waterborne passenger rights in each Member State would revert to the level they were prior to the implementation of the Regulation, although this seems unlikely. It would, however, lead to a complication for operators providing international services due to obligations varying between Member States.

It can rather reasonably be assumed that the provision of services for passengers might be maintained to an extent. This would most probably be dependent on Member State involvement in the provision of waterborne services, in terms of geography and connectivity, economic and tourist provisions, ownership of the ferry operators and the state of the market in the Member State.

It is particularly likely that some Member States would continue to monitor the compliance of ports and carriers and, in some cases, impose sanctions for non-compliance. However, the role of NEBs, particularly their role in handling complaints, might be relinquished. In the absence of an effective NEB empowered by the Regulation, passengers could be expected to make greater use of ADRs or courts to enforce their rights, or also be deterred by the associated costs.

Rights of passengers with disabilities and passengers with reduced mobility

With respect to the rights of PRM, it is not to be expected that the provision of services to PRM would be withdrawn entirely, since some of these services existed pre-Regulation, albeit in a different form and with less consistency. The provisions of the Regulation have in comparison ensured that operators have embedded the provision of assistance in their operating practices. Nonetheless, it is unclear whether Member States would maintain the same level of PRM rights in national legislation if the Regulation would be withdrawn.

In any case, it is deemed unlikely that all Member States would adopt the same approach, specifically because of differences in the waterborne transport industry, as size, importance and characteristics vary considerably throughout the European Union. Member States might also adopt different strategies to enable travel for PRM, some focusing on assistance and others focusing on accessibility of ports and vessels through investments. It could also lead to a change in terms of the question whether assistance would remain free for the individual passenger, with costs defrayed by the fares paid by all passengers. This might again depend on the respective waterborne transport industry as well as the Member State's stance on a range of social issues. It is thus possible that PRM-specific charges could be established.

In summary, it can be noted that several issues for all passengers, including PRM, would remain with solely a national framework in place, with respect to different passenger needs.

Particularly, with respect to PRM non-discriminatory access, choices would be left to Member States, resulting in different quality levels in waterborne facilities, infrastructures and services. Also, with respect to the rights of passengers in the event of major disruption, disparities of rules and procedures and a resulting reduced clarity for carriers might emerge. With respect to complaint-handling and enforcement, it must be considered that the institution of NEBs might be given up in some Member States, leaving passengers with the choice of ADRs and courts. It can hence be concluded that withdrawing the Regulation would most likely result in a return to a patchwork of PRM rights, albeit with some of the benefits of the Regulation preserved. Improvements in accessibility for and assistance to PRM might be slower.

The Regulation has established a consistent framework of passenger rights and mechanisms for their enforcement. This brings added value for both passengers and carriers and ensures coherence and consistency of passenger rights across Member States. Whilst in theory it would be possible to leave the further development of the legislative framework to Member States, in practice this would likely expose both passengers and carriers to regulatory inconsistencies. In the current context, the passenger needs identified thus continue to require EU intervention.

6. CONCLUSIONS

The Commission's impact assessment (IA)[125] accompanying the 2008 legislative proposal[126] identified areas in which passenger rights and protections in waterborne transport needed to be strengthened, specifically the rights of persons with disabilities, quality of service, assistance to passengers in the event of major disruptions, the right to information, and non-discrimination issues.

Accordingly, the adoption of Regulation (EU) No 1177/2010 (the Regulation) was intended to meet the objectives of: providing non-discriminatory transport conditions for citizens, including PRM; assisting PRM so that they can use waterborne transport; reducing the negative impact of travel disruption on users of waterborne transport; and improving service quality for passengers. The Regulation also aimed to help create a level playing field for waterborne operators in the EU and a European standard of passenger protection. It introduced a specific, enforceable framework of rights for passengers travelling by waterborne transportation in the European Union, Iceland, Norway and the United Kingdom.

This evaluation, which began in July 2019, is based on the collection and detailed 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 high, the lack of detailed data on the waterborne passenger transport market complicated the analysis.

The overall conclusion of this evaluation, based on the five key evaluation criteria, is that notable improvements were brought to passenger rights, including PRM's rights, especially in Member States, that did not have pre-existing legislation in this area. While the objectives of the Regulation have been and still are, to some extent, appropriate nowadays, some gaps in the Regulation have hampered full achievement of them.

The complex enforcement set-up has also created additional barriers to achievement of the objectives. Other issues undermining the delivery of the Regulation's expected benefits include provisions that need further guidance or clarification, e.g. provisions related to ports and terminals, especially but not only in relation to PRM passengers, and the monitoring and enforcement measures to be taken. Furthermore, there are gaps as regards provisions on e.g. exchanging passenger information and providing real-time information.

6.1. Effectiveness

The Regulation resulted in some levelling up of passengers' rights across the European Union. However, there remain gaps in the Regulation that undermine its effectiveness.

NEBs receive only a low number of complaints. Possible explanations for this could be a lack of passenger awareness of their rights, and/or e.g. the delivery of a high level of service by carriers. The evaluation noted that the number of complaints to NEBs has been increasing. The Regulation requires NEBs to take the necessary measures to ensure that

[125] SEC(2008) 2950.
[126] COM(2008) 816 final.

carriers and ports comply with the Regulation, but it does not specify how they should do so. As a result, Member States have taken different approaches to the establishment and operational methods of NEBs. Several NEBs do not proactively monitor compliance with the Regulation, which might further impair its effectiveness. Only a small proportion of NEBs have issued sanctions, which are infrequent and often low.

The use of waterborne transport by PRM passengers might be constrained by the inaccessibility of port terminals and vessels. The Regulations effectiveness is further impacted by the extent to which information can be communicated to passengers in accessible languages or media.

Other key issues are the inaccessibility of information on carrier and port websites, and the use of digital technologies to book tickets and communicate with passengers: this may lead to a worse service for passengers who are less familiar with these new technologies. Another issue impairing the effectiveness of the Regulation is the lack of definition of certain provisions of the Regulation, although some have been clarified by the recent CJEU case.

6.2. Efficiency

At present, the costs and workloads of NEBs are deemed relatively low, mainly due to the relatively low number of staff working with waterborne passenger rights. Several NEBs are deemed understaffed (1 FTE or less deals with monitoring and enforcement of the Regulation) why costs of the NEBs concerned remain relatively low. The low number of staff may be why some NEBs have not reported any proactive monitoring or enforcement activities.

Passenger representatives mostly confirm that the passenger benefits attributable to the Regulation exceeded any costs incurred by them, whereas a large proportion of other stakeholders such as ports and carriers has no firm view or a slightly negative view on whether the costs of the Regulation are proportionate to the benefits. Most stakeholders referred to several benefits for passengers and considered the proportionality of costs as 'positive' or 'somewhat positive'. The only costs to passengers identified by these stakeholders are the time commitment and inconvenience involved in pursuing complaints.

For passengers, the cost of the Regulation can be approximated as an additional EUR 0.05 on top of each passenger's fare, which equates to the cost estimated for Regulation (EU) No 181/2011 on bus and coach passenger rights (compared to roughly EUR 5 in air transport[127]); the costs are therefore subsidiary when compared with the benefits gained from the implementation of the Regulation.

[127] EUR 4.4 in 2018 for the cost of implementation of the Air passenger rights Regulation (EC) No 261/2004 (according to the Study on the current level of protection of air passenger rights in the EU, https://ec.europa.eu/transport/themes/passengers/news/2020-01-13-air-passenger-rights-study_en, Steer, 2020) + EUR 0.55 for the cost of Regulation (EC) No 1107/2006 concerning the rights of persons with disabilities and persons with reduced mobility when travelling by air; https://op.europa.eu/en/publication-detail/-/publication/d8b8bd04-1b4d-11ec-b4fe-01aa75ed71a1/language-en/format-PDF/source-231259999

6.3. Relevance

The fundamental needs of passengers identified by the original impact assessment have not significantly changed since the Regulation was implemented. As no substantial changes to the EU waterborne market have been noted since the Regulation's entry into force, the passenger needs identified still remain relevant.

The Regulation has generally improved the quality of service provided to passengers, although some passenger groups tend to emphasise the need for significant further improvements. Increasing digitalisation has generally improved the achievement of the objectives, although it may have led to a deterioration in the quality of service for passengers who cannot use digital technology. Consequently, the issues which led to the introduction of the Regulation would remain if the Regulation were not in place, and they still remain highly relevant for passengers.

6.4. Coherence

As regards the internal coherence of the Regulation, no major issues were identified. Rather, clarifications would serve the overarching objective of the Regulation. As regards external coherence, there are no major inconsistencies with other EU acts, specifically safety and security requirements, liability of carriers in the event of accidents, competition policy, and the Package Travel Directive. There are minor inconsistencies with EU consumer policy. Further small inconsistencies exist between passenger rights in different transport modes, particularly as regards rights in the case of delayed arrival. As regards international agreements, the Regulation is coherent with the UN Convention on the Rights of Persons with Disabilities, the relevant rules of the International Maritime Organisation and the EU's external transport policy.

6.5. EU added value

Prior to the adoption of the Regulation, only a few Member States had implemented national legislation to protect passenger rights. There was no preceding initiative at international level designed to have a similar effect. This suggests that EU-wide legislation has added value, as it introduced a common framework of core rights throughout the European Union, where in many cases, few or none existed previously. As a result, it has enabled passengers to travel by waterborne transport with greater protection and hence more confidence. The Regulation further increased awareness of the needs of PRM passengers and supported the development of a Europe-wide market over the medium to long term. Removal of the Regulation would probably result, at least over time, in the reduction of the level of rights offered and in even more difficulties in enforcing the remaining rights.

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 (EU) No 1177/2010 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004.

The evaluation was registered in the Decide Planning under reference PLAN/2019/5712.

2. ORGANISATION AND TIMING

The ex-post evaluation of the Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 was launched in Q3 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 was published on 11 July 2019.

The ex-post evaluation of the Regulation on passenger rights in waterborne transport 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).

Table A1.1 describes the milestones of the evaluation phase.

Table A1.1 – Evaluation process

Date	Activity
11 July 2019	Launch of the evaluation in the Commission's Decide Planning and publication of the Evaluation Roadmap on the Better Regulation portal
13 September 2019	1st meeting of the Inter-Service Steering Group - outcome of the Roadmap, draft Terms of Reference for the support study, 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 independent contractor
20 February 2020	Kick-off meeting with contractor – start of the support study
23 April 2020	2nd meeting of the Inter-Service Steering Group - Inception report
3 July 2020	Start of the Public Consultation
16 October 2020	3rd meeting of the Inter-Service Steering Group- First interim report
23 October 2020	End of the Public Consultation
16 December 2020	Stakeholder workshop
24 February 2021	4th meeting of the Inter-Service Steering Group – Draft final report

13 April 2021	5th meeting of the Inter-Service Steering Group – Final report
27 July 2021	Submission of the final report of the support study
27 July – 31 August 2021	Inter-service consultation on the Staff Working Document

3. EXCEPTIONS TO THE BETTER REGULATION GUIDELINES

The ex-post evaluation of the Regulation on passenger rights in waterborne transport does not provide for exceptions to the Commission's Better regulation Guidelines.

4. EVIDENCE, SOURCES AND QUALITY

The evaluation of the Regulation (EU) No 1177/2010 on waterborne passenger rights occurs more than ten years after its adoption in light of the Commission's Sustainable and Smart Mobility strategy goals.

The assessment assesses the Regulation impact from the date when it started to apply more than eight years ago, 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 the effects of the pandemic. 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 the external contractor, which develops through the analysis of the following evaluation criteria: effectiveness, efficiency, relevance, 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 by additional information gathered by the European Commission such as knowledge from participation at workshops and conferences, missions and bilateral meetings with stakeholders and NEBs. The methodology used to address the objectives of the evaluation consists of a variety of tools, including inter alia a stakeholder consultation, desktop research, case studies, a workshop and a cost-benefit analysis.

