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## **Activity report on the implementation of Regulation (EU) no. 1177/2010 concerning the rights of passengers travelling by sea and inland waterway**

The current provisions on the rights of passengers travelling by sea and inland waterway entered into force on 18 December 2012. The EU is the first region in the world to have separately enacted provisions safeguarding passenger rights for every form of transport. Regulation (EU) no. 1177/2010 provides inter alia for the rights of passengers in cases of cancellation or delay and for the right of disabled persons and persons with reduced mobility to receive assistance at no additional cost in ports and on board ships.

Under Article 26 of the Regulation, the enforcement bodies designated pursuant to the Regulation shall publish a report every two years on their activity, containing in particular a description of actions taken in order to implement the Regulation and statistics on complaints and sanctions applied. The present report is the first of its kind and concerns the period 18 December 2012 to 31 December 2014. The report was drawn up jointly by Finland's national enforcement bodies for passenger rights.

### **National Enforcement Bodies in Finland**

Every Member State is required to appoint one or more National Enforcement Bodies (NEB) responsible for the implementation of the Regulation. In Finland, these NEBs are the Consumer Ombudsman and the Finnish Transport Safety Agency Trafi. In cases of disputes involving individual passengers, the Consumer Disputes Board is the NEB for private consumers and Trafi is the NEB for business passengers. Also, in the Åland Islands the NEB for private consumers is the Åland Consumer Disputes Board (*Ålands Konsumenttvistenämnden*) pursuant to chapter 5 section 30 paragraph 10 of the Act on the Autonomy of Åland.

#### *Consumer Ombudsman*

The principal duty of the Consumer Ombudsman is to supervise compliance with the Consumer Protection Act and several other acts enacted to protect consumers. This supervision is particularly concerned with the legality of marketing, of terms and conditions of agreements and of debt recovery. The purpose of the supervision is to get businesses with illegal marketing practices or unreasonable terms and conditions of agreement to discontinue such practices.

The Consumer Ombudsman basically does not deal with individual complaints where consumers seek compensation for a defect in a product or service. Such cases are handled by consumer advisers and the Consumer Disputes Board.

## Trafi

The Finnish Transport Safety Agency Trafi actively develops the safety of the transport system, promotes environmentally friendly transport solutions and handles regulatory duties related to the transport system. Trafi oversees the transport market as well as compliance with rules and regulations governing the transport system. Trafi ensures the smooth running of the transport system and issues permits, approvals and other decisions, and also prepares legal rules for the transport sector. Trafi also aims to create favourable conditions for the innovative development of smart transport.

Trafi supervises the rights of passengers travelling by sea and inland waterway insofar as this does not fall within the domain of the Consumer Ombudsman. Trafi also supervises enforcement of the rights of disabled passengers and passengers with reduced mobility and handles related complaints. Trafi also handles complaints filed by business travellers. The competence of Trafi is provided for in chapter 15 section 26 of the Maritime Act (674/1994).

### *Consumer Disputes Board*

The Consumer Disputes Board is a neutral and independent expert body with a balance of representatives from consumers and businesses. The Consumer Disputes Board handles complaints filed by private consumers. The decisions of the Board are recommendations only, and as such cannot be enforced by coercive measures. The Board handles cases free of charge.

The Consumer Disputes Board is not involved in active supervision, being an alternative dispute resolution body.

### *Åland Consumer Disputes Board*

Under chapter 5 section 30 paragraph 10 of the Act on the Autonomy of Åland (1144/1991), the duties of the Consumer Disputes Board are discharged in the Åland Islands by a board appointed by the Government of Åland, the Åland Consumer Disputes Board (*Ålands Konsumenttvistenämnden*). This Board materially applies the same consumer protection legislation and has the same competence as its opposite number on the mainland. The Åland Consumer Disputes Board is the competent NEB in cases of complaints where a party lives in or is domiciled in the Åland Islands or that concern local operations within the Åland Islands.

### **Information on complaints received by the NEBs**

In Finland, passenger complaints are handled by the Consumer Disputes Board and Trafi. The Consumer Disputes Board handles complaints filed by private consumers, while business travellers should apply to Trafi. Trafi also handles complaints filed by disabled passengers and passengers with reduced mobility. Also, in the Åland Islands consumer complaints are handled by the Åland Consumer Disputes Board, which corresponds to the Consumer Disputes Board on the mainland.

If a passenger wishes to file a complaint and to seek compensation from the transport operator pursuant to the Regulation, he/she must always first address the transport operator or the port authority. The complaint must be filed with the transport operator within two months of the voyage. If filing a complaint with the transport operator produces no results, the passenger may file the complaint with the NEB. Complaints must be filed in writing.

The current provisions on the rights of passengers travelling by sea and inland waterway entered into force on 18 December 2013, but so far the NEBs have received very few complaints related to these rights. Between 18 December 2012

and 31 December 2013, the Consumer Disputes Board received nine contacts or complaints related to travel by sea or inland waterway. Five of these cases concerned a cancelled service. Four of the contacts were not directly related to the provisions of the Regulation. In 2014, the Consumer Disputes Board handled six complaints related to travel by sea or inland waterway. The majority of the complaints filed with the Consumer Disputes Board were resolved by a settlement between the passenger and the transport operator.

