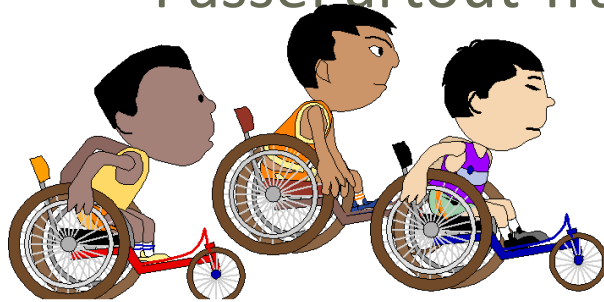


Special EU Regulation on disability matters in the field of transport and the effect of the UNCRPD for individuals

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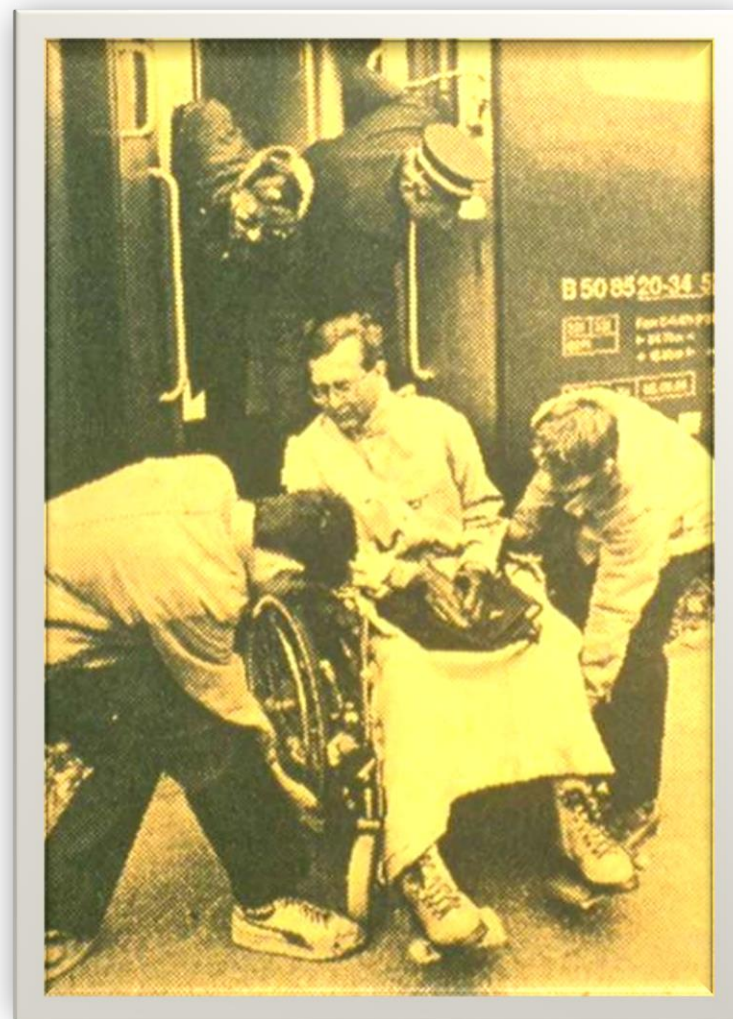


“When I book a plane, even months in advance, I am still not sure I am going to reach my final destination. I don't even know if I am going to board. For persons with disabilities, travelling in Europe is still a challenge.”

Stig Langvad, Executive Member, European Disability Forum

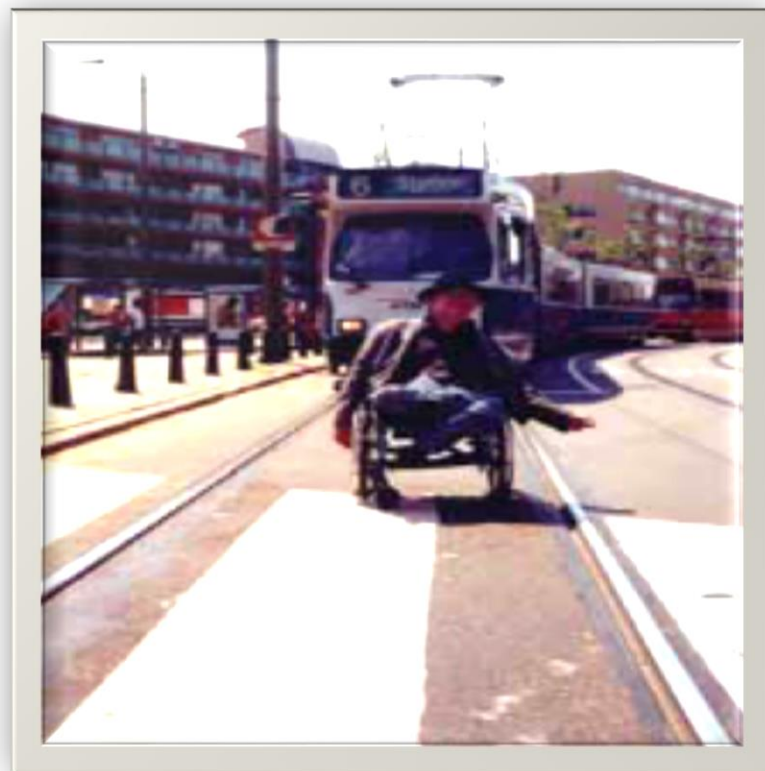
What are the issues?