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 1177/2010 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 implementation of the Regulation. For this purpose, the consultation process was based on a programme of field research designed to achieve the following objectives:

- Ensuring a process which offers stakeholders the opportunity to provide information and data that contributed to the findings of the support study;
- Collecting stakeholder views on the outcomes, results and impact of the Regulation;
- Collecting data from stakeholders to ensure cross-referencing of information and address any information gaps identified;
- Discussing issues arising with the application of the Regulation and any possible shortcomings, redundancies, overlaps, inefficiencies or inconsistencies;
- Obtaining information in order to answer the evaluation questions from the Terms of Reference; and
- Collecting stakeholder views on whether the Regulation is still fit for purpose and any suggested good practices or amendments.

The scope of the consultation activities focused on assessing the effectiveness, efficiency, relevance, coherence, and EU-added value of the Regulation. The geographic scope of the consultation covered the 27 EU Member States as well as three non-EU countries (United Kingdom, Iceland and Norway).

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. Throughout the third quarter of 2019 the Commission received responses from seven organisations in total, including a body representing PRMs, a transport ministry, two shipping associations, two ferry companies, and a provider of mobility as a service (MaaS).

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.[128] 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.

[128] Support study and support study stakeholder consultation report

1. ENGAGEMENT METHODS AND TOOLS

The consultation process consisted of different activities developed through a public consultation as well as targeted consultations.

1.1. Questionnaires

A number of distinct questionnaires tailored to each key stakeholder group was used to collect input from the industry, as well as data and policy views. Specifically, six sets of questionnaires were developed to address the following evaluation topics: effectiveness, cost efficiency, relevance, coherence and, EU added value.

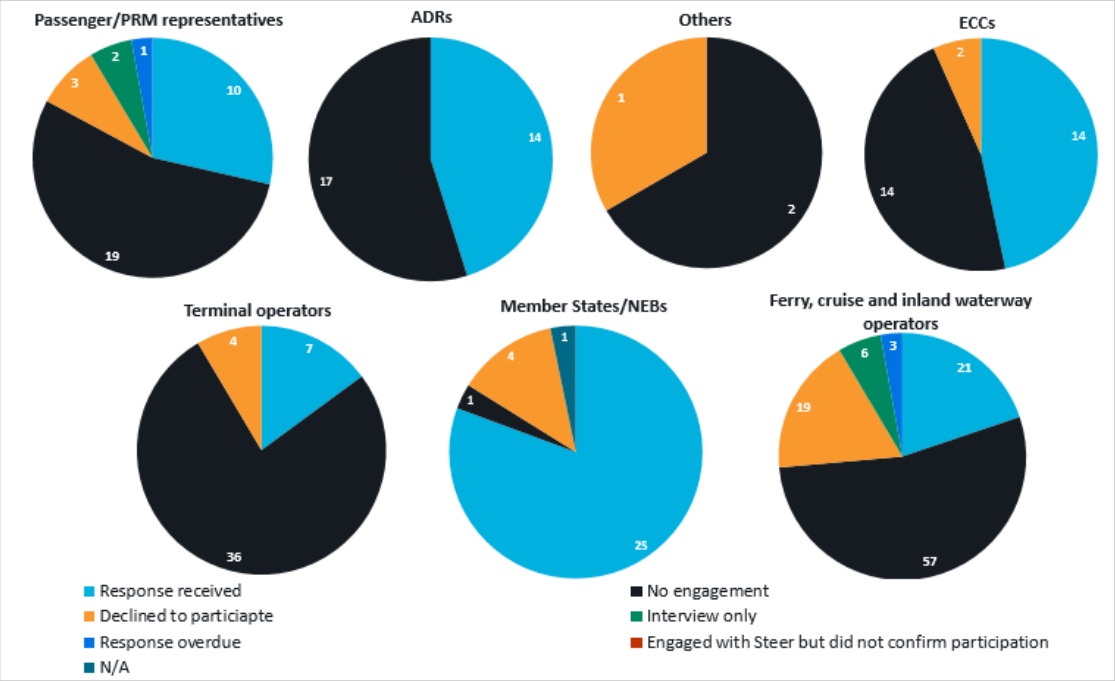
Identified limitations

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.

Targeted stakeholder consultation

In total, 94 responses were received through the targeted stakeholder consultation. Responses can be indexed by the following stakeholder groups: NEBs, ferry, cruise and inland waterway operators, waterborne terminals operators, passenger and PRM representatives, European Consumers Centres (ECCs), ADR organisations and a small number of other stakeholders, as shown in this graph:

Figure A2.1: Overview of stakeholder engagement by stakeholder group



Source: Support study, Paragraph 2.6

1.2. Interviews

A total of 26 interviews were conducted with selected stakeholders to ensure representativeness and diversity of the sample.

Five pilot interviews were completed during the project inception with the following stakeholders: the Transport Regulation Authority (ART (IT)), the Finnish Competition and Consumer Authority (FI), the Danish Maritime Authority (DK), the operator Transmediterranea (ES) and the European Passenger Forum (EPF).

In addition, a total of 21 interviews were conducted as part of the evaluation process, including four which were used to simultaneously discuss Regulation (EC) 181/2011 as well as other passenger rights Regulations (1107/2006 and/or 1177/2010). Five stakeholders declined, whilst three did not engage.

The following stakeholders, including NEBs, waterborne carriers, terminal operators, and passenger and PRM representatives participated in the interviews: Assarmatori (IT), Caronte & Tourist (IT), Confitarma (IT), Costa Cruises (IT), Danish Shipping Association, European Community Shipowner's Associations (ECSA), Finnish Competition and Consumer Authority (FU), GNV (IT), Grimaldi Ferries (IT), Interferry, Irish Ferries (IE), Liberty Lines (IT), Ministry of Maritime Affairs & Insular Policy (EL), Passenger Representative European Passenger Forum (EPF), PO Ferries (UK), Port of Rotterdam (NL), Port of Szczecin (PL), PRM Representative European Disability Forum (EDF), PRM Representative KEPKA (EL), PRM Representative Spanish Committee of Representatives of People with Disabilities (CERMI), Scandlines (DK), Swedish Consumer Agency (SE) and Transport Regulation Authority (IT).

1.3. Workshop

A full-day participatory workshop with selected stakeholders took place on 16 December 2020. The workshop was led and organised by the contractor, with the European Commission also in attendance. The workshop was mainly centred on three themes: 1) the scope of the Regulation, 2) the industry and the Regulation, and 3) ensuring the Regulation remains fit for purpose.

On the scope of the Regulation, mixed views were expressed, while on the theme of the industry and the Regulation, a few points related to the definition of re-routing (specifically comparable conditions), non-discriminatory access and the difficulty of operators to fulfil their obligation to inform the passengers when contact details are not shared were raised by participants. As regard the theme on ensuring that the Regulation remains fit for purpose, some articles were identified for further clarification, gaps in legislation outlined and opinions on the role of NEBs shared.

The workshop was attended by 25 organisations in total, including ADRs, NEBs, waterborne operators, ports, and PRM representatives. In particular, the following attendees took part to the workshop: ART (IT), Coastal Liner Services Agency (CLSA (HR)), Competition and Consumer Affairs Authority (MT), Consumer Rights Protection Centre (LV), Cruise Port Rotterdam (NL), Danish Maritime Authority (DK), EBU, ECSA, EDF, Eisenbahn-Bundesamt (EBA (DE)), European Union of the Deaf, GNV (IT), Interferry, Irish Ferries (IE), MTV (FR), National Transport Authority (IE), P&O Ferries (UK), Port of Tallinn (EE), Royal Carribean, Scandlines (DK), Stena Line (SE), Tallink/Silja Line Estonia (EE), Venice Port Authority (IT), Viking Line (FI), and SöP (DE).

1.4. Public Consultation

The Commission launched a public consultation on 3 July 2020 and closed it on 23 October 2020.

A total of 19 responses were received to the survey, mostly from carriers and carrier associations, NEBs and Member States and citizens. Most responses were from contributors from the EU, whilst one was from the United States. The Member States with the most responses were Belgium (2), France (5), Italy (3), Portugal (2) and Sweden (2).

2. ANALYSIS OF THE RESULTS

The outcome of the stakeholder consultation process is presented on the basis of the results obtained through the targeted consultation activities – that is to say, the targeted questionnaires, interviews and workshop – and the public consultation.

2.1. Results of the targeted consultation

The targeted questionnaires were designed to obtain 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 support study. Responses were mostly received within the timeframe agreed with stakeholders. Nearly all responses were supplied in English and there is no evidence that this affected the quality of the submissions.

Interviews proved effective at investigating gaps in the qualitative data and gave stakeholders the opportunity to raise or stress particular points of importance. Overall, the approach to the consultation which includes the steps taken to mitigate the effects of COVID-19, ultimately succeeded in encouraging open engagement with all stakeholder groups.

National Enforcement Bodies

Almost all NEBs (25/31) provided a questionnaire response, with some questions left unanswered by some respondents. Overall, the vast majority of NEBs answered questions in detail.

With respect to the effectiveness of the Regulation, most NEBs were uncertain whether the Regulation had changed the level of protection provided to passengers and PRMs or not. Among the hindrances to effectiveness mentioned by NEBs were a lack of sanctions when carriers are in breach of Article 19 of the Regulation and a lack of clarity regarding several terms in the Regulation such as extraordinary circumstances and re-routing.

Of the 18 NEBs to provide a view, only half (9) suggested that the Regulation's efficiency costs are proportionate to its benefits.

With respect to relevance, the NEBs assessed that the original objectives of the Regulation remain relevant to the current needs of PRMs when travelling by sea and inland waterways.

With respect to coherence, most NEBs deemed that the Regulation's provisions were coherent and consistent with one another. With respect to the UNCRPD, most NEBs did not state any inconsistencies, however one NEB disagreed, assessing that for PRMs to exercise their rights under the UNCRPD, it is necessary to provide sufficient and accurate information, which is not unconditionally guaranteed by the Regulation due to exceptions relating to making information available in accessible formats (e.g. "where feasible").

With respect to EU added value, it was highlighted that passengers have benefitted from the reassurance provided by the single European framework for waterborne passenger rights. However, one NEB highlighted that there are interpretative differences across Member States.

Waterborne carriers and associations

All responses received from carriers were relatively detailed with each answering the majority of questions. All of the responses appear to be unique with no clear similarities with other responses.

Few carriers had specific views on effectiveness – with only four carriers explicitly providing a view on to what extent the Regulation has improved protections for passengers (all four stated that the Regulation had improved protections, which had been aided by effective penalties, improved staff awareness and training, greater certainty regarding compensation levels, and a strong EU wide legislative framework). For the rights of PRMs in particular, almost all carriers (15 of 16) assessed that PRMs can now travel on equal term with other passengers via sea or inland waterway. However, some (4) stressed that this was already possible prior to the Regulation. The same is also expressed in regard to the non-discriminatory ticket fares and contract conditions with most carriers (12) stating that all passenger receive the same prices within each category to avoid discrimination. Most carriers (13) are satisfied with the effectiveness of their national NEB in enforcing the Regulation.

On efficiency, the majority (8) of the carriers which provided an opinion on the costs attributed to the Regulation stated that they had not incurred any additional financial costs. This view correlated with the view that service quality had not changed as a result of the Regulation. In contrast, other carriers (2) stated that costs had increased, one of which correlated this with an increase in service quality.

On relevance, carriers agreed that the priority needs of passengers are similar to those at the time of implementation. However, carriers could not agree on whether the extent of technological development and digitalisation is much more prominent than at the time of implementation. One carrier highlighted that smartphones and social networks may enable better communication with passengers.

On coherence, the majority (9) of carriers to respond stated that the Regulation and its provisions are coherent with one another. The majority (10) to provide a view also agreed that the Regulation is consistent with the UNCRPD.

With respect to EU added value, only one carrier responded – stating that the Regulation encourages pan-European cooperation among carriers and NEBs regarding how best to ensure compliance.