Trafi has had even fewer contacts. In 2013, Trafi received only one contact concerning travel by sea or inland waterway, and that was not directly related to the provisions of the Regulation. In 2014, Trafi received no contacts at all concerning travel by sea or inland waterway. In other words, by the end of 2014 Trafi had not received a single complaint.

In the Åland Islands consumer complaints are handled by the Åland Consumer Disputes Board, which corresponds to the Consumer Disputes Board on the mainland. In the period under review, this Board received only one contact (in 2014). This had to do with the fee charged for changing a booking, and thus was not directly related to the provisions of the Regulation.

### **Supervision measures**

In Finland, the rights of passengers are supervised by the Consumer Ombudsman and Trafi. The supervision is a collaborative effort, and both authorities are also actively involved in cooperation with interest groups. The Consumer Ombudsman liaises with consumer organisations, tour operators and the European Consumer Centre. Trafi engages in close cooperation with transport operators and with organisations representing disabled persons and persons with reduced mobility.

Both NEBs also actively participate in the collaboration among authorities supervising passenger rights in EU Member States. Particularly close relations are maintained with neighbouring countries Sweden and Estonia. On 25 September 2013, Trafi, the Finnish Competition and Consumer Authority (FCCA), the European Consumer Centre in Finland and the Estonian consumer authority supervising the rights of passengers travelling by sea and inland waterway (*Tarbijakaitseamet*) organised a briefing in the ports of Helsinki and Tallinn. Experts from these authorities also distributed information on passenger ships between Helsinki and Tallinn. The purpose of the event was to inform passengers about their rights. Brochures were distributed to passengers, and posters and other material were handed out to port authorities and shipping companies. The event also included a brief survey to gauge public awareness of the rights of passengers travelling by sea or inland waterway. The campaign was covered in both the Finnish and the Estonian media.

#### *Consumer Ombudsman supervises passenger rights from the collective perspective*

The Consumer Ombudsman receives thousands of notifications and contacts from consumers, businesses, other authorities and NGOs every year. All of these are processed and stored in the information system of the Finnish Competition and Consumer Authority (FCCA). The Consumer Ombudsman selects focus areas for supervision on the basis of information received. The Consumer Ombudsman may also take initiative in addressing any problems identified. Emerging issues are often dealt with in a broader context, addressing several problems at once.

By law, the Consumer Ombudsman must pay particular attention to sectors of high significance for consumers and to sectors where problems with consumer rights are the most likely to emerge. Supervision must also be rotated between sectors. The consumer policy programme in effect at any given time also has a bearing on which

issues and areas the Consumer Ombudsman focuses. So far, the Consumer Ombudsman has received very few complaints related to the rights of passengers travelling by sea and inland waterway. Considering the volume of passenger traffic between Finland and Sweden and between Finland and Estonia, consumer complaints against shipping companies are extremely rare. The complaints that are filed primarily concern marketing issues rather than issues provided for in the Regulation.

A comprehensive package of information on transport and passenger rights is available on the website of the FCCA ([www.kkv.fi](http://www.kkv.fi)). Consumer advisers provide consumers with guidance and assistance in disputes free of charge. Businesses may also consult the FCCA and consumer rights advisers at local register offices concerning consumer rights issues. The Consumer Ombudsman may organise training concerning passenger rights and consumer rights on request.

*Trafi supervision is governed by a performance-based and risk-based supervision model*

Trafi is pursuing its supervision duties by applying a performance-based and risk-based supervision model. The supervision is carried out according to a supervision plan drawn up and maintained on an annual basis. The supervision plan takes into account the requirements, prioritisation, risks, resources and cost-effectiveness outlining supervision activities. The annual supervision plan forms part of a long-term framework programme.

Trafi supervises the safety of shipping and aims to promote a high-level safety culture on Finland's waterways. Trafi plays a key role in ensuring the professional competence of mariners and vessel safety through reviews and inspections. Trafi is responsible for vessel safety, safety procedures on board ships and in port facilities, and the supervision and safety of leisure crafts in Finland. Trafi's duties also involve safety evaluations of ports and port facilities, approvals of safe operating areas (SOA), and security plans for ports and port facilities. Trafi is also responsible for the basic and periodical audits of port facilities and port security measures.

Trafi officials conduct inspections and verifications aiming to ensure that vessels sailing on Finland's waterways and the ports serving those vessels comply with current requirements. Trafi's supervision duties cover the entire maritime and inland waterway sector, including transport operators, ports, port terminals, vessels, terminal managing bodies and the professional competence of ships' crews. The rights of passengers travelling by sea and inland waterway are supervised in connection with other supervision duties.

Passenger rights are publicised on the Trafi website ([www.trafi.fi](http://www.trafi.fi)) and also in the social media (Facebook and Twitter). Trafi participates in several events and trade fairs every year, with some of the themes featured focusing on passenger rights.

**Additional information**

For additional information, please contact Special Adviser Kirsi Tervola, tel. 029 534 7259, [kirsi.tervola\(at\)trafi.fi](mailto:kirsi.tervola(at)trafi.fi)