- The ability to travel is fundamental to the ability of disabled people to live independent lives;
- Public transport has presented accessibility challenges for many years:
 - High steps;
 - Narrow doorways;
 - Poor information;
 - Limited assistance.



Progress?

- In the past 20 years, many countries have taken steps to tackle transport accessibility;
- Sometimes in response to direct action by disabled people;
- Measures include:
 - Civil rights legislation;
 - Technical regulations;
 - Design standards;
 - Best practice guidelines.



Progress?

- There has also been legislation at European level to introduce common technical standards for accessibility.
- Notably:
 - Directive 2001/85/EC which defines access standards for buses and coaches;
 - Applicable standards in TSI relating to ‘persons with reduced mobility’ in the trans-European conventional and high-speed rail system (2008/164/EC).

Why is Rights legislation important?

- For many disabled people, the awareness, understanding and support of transport staff is as important as the design of the vehicle or infrastructure;
- Disabled people cannot travel with confidence if they do not know that their needs will be met in a consistent and appropriate way;
- For this reason the concept of “rights” legislation is a vital element of barrier free mobility.

● UNCRPD

UNCRPD : Defining Disability

- *Disability results from an **interaction** between a non-inclusive society and individuals:*
 - A wheelchair user might have difficulties getting a job not because of the wheelchair, but because there are environmental barriers **such as inaccessible buses** or staircases ;
 - A person with low vision who does not have access to corrective lenses may not be able to self sufficient. This same person with prescription glasses would be able to perform all tasks without problems.

UNCRPD: General Principles - non-discrimination

- ***Reasonable accommodation*** must be made for people with disabilities ;
- ‘Necessary and appropriate modification and adjustments to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms’.

UNCRPD: General principles - Accessibility

Access must be ensured to:

- Living independently and being included in the community (article 19)
- Information and communication services (article 21)
- Education (article 24)
- Health (article 25)
- Work and employment (article 27) –
- Participation in political and social life (article 29)
- Participation in cultural life, recreation, leisure and sport (article 30).