Ports and terminals

A total of seven responses were received from waterborne terminal operators and associations.

On effectiveness, terminals generally agreed (3) that service quality and the availability of travel information had improved since the implementation of the Regulation. With respect to the effectiveness of enforcement, only few terminal operators (2) had been in contact with NEBs as a result of the Regulation and both were satisfied with their NEB. However, the picture is less clear for the protection afforded to PRMs, with one stakeholder assessing that the Regulation had not led to a significant change in protection for PRMs.

With respect to cost efficiency, two terminal operators highlighted an increase in operating costs as a result of the implementation of the Regulation. One terminal operator highlighted that they had seen a decrease in the unit cost of PRM assistance, however.

On relevance, port and terminal stakeholders held similar views to those of carriers, adding that reliability and safety were of utmost importance for all. The importance of accessible facilities was also highlighted as of importance to PRMs specifically.

On coherence, no detailed comments were given except for two terminals agreeing that the provisions within the Regulation are coherent and consistent with one another.

Regarding EU added value, no views were expressed by the Stakeholders.

Passenger and PRM representatives

Responses to the targeted consultation were received from a total of eight passenger and PRM representatives from four Member States. The European Union of the Deaf (EUD) likely collaborated with the European Disability Forum (EDF) as similarly worded responses were given to the consultation.

On effectiveness, the PRM representatives agreed that the Regulation has had a positive impact on the protections provided to PRM passengers since its implementation. This is attributed to an increased level of awareness concerning the needs and rights of PRMs.

On efficiency, no detailed responses were given on the costs attributed to passengers as a result of the Regulation due to a low amount of data.

In terms of relevance, PRM representatives criticised the Regulation's relative silence on the topic of accessibility, three of them criticising specifically that minimum requirements should be introduced for the accessibility of terminals and vessels. Nevertheless, the objectives of the Regulation remain relevant to some of passengers' and PRMs' diverse needs. Nevertheless, it was claimed that the Regulation does not adequately reflect the capabilities offered by digitization and automation. For example, it is reasonable for passengers to expect personalised and timely disruption and compensation.

On coherence, two PRM representatives highlighted that the Regulation is not in line with the UNCRPD which requires transport to be accessible on an equal basis. For example, the overall low accessibility of fleet vehicles results in non-trivial de facto limitations on the types of routes PRMs have access to. The same stakeholders argued that the Regulation should align more closely with the UNCRPD.

No responses were given regarding EU added value.

European Consumers Centres

Nearly all ECCs which responded had received no or very few complaints relating to the Regulation. Therefore a view on the effectiveness of the complaints handling process could not be provided.

On relevance, a significant majority of ECCs (10) across Member States stated that their decisions are not binding for transport operators and that they cannot award additional damages or compensation beyond what is stated in the Regulation.

ECCs gave no responses relevant to coherence or EU added value.

Alternative Dispute Resolution organisations

As is the case with ECCs, almost all ADRs which responded (excluding DR, NO, AT) 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. Although DR, NO and AT all received slightly more complaints, up to a maximum of 36 complaints, none provided a detailed response on effectiveness. One ADR highlighted that 11 out of the 22 cases since 2014 resulted in favour of the passenger and, in one instance, an out of court settlement was agreed. The remaining 10 of 22 cases resulted in passenger claims being rejected. Most of the ADRs to provide a response (7 of 8) stated that their decisions are non-binding, although none commented on the extent to which this affects the effectiveness of the complaint handling process. Instead, ADRs noted that their tools for resolving complaints include making a recommendation for a carrier to granting payment or issuing a voucher (DE, EE), encouraging out of court settlements (AT) and publishing statements encouraging changes to carriers or terminals procedures (PT).

ADRs' had no significant comments relating to relevance, efficiency, coherence and EU added value.

2.1.1. Problematic questions

Significant issues were identified in relation to responses on the effectiveness of the Regulation as well as its EU added value.

Concerning the effectiveness of the Regulation in achieving its general and specific objectives, many stakeholders were unable or unwilling to provide a response. Furthermore, most of stakeholders found it difficult to do so robustly due to a lack of

data (both quantitative and qualitative) or analysis of such. Nevertheless, of the small number of stakeholders to provide a response, most stated that the Regulation has had a positive impact on the achievement of at least some of its objectives.

In terms of added value, although this question was answered correctly by the majority of stakeholders, a small minority misinterpreted the question as an assessment of how much value the Regulation contributed to their Member States and their individual organisation. However, it is worth saying that those who interpreted the question correctly responded similarly.

2.1.2. Areas of agreement

There were a number of areas of agreement across stakeholder groups with regard to the evaluation question of relevance and to technological advancements.

With respect to relevance, stakeholder groups (including carriers, NEBs, passenger and PRM representatives, and terminals) agreed that the Regulation remains relevant with the priorities of passengers travelling by sea and inland waterway similar to when the Regulation was implemented.

On technological advancements, these stakeholder groups agreed that as the digitization of the journey has become more prevalent across all modes of transport, further advancement and utilisation within this area will result in a better overall passenger experience, particularly with respect to travel information and complaint handling.

2.1.3. Areas of disagreement

There were a two main areas of disagreement across stakeholder groups but no significant differences of views within stakeholder groups on key issues.

With respect to the coherence of the Regulation with the UNCRPD, PRM representatives stated that the overall low accessibility of fleet vehicles results in restrictions to PRMs when travelling via sea or inland waterways and highlighted that the Regulation should stipulate minimum quotas for accessible vehicles within fleets in order to be in line with the rights stipulated in the UNCRPD.

With respect to equal access for PRMs as a result of the Regulation, carriers, ports and terminals mainly stressed that equal access for passengers was available prior to the implementation of the Regulation, whilst passenger and PRM representatives highlighted that the Regulation has had a positive impact on the protections provided to PRM passengers since its implementation, attributing it to an increased level of awareness concerning the needs and rights of PRMs.

2.2. Results of the Public Consultation

The public consultation primarily focussed on the effectiveness of the Regulation. A total of 19 responses were received. The largest respondent group were carriers (5) and EU and non-EU citizens (5), making up just over one-half of the sample.

2.2.1 Evaluation topics

Effectiveness

Overall, a significant majority (12 of 19) of stakeholders assessed that the Regulation had improved the protection of passengers travelling by sea or inland waterway at least slightly since the introduction of the EU passenger rights in 2012.

Stakeholders identified several positive and negative impacts of the Regulation, some of which can be directly accredited to the Regulation. In terms of benefits stemming from the Regulation, the comments received from respondents include:

- A guaranteed right to assistance as a PRM;
- A simpler and more responsive complaint handling process for passengers;
- A minimum standard of assistance in cases of disruptions which passengers can rely on when travelling within the EU;
- Increased clarity on responsibilities of carriers.

With respect to the Regulation's negative impacts, one carrier stressed that the requirement to provide rerouting in the event of travel disruption increases the risks associated to providing longer sea routes where alternatives are not commercially viable. Carriers asked for further clarity regarding how such alternative should be provided in practice.

Although citizens, passenger and PRM representatives stressed there have been improvements to the Regulation, they called for better enforcement of the Regulation and for attention to also focus on fleet and terminal accessibility.

Efficiency

According to the view expressed by PRM representatives, the benefits included that the Regulation has raised awareness of PRMs needs during travel, with a positive impact on staff awareness and assistance provided to PRMs on their journeys. Citizens highlighted the benefits of easier complaint handling. One NEB assessed that administrative and financial costs are increasing.

EU Relevance

Stakeholders had particularly differing views on EU relevance. Whilst the majority (9 of 19) stated that there were no aspects of the Regulation that were obsolete, 5 more stakeholders stated the opposite. One NEB suggested particularly that the 30-minute notification period for carriers in the event of a delay is too generous because most passengers tend to arrive well in advance of their scheduled departure time, and one passenger representative stated that compensation for passengers who hold a travel-ass or season ticket has not been adequately considered.

There was little agreement on the Regulation's provisions being obsolete. A few responses given to the OPC stated that the provisions are obsolete, whereas a small number of responses indicated the opposite.

This highlights that there is still further work required to make progress against the original objectives of the Regulation, although a significant majority of the respondents agreed that the Regulation has improved the protection of passengers and PRMs.

Coherence

One PRM representative highlighted inconsistencies across the different passenger rights regulations in terms of delay-time thresholds for the triggering of re-routing, reimbursement, assistance and/or compensation. One PRM representative stressed that the exemptions under Article 2 of the Regulation should be removed as this violates passengers' rights to equal access to waterborne transport provided for through the UNCRPD.

EU added value

The OPC did not feature any response that addresses the question of EU added value.

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 mix of different models used throughout the ex-post evaluation process of Regulation 1177/2010 concerning the rights of passengers in waterborne transport.

3.1. 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 face to face and telephone interviews with at least 60 participants, targeted questionnaires to the industry, a public consultation and a participatory workshop.

The consultation targeted the following seven stakeholders group: passenger and PRM organisations, NEBs, waterborne carriers and their representative associations, port and terminal operators and representative associations, ADR bodies, ECCs and other relevant industry associations (e.g. travel agents).

The NEBs of eight Member States declined to participate, whereas one Member States did not participate.

Case studies

The evaluation has been supported by three case studies which addressed the following topics: passenger rights for cruise ships; re-routing of waterborne passengers facing disruption and waterborne passenger rights for passenger travelling with a car.

Country-fiches

Country-specific information were presented for each of the EU27 Member States as well as Iceland, Norway and the United Kingdom included under the geographic scope of the evaluation. The information provided by the country-fiches focused on the description of the national enforcement system and their SWOT analysis.

Carrier review

A review of selected waterborne carriers' websites was performed in December 2020 and January 2021 with the objective of understanding the carriers' approach to passenger rights and how they present their safety rules relevant to passengers. The selected waterborne operators included a range of different-sized organisations, located/registered in different Member States.

Workshop

A participatory full-day workshop was attended by a total of 29 stakeholders from all over the EU27 including 7 NEBs, 5 PRM and passenger representatives, 4 ports and 10 carriers.

The discussion was centred on three themes: the waterborne industry and the Regulation, passengers with vehicles and foot passengers, and ensuring 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 (from 2013 until today) what the situation would have been, had the Regulation or any other EU-level legislation not been implemented. For such reason, the following options were considered:

- the situation regarding passenger rights in 2013 in the 27 Member States, as well as Norway, Iceland and the United Kingdom, for passengers within the scope of the Regulation;
- the assumption that the legal framework in each Member State would have remained intact if the Regulation had not been in place; and
- the application of consumer law in each Member State.

The reference year for the analytical approach is 2013. The evaluation of the situation before and after the introduction of Regulation (EU) No 1177/2010 was based on data collected for the period 2010-2018.

It was assumed that the resulting level of passenger rights in each Member State remained constant in the no policy intervention scenario, whereas other variables (such as total passengers travelling from and within each Member State) remained the same across both scenarios.

Cost-benefit analysis

Cost - benefit analysis of the Regulation has been conducted over the period 2013-2018. The assessment of the costs and benefits resulted by the adoption of Regulation (EU) No 1177/2010 was based on the Standard Cost Model (SCM). The SCM allows to address the costs of the Regulation for Member States (NEBs), industry stakeholders and passengers, including PRMs.

Total costs associated with the Regulation over the period 2008-2018 were estimated to be EUR95.7 million (2018 prices), whilst total benefits were estimated to be +EUR39.2 million (2018 prices).

Whilst citizens and consumers benefitted from the Regulation by access to refunds and assistance in the case of disruptions (overall benefit amounting to +EUR19.8 million (2018 prices), ports (-EUR11.5 million (2018 prices)), carriers (-EUR44.6 million (2018

prices)) and NEBs (-EUR20.3 million (2018 prices)) mainly incurred costs from the Regulation. Another benefit of the Regulation refers to persons with disabilities and persons with reduced mobility, now able to benefit from their rights to free movement, freedom of choice and non-discrimination, contrary to the previous situation. In addition, operators can benefit from increased revenues from ticket revenues derived by the Regulation.

The overall cost of the Regulation, resulting from the difference between costs and benefits, can be estimated as being -EUR56.5 million (2018 prices).

3.2. Evaluation matrix

For this evaluation, a number of operational questions and sub-questions were identified to support the development of response to the 5 evaluation criteria. The evaluation matrix has been further fine-tuned and updated through the whole evaluation process.

Table A3.1 – Evaluation of Regulation (EU) No 1177/2010

Operational sub-questions		Methodology
Effectiveness		
A1.1	How has the Regulation been implemented in practice? What differences are there in levels of protection provided in different Member States?	• The following information from operators of waterborne transport services and, as appropriate, their agents and corporate customers (ticket retailers, travel agents and tour operators) were requested: Approach to setting tariffs Policies relating to provision of information to passengers, including during disruption Arrangements for assisting PRMs Arrangements for supporting passengers during long delays Complaints procedures, including communication to passengers on how to make a complaint Policy and procedures on compensation and re-routing, including any differences of approach applying to passengers travelling with a vehicle Wider service quality standards Differences in the level of protection provided to passengers using services operated under a public service obligations (PSO) as compared with that provided on other services • The information received was to be tested/supplemented through a review of information available on the websites of five operators. • Stakeholders were also asked about changes in policies and procedures made since 2012 when the Regulation started to apply. • In parallel, information was requested from NEBs on changes in the level of protection provided to passengers following implementation of the Regulation and on any instances of a material breach of obligations. • NEBs and Passenger and consumer representative organisations were asked for their views on the effect of the Regulation and whether they are aware of differences of approach to implementation in different Member States. • The 2006 report supporting the impact assessment undertaken prior to implementation was reviewed to identify relevant baseline values. • This information was used to document changes since the implementation of the Regulation and any differences in levels of passenger protection across Member States. It also supported the three case studies on passenger rights in waterborne transport.
A1.2	To what extent do passengers complain of	• Information on the volume and breakdown of complaints from operators, their agents and corporate

	discriminatory treatment?	customers, ports/terminals and NEBs and passenger and PRM representative organisations were requested in order to identify evidence of discriminatory treatment of passengers.
A1.3	How many PRMs travel by waterborne transport are there and how does this number compare with the extent of PRM travel before the Regulation (taking account of any general growth in traffic)?	• Information was requested from operators and ports/terminals on the volume of PRM travel and the share of PRMs in total passengers for 2019 and previous years. This data was compared with equivalent data included in the 2006 report. This was intended to provide evidence of any overall effect on the propensity for PRMs to travel by waterborne transport following implementation of the Regulation. • Shares of PRM travel can be sense-checked against data from the recent Eurobarometer report on passenger rights, which includes information on the share of survey respondents requesting assistance for PRM travel. • Examination of the differences in values reported by different operators and ports/terminals was performed to determine whether there is any relationship between the share of PRM traffic and the level of service offered in each case. This should provide further evidence of any impact on travel behaviour as a result of the provision of assistance to this group of travellers.
A1.4	To what extent do PRMs complain of discriminatory treatment?	• Information was requested on the breakdown of complaints from operators, ports/terminals, their agents and corporate customers, NEBs and PRM representative organisations in order to identify evidence of discriminatory treatment and/or ongoing barriers to PRM travel. • Operator conditions of carriage for PRMs were reviewed and any differences identified. Data was requested on denied boarding in order to determine any trends in incidents as a share of requests.
A1.5	What has been the trend in delays and cancellations since the Regulation was implemented?	• Operators were asked to explain how they define delays and cancellations and how these definitions link to the triggering of protection, in particular assistance and compensation. • Information was collected on delays and cancellations from operators by asking them where possible to provide data for the last ten years by length of delay and cause (for example, distinguishing between force majeure and other events). • By combining this data with information on the number of sailings by operator and/or route, it was planned to produce normalised measures (delays and cancellations per scheduled departure) for comparison over time and between operators.
A1.6	To what extent has the level of compensation paid to passengers changed since the Regulation was implemented?	• Data was requested from operators on levels of compensation and costs of assistance provided for the delays and cancellations identified under W1.5. • Compensation/cost of assistance and incident data was combined to identify trends in the level of compensation and cost of assistance per incident. This allowed to assess the effects of the Regulation over time and compare effects between operators and Member States. • NEBs and consumer and passenger representative organisations were also asked for their views on the effects of the Regulation on payment of compensation and support during long delays.

A1.7	What are the channels available for making complaints? How easy is it to make a complaint? To what extent does this different between carriers, ports and routes?	• Investigation of complaints channels were conducted for a selection of five operators, simulating a mystery shopping process (but stopping short of actually registering a complaint). For each channel (letter, telephone, email, website, app, other), the ease of access of relevant contact information (for example, the number of website links before reaching a complaints window), the usefulness of any guidance provided and the number of languages in which it is provided, were assessed. • The views of consumer and passenger representative organisations were considered on the adequacy and quality of channels for making complaints. The findings from this exercise were used to cross-check the conclusions of our own review.
A1.8	How many complaints from passengers are handled and how has this changed over time?	• Data were requested on the number of complaints received by operators, ports/terminals and NEBs since the Regulation started to apply in 2012. Complaints volumes were normalised (expressed per passenger or passenger-kilometre) to enable comparisons both between different organisations and over time. • It was thought that it may have been possible to undertake further analysis of different measures of the quality of the complaints handling process, for example time taken to acknowledge complaints and time taken to resolve them, although we are not confident of obtaining sufficient baseline data for comparison.
A1.9	What is the experience of passengers who have sought to exercise their rights/make complaints?	• Revision of the 2020 Eurobarometer report on passenger rights, which includes information on various measures of passenger satisfaction on different transport modes. • Information was requested on the actions taken by operators, ports/terminals and NEBs to monitor quality standards and on any key changes following implementation of the Regulation. • Views were gathered from consumer and passenger representative organisations on the experience of passengers using waterborne transport and how far this has changed since the Regulation was implemented. • Examples of where the treatment of passengers has been subject to political comment/investigation or adverse press comment were identified and operators and ports/terminals were asked about the extent to which the potential for adverse publicity influences their approach. • Where available, revision was undertaken of any surveys undertaken by consumer and passenger representative organisations at the EU or national level and identify apparent trends. • Additional evidence from operators, ports/terminals and NEBs on the experience of passengers seeking to exercise their rights were asked, while seeking to infer conclusions from the analysis of complaints.
A1.10	What mechanisms do NEBs employ to enforce compliance with the Regulation?	• NEBs were asked to provide information on the enforcement action available to them and examples of enforcement applied in specific cases. • The monitoring by NEB of cross-border services and of services provided by European-wide carriers was considered.
A1.11	How does the experience of waterborne travel in Europe compare with the experience of travelling in	• The protection provided through any relevant legislation or voluntary codes of practice in ten countries was reviewed.

	third countries or other regions?	• The transport ministries located in these countries were contacted and asked for information on their respective frameworks for protecting passengers (including PRMs) using waterborne transport. • Operators and passenger and consumer representative organisations were asked for their views on how the protection provided in the legislation compares with that provided in other countries. • The information collected enabled a systematic comparison of levels of protection.
A1.12	To what extent does the Regulation provide clarity on obligations towards passengers in extraordinary circumstances such as the outbreak of COVID-19 and subsequent government action to contain it?	• The views of all stakeholders on how the obligations in the Regulation should be interpreted in extraordinary circumstances such as those prevailing following the response of national governments to the COVID-19 outbreak were collected. • Following a review of the responses, we drew conclusions on: issues arising possible policy implications indicators to monitor with a view to informing future policy initiatives. • Note that as it was not be possible to assess the impact of COVID-19 within the timescale of the study, we did not expect to make firm recommendations in respect of policy changes.
A1.13	Have there been any unexpected impacts following implementation of the Regulation?	• All stakeholders were asked for 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.
A1.14	How is the requirement for non-discrimination applied in practice and how does this compare with its interpretation in other sectors?	• Passenger and consumer representative organisations and NEBs were asked for 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. PRM representative organisations were asked about the extent to which PRMs are subject to particular discrimination. • Information was requested on the extent to which operators and ports/terminals invoke other legislation (for example, safety legislation) in order to deny boarding. Where available, operators were asked to provide information on denied boarding broken down by reason. • Based on a review of this information, the aim was to identify differences of view on the meaning of non-discrimination and the reasons given for treating different passenger groups (including PRMs) differently.
A1.15	How important is passenger protection to carriers in terms of revenue and reputation?	• Operators, ports/terminals and their agents and corporate customers were asked about the importance of demonstrating protection of passengers' interests in establishing their reputation. • Information obtained under A1.8. on adverse press comment was drawn on to gauge the impact of such comment on reputation.
	Efficiency	
A2.1	What are the reported costs of compliance and how do	• Data were requested on the costs of compliance with the Regulation from operators, their agents and corporate

	these compare with the overall cost base of operators and ports/terminals?	customers and ports/terminals, noting that it may be difficult for them to disaggregate the costs of complying with passenger rights legislation from broader cost categories, at least in some cases. Where such costs were available, the cost was calculated per passenger value and compared across organisations. • Cost per passenger data can be set alongside information of the level of service quality provided by different operators and ports/terminals (derived from A1.1 and A1.9) to enable an assessment of how far lower costs might be the result of a lower quality of service. Depending on the quality of data provided, it has allowed an estimate of the efficient costs of compliance to be made. • Information was requested from transport ministries and NEBs on administrative costs incurred by them in implementing and enforcing the legislation.
A2.2	Are the reported costs of compliance consistent with those anticipated before implementation of the Regulation? Are there any aspects of compliance that appear particularly costly compared with others?	• All stakeholders were asked for their views on the most significant compliance costs and on whether these are proportionate to the associated benefits. • Where possible, the estimates of compliance costs were compared with those estimated at the time of the impact assessment and of the 2006 report. • Based on this analysis, conclusions were drawn on whether compliance costs appear proportionate.
A2.3	Have operators and/or ports/terminals identified any potential cost savings that would not materially reduce passenger protection?	• All stakeholders were asked for their 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. • Proposals were critically assessed, for example by testing them with different stakeholders during follow-up discussions to gauge reactions from a passenger and supplier perspective. • Operators and ports/terminals were asked whether they have undertaken any analysis of potential cost savings and to share the results.
	Relevance	
A3.1	What level of protection do passengers (including PRMs) seek and how does this compare those identified before the Regulation?	• All stakeholders were asked for their views on passengers' priorities when traveling by waterborne and on how these have changed since implementation of the Regulation. They were also asked whether the requirements of the Regulation are still well-aligned with passenger needs. PRM representative organisations were asked to explain the particular needs of different groups of PRMs. • Views of operators, ports/terminals and their agents and corporate customers were sought on how the level of protection for passengers (including PRMs) currently offered compares with that provided before implementation of the Regulation and/or how it has changed over time. • This information was used to assess how far the Regulation continues to capture passenger needs. It was considered alongside information on changing technologies obtained under B3.2.
A3.2	What technological advances have been made since 2010 that change the travel experience for passengers	• All stakeholders were asked for views on (1) how technology has changed the way in which passengers plan and make journeys by waterborne transport and (2) how it has enabled the industry to better respond to

	(including PRMs)? Have operators and terminals made use of these?	passenger needs. We asked stakeholders to consider the effects of: General technological improvements affecting all passengers using waterborne transport (for example, changes in communication technology); Specific technological developments in the sector (for example, affecting ferry specification or terminal design); and Technological developments directly affecting PRMs (for example, changes in wheelchair design). • Stakeholders were also asked for any relevant reports or trade press articles illustrating the application of technology to support the desk research. • This information was used to draw conclusions about how technology has changed the travelling environment for passengers (including PRMs) and whether there are any implications for the Regulation.
	Coherence	
A4.1	Is there any evidence of difficulties in interpreting individual provisions in the light of others?	• All stakeholders were asked to indicate any difficulties in interpreting the Regulation. • Desk research was undertaken to identify any infringement issues that might indicate loopholes or lack of clarity. • The findings were used to prepare a systematic analysis of gaps and inconsistencies in the legislation.
A4.2	Are there any aspects of passenger waterborne travel that are not addressed by the Regulation?	• All stakeholders were asked to respond to this question, but findings under A1.9 and A3.1 were also drawn on to undertake the analysis.
A4.3	What are the specific requirements of the international regulatory framework applying to waterborne travel? How do these compare with the requirements of the Regulation?	• The following legislation was reviewed: Other EU legislation, including Directive (EC) 2015/2302 (the Package Travel Directive), Directive (EC) 2006/2004 on enforcement of consumer protection laws, and Directive (EC) 2009/45 on safety rules and standards for passenger ships Relevant international regulatory frameworks, including the Convention on Facilitation of International Maritime Traffic, the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, and the UN Convention on the Rights of Persons with Disabilities. Desk research into legal commentary was also undertaken on the legislation and its relationship with other regulatory frameworks. Based on the review, different requirements were compared and contrasted and any apparent inconsistencies between the Regulation and other frameworks were identified.
A4.4	Have stakeholders identified any inconsistencies between international rules and the Regulation?	• All stakeholders were asked for their views 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 added value	

A5.1	To what extent is protection for passengers now embedded within the operational practices of carriers and ports/terminals?	• Information on relevant operating procedures and training material was requested from operators and ports/terminals.
A5.2	Was there any national legislation in place before the Regulation?	• Transport ministries and NEBs were asked to provide information on any national legislation in place before the implementation of the Regulation as well as any supplementary legislation introduced subsequently. • Based on this information, the extent to which national regulatory frameworks in different Member States might substitute for the provisions of the Regulation was assessed.