UNCRPD: No Gap Policy

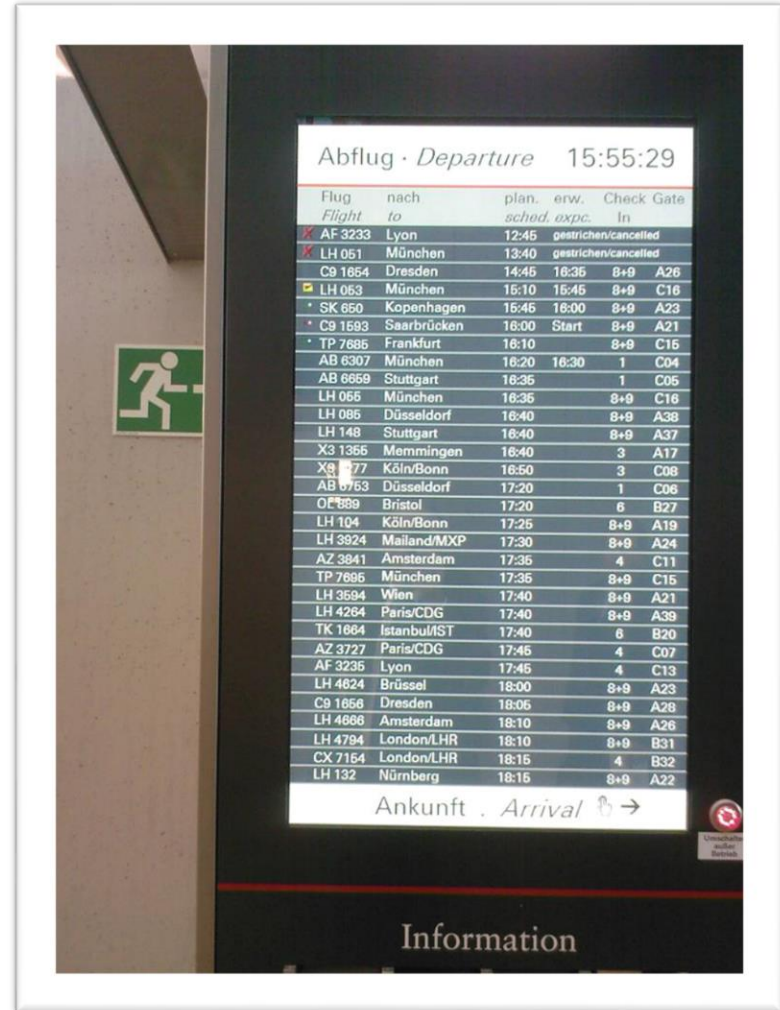
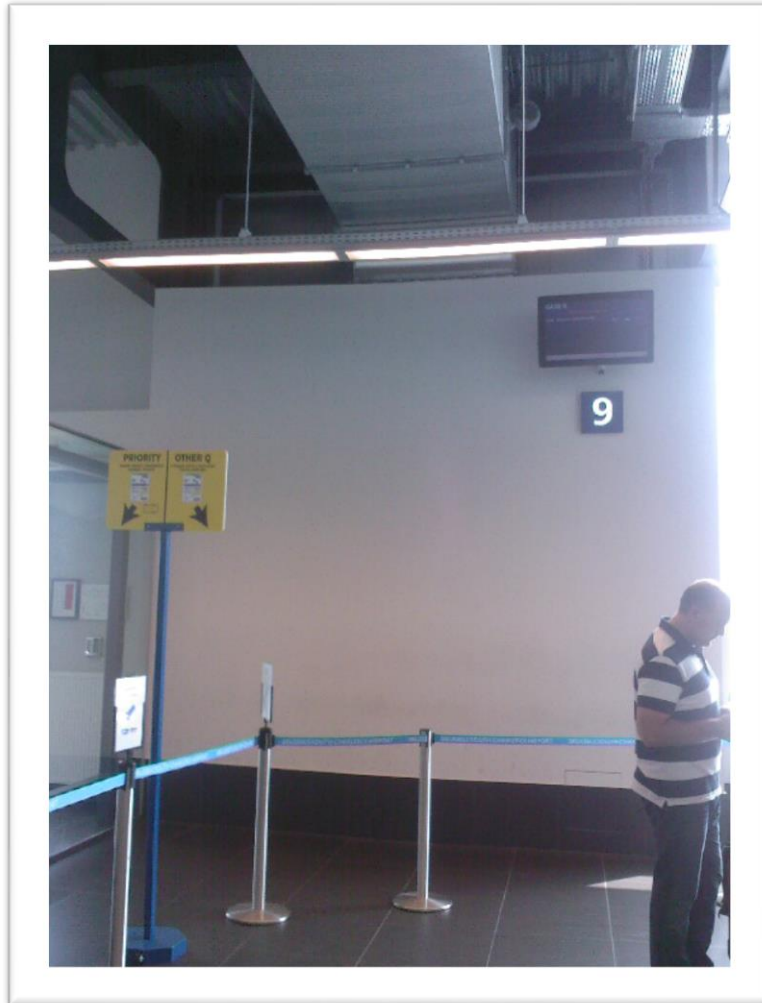
- No single body can achieve the goal of equality for people with disabilities on its own.
- An interconnected network is needed to reach this goal.
- Example: In order for a wheelchair user to access work, he/she needs to be able:
 - To move in and out of his or her home
 - **To access the public space and transport**
 - To access the work facilities (both the built environment and its information and communications systems)
- If any one link in the chain fails, the disabled person is not able to achieve his/her goal.