3.3. Limitations and robustness of findings

An important limitation of the analysis lies in the difficulties encountered to quantify the benefits of the legislation with any precision. There is little accurate and up-to-date information on the particularities of the market affected by the Regulation as well as on the number and profile of passengers benefitting from it.

Member State reporting

The findings on the number of complaints made and any sanctions issued due to non-compliance with the Regulation built on the biennial NEB reports, from which information concerning the impact of the Regulation was also extracted. However, it must be noted that not all NEBs provided information through this channel.

Furthermore, in practice, some of the reports did not contain the relevant information and instead it was necessary to estimate NEBs' and other costs for some Member States based on actual cost data provided by others.

Stakeholder consultation

The stakeholder consultation exercise was performed through the use of a variety of tools to collect evidence, including a public consultation, detailed targeted questionnaires, interviews, a stakeholder workshop and targeted data requests.

Overall, stakeholder engagement task involved all identified and interested stakeholders via the most appropriate channels and the majority of responses received were generally well-detailed and provided valuable quantitative and qualitative information for the support study. Interviews proved effective at investigating gaps in the qualitative data and gave stakeholders the opportunity to raise or stress particular points of importance.

However, a number of limitations were observed on stakeholder consultation:

- not all stakeholders were able to send responses in time although additional time was offered for those who highlighted it as an issue;
- not all stakeholders were able to send responses as detailed as they would have wished for due to a lack of resources during and after the first peak of the health crisis;
- Stakeholders were not always able to share the data that was asked for in the questionnaires, often because this data was unavailable to them as well.

Data collection

Significant limitations to the quantity and quality of data available were identified. At a total level, the total number of passengers travelling from European ports was available from Eurostat, which allowed the total number of passengers departing from each Member State to be

established. This data disaggregated between cruise and non-cruise passengers, however did not contain information on passenger travelling on inland waterways. More detailed data, presenting passenger journey flows, journey lengths and fares etc. was not available at a total level and instead it was required to derive assumptions from publicly available material to apportion the total passenger number collated.

The number of passengers requiring assistance was not recorded in Eurostat and it was not possible to receive sufficient data from carriers to enable direct assumptions to be derived.

Sufficient data from carriers regarding the proportion of passengers experiencing disruption was also not available and instead assumptions were derived from the Eurobarometer survey.

Data on the existence of legislation prior to the introduction of Regulation (EU) No 1177/2010 was available in the 2006 Analysis and assessment of the level of protection of passenger rights in the EU maritime transport sector report and updated to take account of other legislation introduced between 2006 and 2018.

Impact of COVID-19

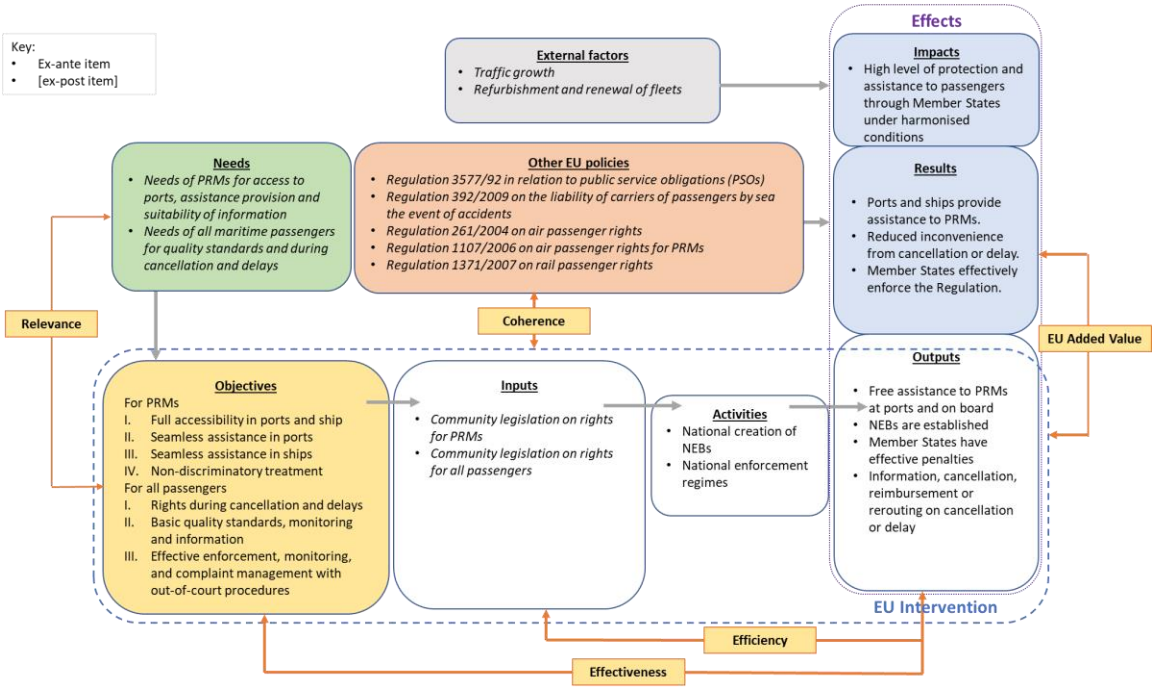
The most important impact of COVID-19 has been delayed responses from stakeholders. More consultation time than originally planned was provided which allowed stakeholders to still send detailed and meaningful responses, although the questions asked were not altered due to the pandemic. A question was added to ensure views on all aspects of COVID-19 could be collected.

ANNEX 4: REVIEW OF THE INTERVENTION LOGIC

This Annex is intended to describe the rationale of 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 (EU) No 1177/2010.

The ex-ante intervention logic is summarised in Figure A4.1. The five key evaluation criteria of effectiveness, efficiency, relevance, coherence and EU added value are also presented below.

Figure A4.1: Simplified intervention logic and the five key evaluation criteria



Source: Support study, Appendix B

Key policy elements identified by the 2008 Impact Assessment

The key policy elements identified by the Impact Assessment performed in 2008, are presented in Table A4.1.

Table A4.1: Key elements of the proposed policies

Key elements	Content		
Full accessibility in ports and ship	1	To allow full access to existing ports.	
Seamless assistance in ports	1	To put in place arrangements at ports to enable PRMs to perform all necessary actions at each step of the journey, namely:	
		a	communicate their arrival at a port and their request for assistance;
		b	move from an entry point to the check-in counter, if any;
		c	check in and register baggage, if needed;
		d	proceed from the check-in counter (if any) to the ship, with completion of emigration, customs and security procedures;
		e	board the ship, with the provision of lifts, wheelchairs or other assistance, as appropriate;
		f	proceed from the ship door to their seats/area;
		g	store and retrieve baggage on the ship;
		h	proceed from their seats to the ship door;
		i	disembark from the ship, with the provision of lifts, wheelchairs or other assistance, as appropriate;
		j	retrieve baggage (if needed), with completion of immigration and customs procedures;
		k	proceed from the baggage hall to a designated point of exit; and
		l	go to the toilet facilities if necessary.
	2	To ensure that, where a person with disabilities or person with reduced mobility is assisted by an accompanying person, this person is, on request, allowed to provide the necessary assistance at the port and with embarking and disembarking.	
	3	To ensure handling of all necessary mobility equipment, including equipment such as electric wheelchairs.	
	4	To ensure temporary replacement of damaged or lost mobility equipment, albeit not necessarily on a like-for-like basis.	
	5	To ensure handling of recognised assistance dogs, where relevant.	
Seamless assistance in ships	1	To ensure carriage of recognised assistance dogs in the ship, subject to national regulations.	
	2	In addition to medical equipment, to ensure transport of up to two pieces of mobility equipment per person with disabilities or person with reduced mobility, including electric wheelchairs.	
	3	To ensure that all reasonable efforts are made to arrange seating to meet the needs of individuals with disability or reduced mobility on request and subject to safety requirements and availability.	
	4	To ensure assistance in getting to toilet facilities, if relevant.	

Key elements	Content	
	5	To ensure that, where a person with disabilities or person with reduced mobility is assisted by an accompanying person, the shipping company makes all reasonable efforts to give this person a seat next to the person with disabilities or person with reduced mobility.
Non-discriminatory treatment	1	Person with disabilities and PRMs should be accepted for carriage and not refused transport on the grounds of their disability or lack of mobility, except for reasons that are justified on the grounds of safety and are prescribed by law.
	2	In the interests of social inclusion, person with disabilities and PRMs should receive the assistance mentioned above without additional charge.
	3	Assistance should be financed in such a way as to spread the burden equitably among all passengers using a port and to avoid disincentives to the carriage of person with disabilities and persons with reduced mobility.

Source: Support study, Appendix B

ANNEX 5: COSTS – BENEFITS IDENTIFIED IN THE EVALUATION (OVERVIEW)

A cost-benefits analysis of the Regulation has been conducted over the period 2013-2018 and was based on the Standard Cost Model (SCM). The SCM allows to address the costs of the Regulation for Member States (NEBs), industry stakeholders and passengers, including PRMs. All values are presented in 2018 prices.

The total costs associated with the Regulation over the period 2008-2018 were estimated to be EUR95.7 million (2018 prices), whilst total benefits were estimated to be +EUR39.2 million (2018 prices), not including the unquantifiable benefit of improved rights for passengers who request PRM assistance, although it is considered a primary benefit of the Regulation, for PRMs to now be able to benefit from their rights to free movement, freedom of choice and non-discrimination, contrary to the previous situation.

The overall cost of the Regulation was estimated to be -EUR56.5 million (2018 prices). Table A5.1 shows an overview of the costs and benefits resulted by the adoption of Regulation (EU) No 1177/2010.

Table A5. 1 – Overview of costs and benefits identified in the evaluation of Regulation (EC) 1177/2010

I. Overview of costs – benefits identified in the evaluation (EUR million, 2018)						
	Citizens/ Consumers	Ports	Carriers	NEBs	PRM Pax	
	Quantitative / monetary	Quantitative / monetary	Quantitative / monetary	Quantitative / monetary	Qualitative	Quantitative / monetary
Administrative	EUR 0.0	-EUR 0.3	-EUR 30.6	-EUR 20.3	-	EUR 0.0
Service provision	EUR 0.0	-EUR 11.3	EUR 0.0	EUR 0.0	-	EUR 0.0
Claims	-EUR 6.5	EUR 0.0	-EUR 26.3	EUR 0.0	-	EUR 0.0
Sanctions	EUR 0.0	EUR 0.0	-EUR 0.5	EUR 0.0	-	EUR 0.0
Benefits	EUR 26.3	EUR 0.0	EUR 12.8	EUR 0.0	High	EUR 0.0
Total	**EUR 19.8**	**-EUR 11.5**	**-EUR 44.6**	**-EUR 20.3**	**High**	**EUR 0.0**

Source: Support study Stakeholder Consultation Report, Appendix G

ANNEX 6: TABLES AND FIGURES

Table A6.1: National enforcement bodies (NEBs)

Table A6.1. presents the number of NEBs in each Member State as notified by the Member State to the Commission as well as represented in the Annex D of the support study.

MS		Number of NEBs notified to EC	Single waterborne NEB in the MS	Single multimodal NEB in the MS	Subdivision of NEB roles, where this is relevant
AT	Austria	1	✓	✓	
BE	Belgium	1	✓		
BG	Bulgaria	2			Complaints against carriers and port operators and complaints against tour operators and travel agents
CY	Cyprus	1	✓		
CZ	Czechia	1	✓		
DK	Denmark	3			Complaints against carriers, complaints against terminal operators and complaints of an economic nature regarding tickets of EUR 1000 or more
DE	Germany	1	✓	✓	
EE	Estonia	1	✓	✓	
EL	Greece	1	✓		
FI	Finland	3			Consumers, collective cases, business
FR	France	1	✓	✓	
HR	Croatia	1	✓		
HU	Hungary	2		✓	Complaints against carriers, complaints against ports and terminals
IE	Ireland	1	✓	✓	
IS	Iceland	1	✓	✓	
IT	Italy	1	✓	✓	
LV	Latvia	1	✓	✓	
LT	Lithuania	2		✓	Complaints from passengers and cruise participants, complaints on a collective level
LU	Luxembourg	1	✓	✓	
MT	Malta	1	✓	✓	

NL	Netherlands	1	✓	✓	
NO	Norway	1	✓		
PL	Poland	3			Regional for ports, inland navigation
PT	Portugal	1	✓	✓	
RO	Romania	1	✓		
SK	Slovakia	2			Trade, central
SI	Slovenia	2			Complaints related to contractual relationships between carriers and passenger, PRM rights
ES	Spain	3			Consumer protection, PRM rights, ports
SE	Sweden	3			Supervision, complaints, PRM training
UK	UK	1	✓		National, regional, and where devolved

Source: European Commission list of NEBs, Contractor contacts, Support study Annex D.
Note: the European Commission may not have been informed of all bodies with duties of NEBs.

Table A6.2: Enforcement approach of NEBs

Table A6.2 presents the enforcement and monitoring approaches selected by the Member States, other activities performed by the NEBs as well as the individual sanction regimes. The information was gathered from the NEBs as a part of the support study for the period of 2016 to 2019. Not all Member States replied to all questions during the consultation period.

MS	Handles individual cases?	Enforcement activities	Monitoring activities	Other activities	Max sanction	Sanctions issued
BE	Yes	Investigates infringements Issues official warnings Issues financial sanctions	No information provided by NEB	Provides information campaigns on PRM rights; Licenses and oversees public transport	No information	No sanctions imposed
BG	Yes	Issues sanctions	Carry out inspections	Provide information and advice to the consumer in respect of their complaint	No information	No sanctions imposed
CZ	Yes	Handles complaints	No information provided by NEB	No information provided by NEB	No information	No sanctions imposed
DK	Yes	Reports sanctions infringements	Conduct oversight and monitoring/inspecting the compliance with the Regulation	Conducts inspections and oversees the safety and accessibility of passenger ships	No information	No sanctions imposed
DE	No (customer	Commence	Oversight and	Delivers	EUR30,000	No sanctions imposed

MS	Handles individual cases?	Enforcement activities	Monitoring activities	Other activities	Max sanction	Sanctions issued
	complaints are only used to collect evidence of infringement	administrative proceedings against non-complaint operators	monitoring of compliance with the Regulation	information campaigns on PRM rights. Performs on-site inspections and audits of terminal operators, carriers and ticket vendors		
EE	Yes (but referred to the ADR normally)	Issue of precept (order) requiring an operator to comply with the regulation Issues sanctions if an operator does not comply with a precept	Oversights and monitors compliance with the Regulation, does anonymous purchase tests	Provides market surveillance	EUR3,200	No sanctions imposed
IE	Yes	Commences criminal proceedings against operators who infringe the Regulation	Oversees and monitors compliance with the Regulation	Licenses public transport, and conducts information campaigns	EUR250,000 (but EUR5,000 in all but the most serious cases)	No sanctions imposed. Awaiting CJEU ruling (C-570/19)
EL	Yes	Investigates infringements of the Regulation Imposes of sanctions	Performs annual surveys and supervisory activities to monitor compliance with the Regulation	No information provided by NEB	EUR50,000	26 sanctions have been imposed between 2013 and 2018
ES	Yes	Handles passenger complaints Investigates infringements of the Regulation. Issues sanctions through an administrative procedure	No information provided by NEB	No information provided by NEB	No information	At least 60 sanctions have been imposed in 2013 and 2014
FR	Yes	Imposes sanctions on operators who do not comply with the Regulation	Monitors and oversees of compliance with the Regulation	No information provided by NEB	No information	No information
HR	Yes	Initiated sanctioning procedures with the Harbourmasters office	Monitors and oversees of compliance with the Regulation	No information provided by NEB	EUR20,000	Two sanctions have been imposed since the commencement of the Regulation

MS	Handles individual cases?	Enforcement activities	Monitoring activities	Other activities	Max sanction	Sanctions issued
IT	Yes	Assesses passengers' complaints in order to identify any breaches of the obligations laid down in the Regulation Assesses any infringements of the provisions of the Regulation, Initiates proceedings Imposes penalties	Carries out monitoring (including on media sources) and inspection	No information provided by NEB	EUR30,000 per infringement	60 sanctions imposed since 2015
CY	Yes	Issues fines in the case of non-compliance	Carries out inspections to monitor compliance	No information provided by NEB	EUR17,086	No sanctions have been imposed
LV	Yes	Investigates compliance with the Regulation Imposes sanctions on operators	Annual surveys/inspections on operators	No information provided by NEB	No information	No sanctions have been imposed
LT	Yes	Imposes sanctions for non-compliance	Carries out inspections	Issues shipping licenses	EUR450	No information
LU	Yes	Refers an operator to the tax authority for sanctions to be issued, in the case of non-compliance	Monitors and oversees of compliance with the Regulation	No information provided by NEB	No information	No information
HU	Yes	Can commence administrative procedures against operators who do not comply	Monitors and oversees of compliance with the Regulation	No information provided by NEB	No information	No sanctions have been imposed
MT	Yes	Investigates potential infringements of the Regulation Can commence judicial proceedings against operators who do not comply	No information provided by NEB	Delivers information campaigns	EUR47,000 with an additional per-day penalty in the case of continuing non-compliance	No sanctions have been imposed
NL	Yes	Imposes sanctions for non-compliance	Carries out inspections	No information provided by NEB	No information	No information
AT	Yes	Handles individual complaints as an ADR body	No information provided by NEB	No information provided by NEB	EUR3,633 per infringement	No sanctions have been

MS	Handles individual cases?	Enforcement activities	Monitoring activities	Other activities	Max sanction	Sanctions issued
		Investigates complaints as evidence of non-compliance with the Regulation Can commence administrative charges against operators who do not comply with the Regulation				
PL	Yes	Commence administrative procedures against operators who do not comply	Monitors and oversees of compliance with the Regulation	No information provided by NEB	EUR11,100	No sanctions have been imposed
PT	Yes	Refers operators who do not comply with the Regulation to local transport authorities for sanctions to be issued.	Carries out inspections and audits of operators to ensure compliance	No information provided by NEB	No information	No sanctions have been imposed
RO	Yes	Issues fines on operator who infringe the Regulation	Carries out inspections	No information provided by NEB	No information	No financial sanctions have been imposed, but one warning has been issued
SI	Yes	Handles complaints Issues fines on operator who infringe the Regulation	Carries out inspections	No information provided by NEB	No information	No information
SK	Yes	Resolves individual complaints as an ADR body Issues sanctions against operators who do not comply with the Regulation	Monitors and oversees of compliance with the Regulation	No information provided by NEB	EUR6,635	No sanctions have been imposed
FI	Yes (but there are three NEBs in Finland with different roles)	One NEB can act as an ADR body to resolve individual complaints	The remaining two NEBs can carry out system-level supervision and issue sanctions	No information provided by NEB	No information	No sanctions have been imposed
SE	No, individual complaints are referred	Refers cases of non-compliance to the Consumer	Monitors and oversees of compliance with the Regulation	Provides independent guidance to passengers on	No information	No sanctions have been imposed, but there is an

MS	Handles individual cases?	Enforcement activities	Monitoring activities	Other activities	Max sanction	Sanctions issued
	to the National Board for Consumer Disputes	Ombudsman for sanctions to be imposed		passenger rights through an information service		ongoing dispute concerning 5 cases
UK	Yes	Issues sanctions against operators who do not comply with the Regulation	Annual surveys to passengers, including PRMs[129]	Issue and monitor operating licenses	No information	No sanctions have been imposed
IS	Yes	Issues sanctions against operators who do not comply with the Regulation	Monitors and oversees of compliance with the Regulation	No information provided by NEB	No information	No sanctions have been imposed
NO	No	No information	No information provided by NEB	No information provided by NEB	No information	No information

Source: Support study, Paragraph 3.16

Table A6.3: Financial Sanctions issued by NEBs

Table A6.3 presents the number of and amount of sanctions issued by individual Member States in the timeframe the support study investigates (until 31. December 2019),

Member State	Number (period)	Amount
EL	*11 (2012-2013)* *6 (2014)* *4 (2015)* *3 (2016)* *1 (2018)*[130]	*EUR1,780 (2012-2013)* *EUR900 (2014)* *EUR2,150 (2015)* *EUR300 (2016)* *EUR1,400 (2018)*
	25	**EUR6,530**
ES	*21 (2012-2013)* *39 (2013-2014)*	*EUR126,673 (2012-2013)* *EUR191,400 (2013-2014)*
	60	**EUR318,073**[131]
HR	**2**	**EUR7,572**[132]
IT	*19 (2017)* *10 (2018)* *31 (2019)*	*EUR30,800 (2017)* *EUR94,000 (2018)* *EUR752,695 (2019)*
	60	**EUR877,495**

Source: Support study, Paragraph 3.19. Note that not all NEBs have responded, but no sanctions have been imposed in BE, CZ, DK, DE, EE, IE, LV, LT, MT, PL, PT, AT, RO, SI, SK, FI, SE, UK, IS.

[129] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/806009/MCA_disabled_passenger_satisfaction_survey_2018_-_Final_Report.pdf

[130] Information provided by the NEB in the questionnaire is that the Greek NEB issues about 5 financial sanctions annually. The latest NEB report includes 2 sanctions in 2018 but we understand that 1 does not refer to the Regulation.

[131] The Spanish report (2015) on the application of the Regulation indicates that data on sanctions were collected from Consumer Agencies and that EUR263,461 refer to 41 sanctions in Ceuta in the period 2012-2014 concerning Articles 17 and 18.

[132] Converted from HRK 57,000 (European Commission exchange rate September 2020).

Table A6.4: Reports by NEBs according to Article 26 of the Regulation

Table A6.4 presents the reports published in accordance with Art. 26 of the Regulation. According to Art. 26 of the Regulation every second years the NEBs shall publish a report on their activity in the previous two calendar years, containing in particular a description of actions taken in order to implement the provisions of this Regulation, details of sanctions applied and statistics on complaints and sanctions applied.