Equal Access/Eliminating Barriers

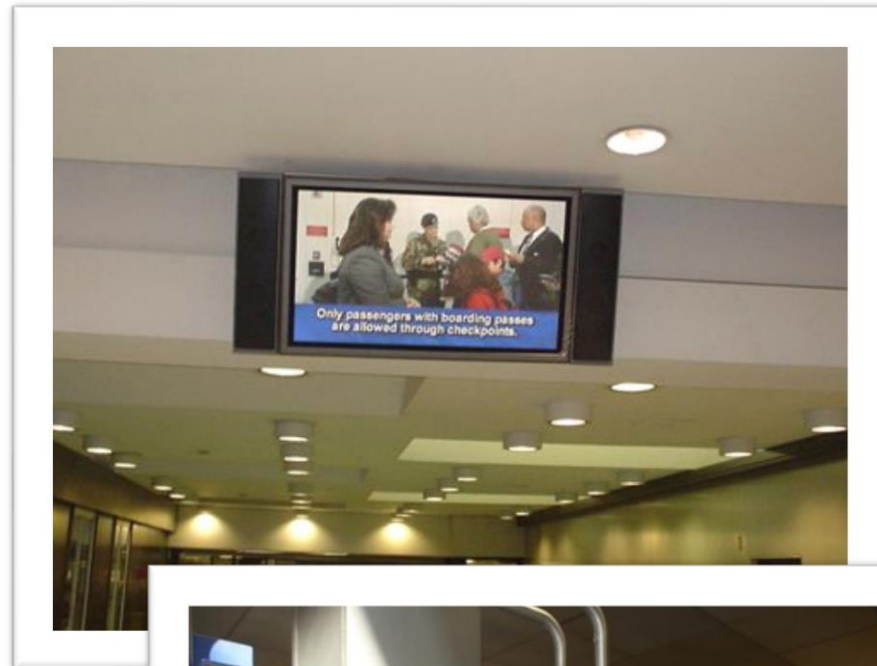
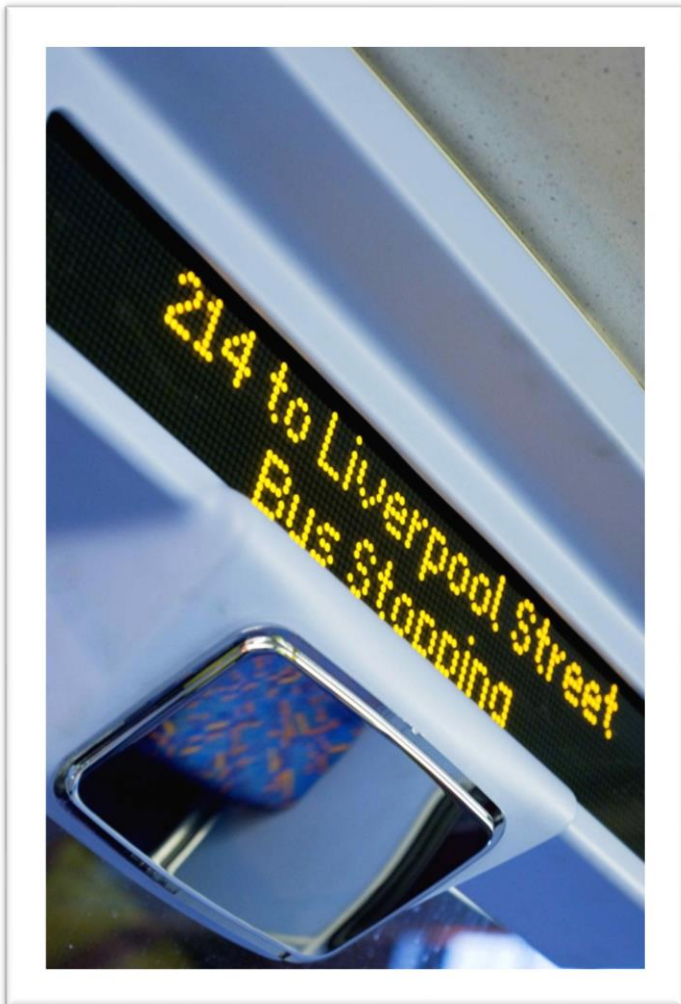
Article 9 –

Equal access to information and communications technologies and an obligation to identify and eliminate barriers.

Getting it wrong



Getting it right



Access to Transport

Article 9 –

To enable persons with disabilities to live independently and participate fully in all aspects of life, ..., [with access] on an equal basis with others, to the physical environment, to **transportation ...**

Getting it wrong



Getting it right



- Article 20 - Personal mobility

“States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities”.

Getting it Wrong



Getting it right



- European Passenger Rights Regulations

Passenger Rights Regulations

Regulation 1107/2006 “Concerning the Rights of Disabled Persons and Persons with Reduced Mobility when travelling by air;”

- Since July 2008

Regulation 1371/2007 on Rail Passengers Rights and Obligations;

- Since December 2009

Passenger Rights Regulations

Regulation 1177/2010
“Concerning the Rights of
passengers when travelling
by sea and inland waterway”;

- Since
December
2012

Regulation 181/2011
“Concerning the rights of
passengers in bus and coach
transport;”

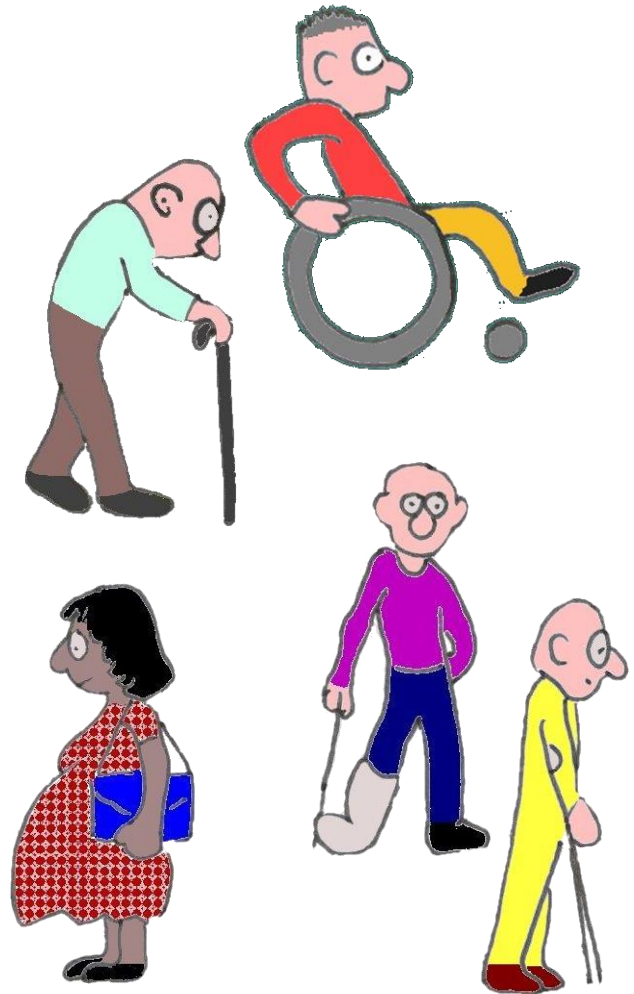
- Since
March
2013

Scope

- Only the air travel Regulation (1107/2006) is exclusive to disabled passengers and PRMs;
- The other three Rights Regulations cover passenger rights generally but include specific requirements related to disabled passengers and PRMs;
- The articles on disability rights all use essentially the same text as Regulation 1107/2006;
- There is some variation, for example not all specify staff training as a requirement.

Definition

- “Disabled Person” or “Person with Reduced Mobility” (prm) includes anyone whose mobility when using transport is reduced due to:
 - Any physical disability (permanent or temporary);
 - Any intellectual impairment;
 - Any other problem caused by age or disability.



- Air Travel: A case study on rights legislation

Application of Regulation 1107/2006

- Regulation 1107/2006 applies to “disabled people and people with reduced mobility (PRMs)” travelling by commercial air passenger services:
 - departing from;
 - arriving at; or
 - in transit through;an airport in an EU Member State;
- It places responsibility for meeting the needs of disabled passengers and PRMs on the airport managing body.

Denied Boarding

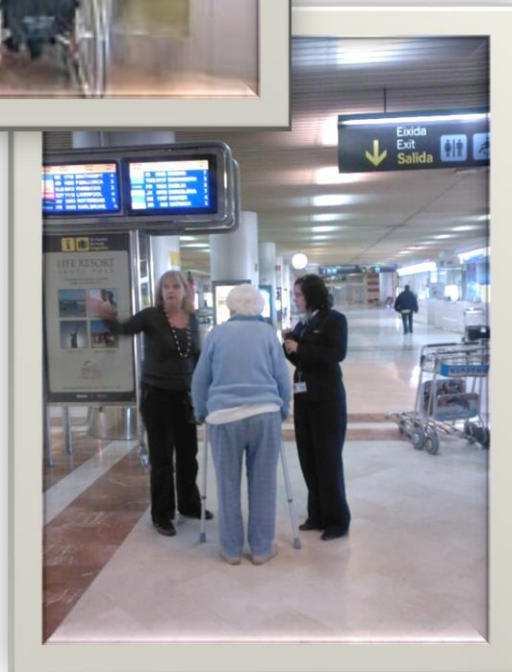
- Airlines cannot refuse to carry a disabled passenger on grounds of their disability;
- Except:
 - in order to meet applicable safety requirements;
 - if the size of the aircraft or its doors makes the embarkation or carriage impossible.



Responsibility of Airports



- The Airport Managing Body is responsible for providing assistance;
- They can provide assistance themselves or contract it out.



Responsibility of Airports (2)

- The assistance must include:
 - Moving to/from the designated point of arrival (which could be the station);
 - Checking /collecting baggage;
 - Boarding/Disembarking from the aircraft;
 - Stowing/retrieving baggage on board;
 - Completing security, customs and immigration procedures.