State	Published reports	
BE	None available	
BG	2017, 2019	
CZ	2015, 2017, 2019	
DK	2015, 2017, 2019	
DE	2015, 2017, 2019	
EE	2017, 2019	
IE	2015, 2017, 2019	
EL	2015, 2017, 2019	
ES	2015	
FR	2015	
HR	2015, 2017, 2019	
IT	2017, 2019 (also refers to part of 2019)	
CY	2017	
LV	2015, 2019	
LT	2015, 2017	
LU	None available	
HU	2015, 2017	
MT	2015	
NL	2015, 2017, 2018	
AT	2015, 2016, 2017 2018, 2019	
PL	2015, 2017, 2019	
PT	2015, 2017	
RO	2015, 2017, 2019	
SI	2015, 2017, 2019	
SK	2015, 2017	
FI	2015, 2017, 2019	
SE	2015, 2017, 2019	
UK	2015, 2017, 2019	

State	Published reports	
IS	None available	●
NO	None available	●

Source: Support study, Paragraph 3.66.

Table A6.5: Ten core passenger rights

Table A6.5 present the Commission ten core passenger rights that were presented by the Commission In 2011. With its communication the Commission described a set of core passenger rights that cover all transport modes. The principles are based on three cornerstones: non-discrimination; accurate, timely and accessible information; and immediate and proportionate assistance.

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: Communication from the Commission to the European Council: A European vision for Passengers: Communication on passenger rights in all transport modes.[133]

Table A6.6: Comparison with other passenger rights Regulations

Table A6.6 presents a high-level comparison of the Regulation with the three other passenger rights modes in the Union. It shows that there are some discrepancies between the rights in different modes.

Issue	Assessment of possible differences between Regulation (EU) No 1177/2010 and other passenger rights legislation
Non-discrimination	No difference based on residence, or on disability and/or reduced mobility
Right to mobility	Pre-notification requirement of 48h versus 24h for rail, 36h for bus and coach, but 48h for air and rail No requirement for the transmission of information to third-parties, whereas under 36h in air and as soon as possible in rail and bus/coach
Right to information	In case of cancellation before travel, no requirement as there is in air for passengers to be informed by written notice on the rules for compensation and assistance (alternative transport and care) as well

[133] COM(2011) 898 final.

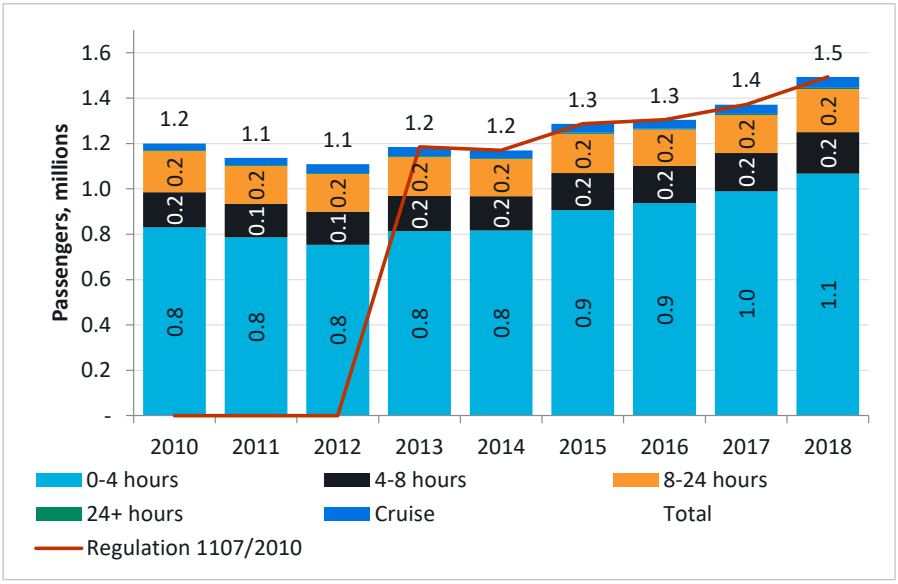
	as on the contact details of the NEB. In case of cancellation/denied boarding/delays before travel, requirement for information to be provided under 30 minutes (as in bus/coach, vs. real-time for rail) but no requirement as there is in air for passengers to be informed by written notice on the rules for compensation and assistance (alternative transport and care) as well as on the contact details of the NEB. Time limits apply after travel for claims (as in bus/coach and rail). No limits in air On the rights under the Regulation, they only have to be published on board and in ports, whereas in rail these obligations extent to ticket vendors and tour operators, and must be in provided either in paper or electronic format or by any other means, including in accessible formats.
Right to renounce travelling	Possible if cancellation or delay at departure of more than 90 minutes (5h delay at arrival in air, 1h delay at arrival in rail and 2h delay at departure in bus/coach)
Right to rerouting and rebooking	As in bus and coach: choice between reimbursement and re-routing under comparable conditions at the earliest opportunity and at no additional cost. No right to "self-rerouting and reimbursement of the necessary, appropriate and reasonable cost incurred" as in rail
Right to assistance	For cancellation or delay in departure of over 90 minutes regardless of planned journey duration (same as bus/coach but for this mode journeys must be over 3h). In rail for delays over 60 minutes. In air, for delays of more than 2h (flights of 1500 kilometres or less), 3h (for cancellation or delay in departure of over 90 minutes) or 4h (all other) Right to accommodation limited to 3 nights with a maximum of EUR80/night with no right where cancellation or delay due to severe weather conditions. Bus and coach limited to 2 nights at the same rate but only for journeys over 3h. Does not apply to cancellation or delay due to severe weather conditions or natural disasters. For rail, can be restricted to three days. In air, no limitations apply
Right to compensation	Linked to the ticket price, but does not apply in exceptional circumstances. In bus and coach also linked to ticket price, but only possible if re-routing and reimbursement was not offered. In air, fixed amounts depending on distance of flight and the actual arrival time following re-routing, does not apply in exceptional circumstances. In rail, linked to the ticket price, but does not apply in exceptional circumstances. To be paid under 1 month of request (3 months for bus and coach, no time threshold in air or rail)
Right of carrier liability	For passengers, up to 250,000 SDRs[134], vs. up to 128,821 SDRs in air, at least EUR220,000 in bus/coach and unlimited in rail For luggage, Up to 2,250 SDRs for cabin luggage, up to 12,700 SDRs for vehicles, up to 3,375 SDRs for other luggage. In air, up to 1,288 SDRs, in rail up to 1,400 SDRs per piece, at least EUR1,200 per piece in bus/coach Mobility equipment: Replacement or repair value (for waterborne, bus and rail). Capped in air at up to 1,288 SDRs
Right to complaint handling	To be submitted within 2 months (3 for bus/coach and rail, unlimited for air apart for luggage (7 days)) Operators to respond within 1 month with final response within 2 months (3 months for bus and coach and rail, not specified for air).
Right to law enforcement	Right to use NEB as an appeal body

Source: Support study, Paragraph 3.173

Figure A6.1: Waterborne passengers with PRM Requirements in the EU27, NO, IS and the UK

Figure A6.1 presents the estimated number of passengers in the EU27 and Norway, Iceland and the United Kingdom requiring PRM assistance. In 2018, 1.5 million passengers were estimated to require PRM related assistance, of which all were covered under the Regulation.

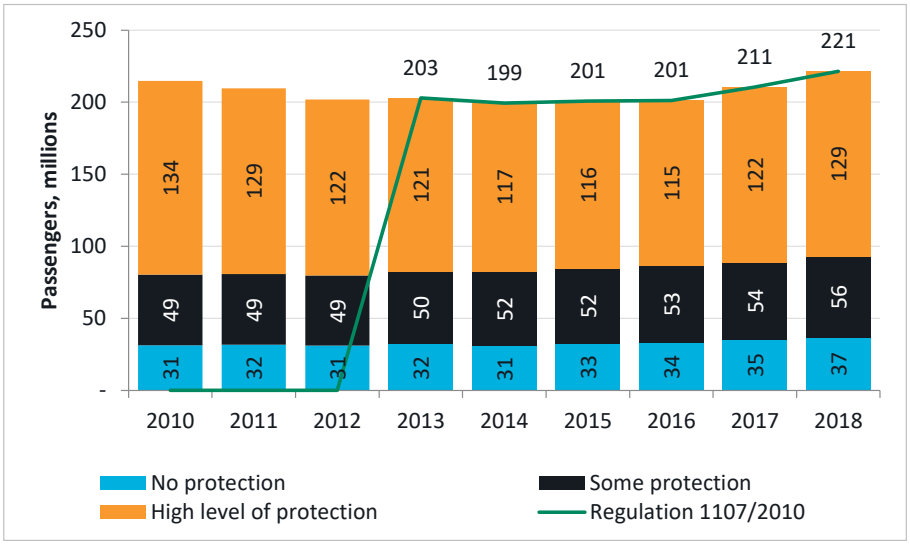
[134] Special Drawing Rights (SDR).



Source: Support study, Appendix F

Figure A6.2: Availability of rights in the event of disruption in the EU 27, NO, IS and the UK

Figure A6.2 presents the number of passengers who had access to rights before and after the introduction of the Regulation in the event of disrupted travel. Approximately 16% of passengers had no rights prior to the introduction of the Regulation, whilst around 25% were covered by some level of rights, although these were less comprehensive than those available under the Regulation.

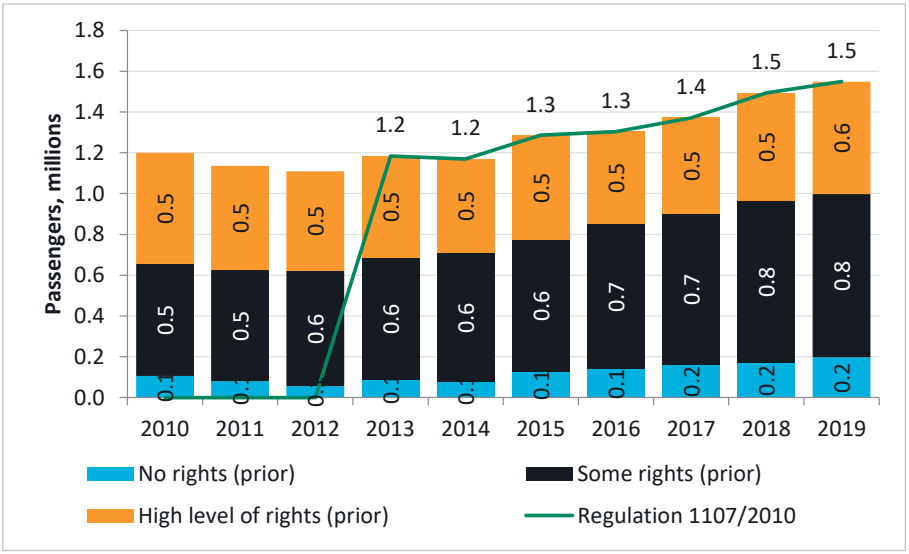


Source: Support study, Paragraph 3.195

Figure A6.3: Availability of rights to PRM passengers in the EU 27, NO, IS and the UK

Figure A6.3 shows the number of passengers requiring PRM assistance who before the introduction of the Regulation already had access to PRM related rights. Approximately 9% of passengers with PRM

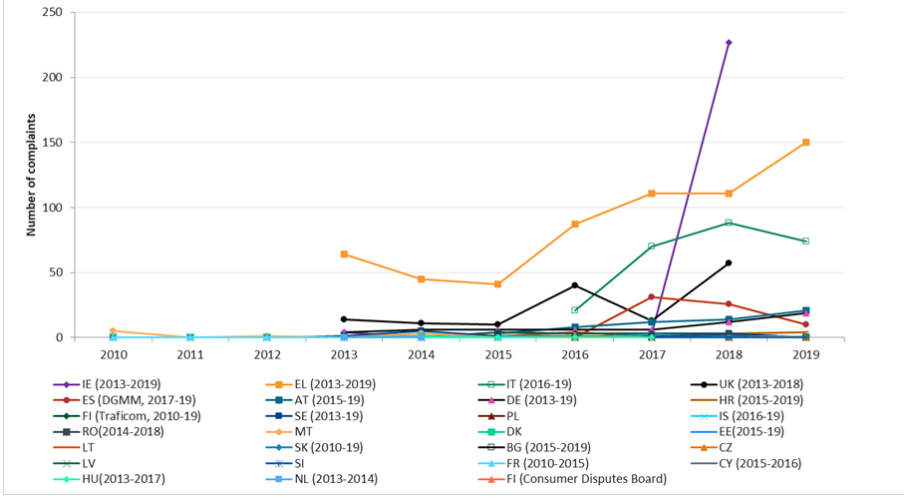
requirements had no rights prior to the introduction of the Regulation, whilst a further 46% were covered by some rights.



Source: Support study, Paragraph 3.199

Figure A6.4: Regulation (EU) No 1177/2010 complaints to NEBs

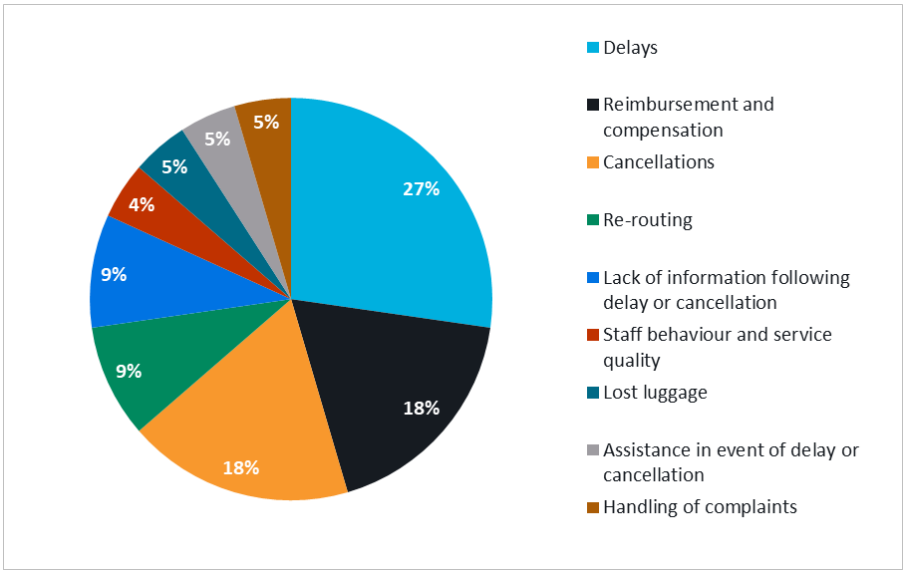
Figure A6.4 presents the number of complaints received by NEBs until 2019. The figure is based on the NEBs own reporting in their biannual reports as well as their responses to the support study. It is important to note that not all NEBs have answered nor have submitted a report and that the NEBs report differently e.g. some report all complaints received whilst others only report complaints under the Regulation.



Source: Support study, Paragraph 3.9

Figure A6.5: Types of Regulation (EU) No 1177/2010 complaints to NEBs

Figure A6.5 shows the most common types of complaints received by NEBs in relation to the Regulation. Data is based on NEBs reply to stakeholder consultation. Note that NEBs might register complaints differently and that not all NEBs replied.



Source: Support study, Paragraph 3.14

Table A6.7: Costs and benefits for passengers

Table A6.7 presents the opinions of stakeholders expressed at the stakeholder consultation towards the costs and benefits attributed to the Regulation.

Organisation	Type	Costs	Benefits		Proportionate
European Passengers' Federation	Passenger representative	Complaints process: time commitment.	Greater passenger confidence.		Somewhat positive
European Disability Forum	PRM representative	No view	Guaranteed right to travel and assistance for PRMs, and greater awareness of PRMs.		Somewhat positive
European Union of the Deaf	PRM representative	No view	Greater accessibility of maritime transport		Somewhat positive
Kuluttajaliitto (Consumers' Union of Finland)	Passenger representative	Unspecified financial costs and the time commitment of the complaints process.	Greater clarity as to rights of passengers		Positive
Portuguese National	PRM representative	No view			Unclear

Organisation	Type	Costs	Benefits		Proportionate
Confederation of Disabled Organisations					
DECO (Portuguese consumer organisation)	Passenger representative	Complaint handling: ADR fees[135]	Greater legal certainty and security for passengers; creation of a basic set of rights across Europe.		Positive
Resenärsforum (Swedish Passenger Forum)	Passenger representative	Complaints process: time commitment.	Greater passenger confidence; increased demand for travel.		Positive
ANGLAT (Italian Disability Forum member)	Passenger representative	Complaints process: time commitment and finding someone to support your complaint.	Greater attention now paid to passenger rights.		Positive

Source: Support study, Paragraph 3.100

Table A6.8: Costs and benefits for NEBs

Table A6.8 presents the views of the NEBs on the costs and benefits as incurred by the Regulation.

MS	Costs	Benefits		Proportionate
BE	0.25 FTEs	No specific benefits identified for the NEB, but wider benefits for passengers (better protection of passengers across Europe).		Positive
BG	No view	Not stated		Unclear
CZ	No view	Better public information, clear procedures and competencies in handling passenger complaints.		Positive
DK	No significant costs	No specific benefits identified for the NEB, but wider benefits for passengers (convenience for passengers of one set of rights across Europe).		Positive
DE	4 FTEs	No specific benefits identified for the NEB, but wider benefits for passengers (clarity as to passengers' rights, improved passenger confidence and greater customer loyalty).		Positive
EE	2 FTEs for all passenger rights and PRM tasks (all modes)	No specific benefits identified for the NEB, but wider benefits for passengers (minimum quality of service floor).		Positive
FR	Not stated	Not stated		Not stated
IE	1 FTE plus unspecified legal fees relating to	No specific benefits identified for the NEB, but wider benefits for passengers (greater transparency, certainty and availability of information on their rights, independent		Positive

[135] Fees levies by ADRs are not believed to be widespread throughout Europe in the context of waterborne passenger services, however, as no specific examples were raised by stakeholders.

MS	Costs	Benefits		Proportionate
	High Court challenge to Art. 18 and 19 notices. Additional support for complaints handling is occasionally procured.	complaints handling).		
EL	2 FTEs	No specific benefits identified for the NEB, but wider benefits for passengers (minimum quality of service floor).		Positive
ES	No view			Unclear
HR	No significant costs	No specific benefits identified for the NEB, but wider benefits for passengers (greater passenger certainty regarding refunds and timely travel information).		Positive*
IT	EUR523,000 per annum including 4.3 FTEs	No specific benefits identified for the NEB, but wider benefits for passengers (greater passenger confidence).		Positive
CY	No questionnaire response received			Unclear
LV	No view	No specific benefits identified for the NEB, but wider benefits for passengers (greater passenger confidence).		Likely positive
LT	0.05 FTEs	No specific benefits identified for the NEB, but wider benefits for passengers and increased travel availability for PRMs.		Positive
LU	No questionnaire response received			Unclear
HU	No view	No view		Unclear
MT	No view	No specific benefits identified for the NEB, but wider benefits for passengers (greater passenger confidence).		Likely positive
NL	No questionnaire response received			
AT	No view	No specific benefits identified for the NEB, but wider benefits for passengers (minimum set of rights guaranteed, greater transparency, certainty and availability of information on their rights, independent complaints handling).		Positive
PL (Maritime Office of	No view	No specific benefits identified for the NEB, but benefits to passengers resulting from the identification of enforcement bodies.		Positive

MS	Costs	Benefits		Proportionate
Gdynia)				
PL (Maritime Office of Szczecin)	1 FTE	No view		Unclear
PT	EUR545,000 per annum and 5 FTEs	No view		Positive
RO	No view	Passenger rights have been strengthened.		Positive
SI	0 FTEs	No specific benefits identified for the NEB, but wider benefits for passengers (greater passenger confidence).		Likely positive
SK	No view	No view		Unclear
FI	EUR250,000 including 2.5 FTEs for all passenger rights and PRM tasks (all modes)	No specific benefits identified for the NEB, but wider benefits for passengers (clarity as to stakeholders' rights and obligations).		Likely neutral; stated that a network of NEBs is not proportionate.
SE	No view	No specific benefits identified for the NEB, but wider benefits for passengers (passengers have acquired additional rights).		Likely positive
UK	1 FTE	No specific benefits identified for the NEB, but wider benefits for passengers (protection of the rights of PRMs).		Positive
IS	0 FTEs	No view		Unclear
NO	No questionnaire response received			Unclear
CH	No questionnaire response received			Unclear

Source: Support study, Paragraph 3.105

Table A6.9: Costs and benefits for carriers

Table A6.9 presents the views of carriers as presented during the stakeholder consultation on the costs and benefits of the Regulation.

Group	Type	Costs	Benefits		Proportionate
Caronte and Tourist (IT)	Ferry	Investment in a passenger information system and reimbursement platform, foodstuffs in the event of delays.	None		Negative
Aegean Speed Lines (EL)	Ferry	The Regulation gives many benefits to the passengers without taking much into account the conditions under which the carriers have to operate			Unclear
Minoan Lines (EL)	Ferry	No view	Positive feedback		Unclear
Costa Cruises (IT)	Cruise	No view.			Unclear
Grimaldi (IT)	Ferry and cruise	No view			Unclear
Liberty Lines (IT)	Ferry	Reimbursement: EUR100,000 and compensation: EUR72 (2019).	Great passenger satisfaction and increased demand		Likely positive
Scandlines (DK)	Ferry	None	Single framework for passenger complaints and compensation; sets passenger expectations.		Positive
Corsica Ferries (FR)	Ferry	Additional staff.	None		Negative
Porto Santo Line (PT)	Ferry	No view	None		Negative
Bura Line (HR)	Ferry	Reimbursement: EUR800; rerouting: EUR260; administration: EUR260 (2019).	Greater passenger satisfaction		Positive
Catamaran Line (HR)	Ferry	Reimbursement: EUR4,300; rerouting: EUR180; compensation: EUR940 (2019).	No view		Unclear
G&V Line Iadera (HR)	Ferry	Cost of care: EUR500 (2017)	No view		Unclear
G&V Line Dubrovnik (HR)[136]	Ferry	No view			Unclear
Gradski Parking Sibenik (HR)	Ferry	None	Greater awareness of PRMs		Positive
Jadrolinija (HR)	Ferry	None (excluding rerouting cost of EUR9,130, 2018).	None		Neutral
Keptan Luka (HR)	Ferry	Less than EUR150 (excluding rerouting cost of EUR148,700 in 2019).	Greater passenger satisfaction		Positive
Krilo Shipping Line (HR)	Ferry	No view			Unclear

[136]Split from G&V Line Iadera in 2013 to become two independent operators.

Group	Type	Costs	Benefits		Proportionate
KTD Bilan (HR)	Ferry	None	None		Neutral
Miatrade (HR)	Ferry	None	None		Neutral
NC Komiza (HR)	Ferry	No view			Unclear
Porat Ilovik (HR)	Ferry	None	None		Neutral
Rapska Plovidba (HR)	Ferry	None	None		Neutral
RPZ Vrgada (HR)	Ferry	No view	None		Unclear

Source: Support study, Paragraph 3.114.

Figure A6.10: Costs and benefits for terminal operators

Group	Costs	Benefits		Proportionate
Port of Tallinn (EE)	Purchase of mobility equipment, additional staff.	None.		Negative
Port of Helsinki (FI)	Purchase of mobility equipment, development of an assistance booking system, additional staff.	Indirect benefit through an improved passenger experience		Neutral
Swinoujscie Ferry Terminal (PL)	None.	None.		Neutral
Port of Dover (UK)	None – accessibility improvements carried out following prior domestic legislation.	None.		Neutral
Administração do Porto do Douro e Leixões (PT)	No view	Increased demand due to increased passenger confidence and greater accessibility for PRMs.		Neutral

Source: Support study, Paragraph 3.116.