Charging for assistance

- Airports must provide assistance without charge to the disabled passenger;
- They can levy a charge on all airport users to fund the assistance;
- The charge must be shared among airport users in proportion to the total number of passengers carried to and from that airport;
- The charge must be cost related and transparent.

Quality Standards

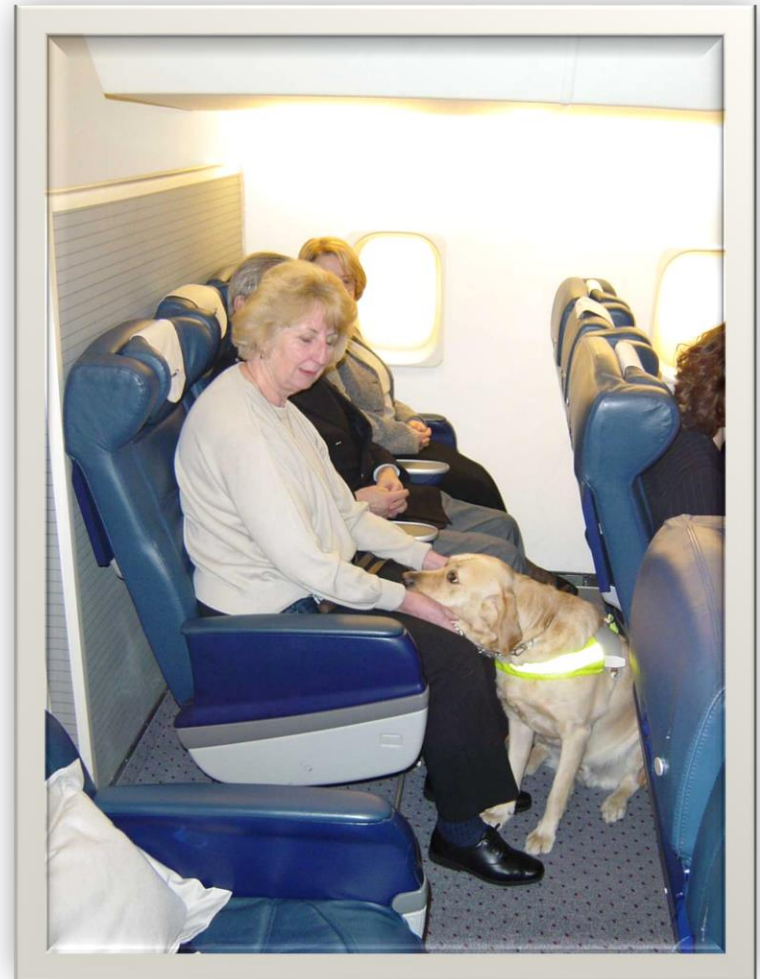
- The airport managing body must:
 - Set quality standards and determine resource requirements for meeting them – in cooperation with airport users and organisations representing disabled people
 - Take account of internationally recognised policies and codes of good conduct, notably ECAC Code of Good Conduct in Ground Handling for PRMs ;
 - Publish the quality standards .

Training

- The Airport Managing Body must:
 - Ensure that all staff, including those employed by a sub-contractor, who provide direct assistance to disabled people know how to meet the needs of people with different disabilities;
 - Provide disability equality and disability awareness training to all staff working at the airport who deal directly with the travelling public;
 - Ensure that all staff receive disability related training on recruitment and refresher training sessions when appropriate.

Responsibility of Air Carriers

- They must:
 - Seat a disabled passenger where they are most comfortable on board (subject to safety requirements);
 - Provide help to a disabled passenger to get to and from the toilet;
 - Carry essential pieces of mobility equipment free of charge.



Responsibility of Passengers



- Anyone needing assistance must tell the airline or travel agent at least 48 hours ahead of travel;
- If no notification is made, the Airport Managing Body must make all reasonable efforts to provide the assistance in such a way that the passenger is able to take his flight.

Enforcement

- Each Member State must designate a body (or bodies)
 - for the enforcement of the Regulation
 - For flights departing from or arriving at airports situated in its territory.;
 - To ensure that the rights of disabled people are respected, including compliance with the quality standards;
 - Almost all have designated their Civil Aviation Authority.

Enforcement (2)

- A disabled person who believes that the Regulation has been breached may bring the matter to the attention of :
 - The managing body of the airport or
 - The air carrier concerned
- If they are not satisfied they can complain to the National Enforcement Body (NEB).
- Member States must take measures to inform disabled people of their rights under this Regulation and of the possibility of complaint to NEB.

Is it working?

A (pre-notified) wheelchair user left waiting over an hour for assistance;

A disabled passenger left to wait in a small windowless room with no information;

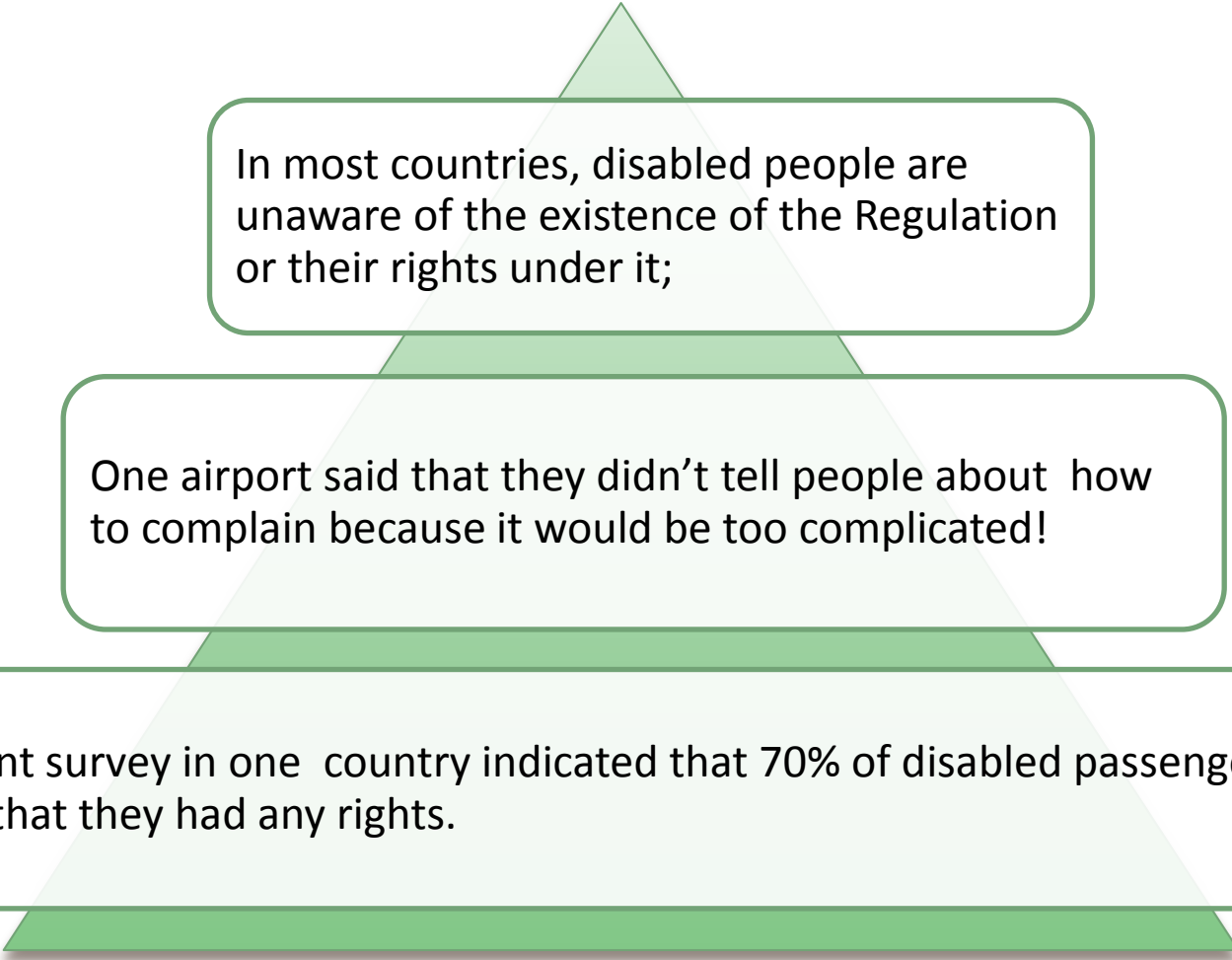
No personalised assistance: staff helping several passengers at once and making everyone wait until all flights have arrived

A wheelchair user dropped by assistance providers whilst boarding a flight;

Blind passengers being asked to sit in wheelchairs to make it easier to move them through the airport..

All of these examples happened in Europe since the Regulation came into effect

Awareness



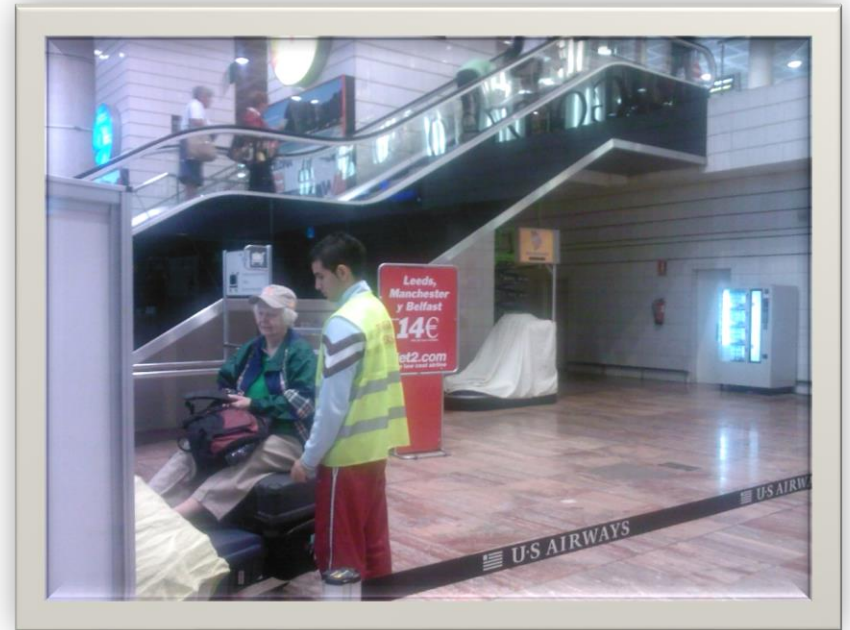
In most countries, disabled people are unaware of the existence of the Regulation or their rights under it;

One airport said that they didn't tell people about how to complain because it would be too complicated!

A recent survey in one country indicated that 70% of disabled passengers didn't know that they had any rights.

Assistance Providers

- Many airports contracted out PRM assistance to large companies also handling cleaning and other airport services;
- Staff were untrained and staff turn over was high;
- The level of complaints in some airports has resulted in re-tendering with stronger requirements for training and quality standards.



Training

- A recently published report into the implementation of Regulation 1107/2006 reveals that:
 - The length and depth of training varies widely between airports;
 - Some passenger facing staff have several days of training, others watch a 20 minute video;
 - Frequency of refresher training varies from monthly to every two years;
- How can the goal of harmonised service for PRMs be achieved against this background?

Pre-Notification

- Many disabled passengers do not see any improvement in service when they pre-book;
- Assistance is not available as requested – or can only be found after check-in;
- Levels of pre notification are falling at many airports;
- Some airports now penalise airlines for each non-prenotified passenger.



On Board

- Denied Boarding is a frequent problem;
- This is a grey area in European law;
- There is currently no consistency of approach between captains on different flights;
- Disabled people cannot fly with confidence;
- In one recent example a wheelchair user was denied her return flight with the same airline because she did not have an accompanying person!
- Urgent steps are needed by EASA and the Commission to clarify the position on a legal basis.

Is it working?

JUSTICE

Discrimination : la condamnation d'EasyJet confirmée par la Cour d'appel

La Cour d'appel de Paris a confirmé mardi la condamnation de la compagnie aérienne à bas coût EasyJet à une amende de 70 000 euros.

Lost or Damaged Mobility Equipment



- One of the most common problems faced by disabled air travellers;
- It is not always clear who is liable;
- Replacement wheelchairs are seldom available and rarely appropriate;
- Compensation is inadequate;
- The European Commission plans to correct this anomaly.

Complaints

A report to the Commission revealed that:

- Of the 27 NEBs, 8 had received no complaints and 26 had received fewer than 50;
- No sanctions had been applied;

Anecdotal feedback through the European Disability Forum suggests that many people do not complain because:

- They don't know their rights;
- They don't know how to complain;
- They don't speak the language of the country in which the problem occurred;
- They don't think it is worth the effort as there is no compensation available under the law.

Conclusions

Passenger Rights Regulations have been widely welcomed by disabled people; but



They have not yet made the difference that was hoped for by the legislation;



We need greater clarity in the drafting of Regulations and:


A more consistent and harmonised approach to implementation;

Clearer quality standards that can be enforced;

More emphasis on the need for high quality training of all staff concerned.

Conclusions


UNCRPD is a valuable tool in the fight against discrimination in the transport field as elsewhere;



It is not specific enough in isolation to empower disabled people easily;



Combined with both technical and rights based legislation in Europe, it should strengthen the case for accessible transport in a barrier free environment;



But, it needs to be tested in the courts on a more regular basis so that disabled people – and transport providers – understand the power of the law!

"European citizenship adds a set of rights and opportunities. The opportunity to freely cross borders we must all stand up and preserve and develop these rights and opportunities."

José Manuel Barroso, State of the Union Address, October 2011

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