

Rights of passengers travelling by sea and inland waterway

(Regulation (EU) N° 1177/2010)

Template for the NEBs activity reports for 2019

WORKING DOCUMENT

Article 26 of Regulation (EU) N° 1177/2010 provides that

"By 1 June 2015 and every 2 years thereafter, the enforcement bodies designated pursuant to Article 25 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."

The Commission services drafted this template in order to help National Enforcement Bodies (NEB) to fulfil their obligation and in order to ensure the availability of comparable data for the upcoming evaluation of the Regulation by the Commission (see Article 29 of the Regulation). In countries where several NEBs have been designated, a single coordinated reply would be appreciated.

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- 1) Please specify when was the enforcement body(ies) fully operational in your country

Merchant Shipping Act § 60¹ (1) stipulates that **The Consumer Protection Board** shall ensure the implementation of Regulation (EU) No 1177/2010 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 (OJ L 334, 17.12.2010, pp 1– 16) in relation to sea carriage service for passengers and cruises departing from an Estonian port and in relation to sea carriage service for passengers arriving at such port from a state outside the European Union.

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Aforementioned provision came into force **09.06.2013**.

On January 1st in 2019 the Consumer Protection Board merged to Technical Regulatory Authority. **Since January 1st in 2019 the NEB is called Consumer Protection and Technical Regulatory Authority (abbreviation CPTRA).**

2) Distribution of tasks between different NEBs (if applicable)?

If there are several NEBs in your Member State, please indicate how the tasks stipulated in the Regulation are distributed between them?

The Consumer Protection Board is the only National Enforcement Body (NEB) in Estonia.

3) Could you please indicate what are the powers of the NEB(s) in your country following a complaint? If applicable in your country, can the NEB enforce claims and offer redress?

Settlement of complaints by the NEB

The NEB ascertains the circumstances relevant to the settlement of a complaint and has the right to contact the consumer who submitted the complaint and the trader specified in the complaint in order to achieve an agreement between the parties.

The NEB sends a copy of the complaint to the trader concerned who shall then reply to the complaint in writing and a copy of the trader's written reply is sent to the consumer.

If the trader's written reply offers a solution which is acceptable to the consumer, the complaint is deemed to be settled.

If the trader's reply offers a solution which is unacceptable to the consumer, the consumer notifies the Consumer Protection Board thereof and the consumer's complaint together with a written explanation from the trader and the position of the consumer is forwarded to the committee. If necessary, the position of the competent supervisory authority concerning issues relevant to the settlement of the complaint are also forwarded to the committee.

Unfortunately the decision of the committee is not a subject to immediate compulsory enforcement, so if a party to a dispute does not consent to the decision of the committee or fails to comply with the decision, the parties have to/have the right to file an action with the county court for the same dispute to be heard.

Exercise of supervision by the NEB

The NEB has the right to issue a precept which requires a person to perform an act required pursuant to Regulation (EU) No 1177/2010 of the European Parliament and of the Council or to avoid performing an act prohibited under said Regulation (however a precept cannot be

issued for settlement of a dispute between a consumer and a carrier deriving from a contract of carriage).

The NEB has the right to conduct misdemeanour in the case of failure to meet the requirement provided for in Article 10, 16, 18 and 22 of Regulation (EU) No 1177/2010 of the European Parliament and of the Council.

4) Statistics on complaint handling at carrier/terminal operator level and at NEB level:

Statistics at carrier/terminal operator level are not mandatory under Article 26 of the Regulation. However, it seems that, in general, very few complaints reach the NEBs in the waterborne sector. Statistics at carrier/terminal operator level would provide a better picture of the way the Regulation is implemented.

We have statistics and information about the complaints submitted only to us – the NEB, and we receive a complaint if a carrier/terminal operator refuses to settle a complaint from a passenger or the passenger does not consent to the solution proposed by the carrier/terminal operator and finds that his or her rights have been violated or his or her interests have been damaged. We do not have statistics and information about the complaints submitted to the carriers/terminal operators.

NEB(s) (mandatory)

If you provide only partial statistics, please justify.

Year	Number of complaints received by NEB(s)	Reason for complaint (e.g cancellation, delay, discrimination, lack of assistance, please indicate whether it is a disability related complaint:	Comments (if any). Please specify how many of the cases received were solved. If applicable, please indicate what happened to the unsolved cases (referral to Court, ADR alternatives dispute resolution)?
From 1 st of January 2017 -31 st of December 2017	0	-	-
From 1 st of January 2018 – 31 st of December 2018	0	-	-

In your Member State (please underline the correct answer):

- Passengers can always submit their complaint directly to the NEB, or

- Passengers are obliged to submit their complaints to the carrier/terminal operator first, and they can only submit a complaint to an NEB if they are not satisfied with the solution offered by the carrier/terminal operator.

Do you use a complaint form at national level (please underline the correct answer)?:

- No
- Yes (if yes, please provide a copy of this form to the Commission if different from the Commission template)

Did you transfer any complaints to NEBs of other Member State? If yes, how many complaints?

- No

5) Information and statistics on penalties (Article 28 of the Regulation):

Year	Number of penalties imposed:	Types of penalty (in case of fines, what were the amounts imposed):	Reason for imposing the penalty (which provision of the Regulation was breached):
From 1 st of January 2017 – 31 st of December 2017	0	-	-
From 1 st of January 2018 – 31 st of December 2018	0	-	-

Among the penalties listed in the above table, how many were imposed following a complaint and how many were imposed at the NEB(s) own initiative?

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Which body(ies) imposed the penalties?

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6) Other actions taken in order to ensure the correct application of the Regulation:

How do you monitor that carriers, terminal operators, ticket vendors etc. respect the Regulation (e.g. do you organise inspections)?

The NEB issued notices to terminal operators and carriers. In the notice the NEB explained regulation and asked terminal operators and carriers to impose necessary changes in order to follow the requirements established by the Regulation (EU) N° 1177/2010 and also informed parties that the NEB will proceed on-site inspections.

With reference to one carrier response to the issued notice the Consumer Protection Board turned to European Commission the Maritime Passenger Rights Team and asked for an opinion regarding interpretation on Art 10 and annexes II and III.

The NEB proceeded on-site inspection at Port of Tallinn (the biggest port in Estonia) to make sure that everything is in line with the regulation and all necessary changes were made.

Do you cooperate with organizations representing carriers, passengers, disabled people or consumers, consumer authorities or other national authorities? (if yes, please specify)

We have tried to cooperate with organization representing disabled people, but the associations denied cooperating. The NEB has not contacted any associations during period under review.

Do you cooperate with NEBs in other Member States (if yes, please specify how)?

No

Have you taken any action to disseminate information about sea and inland waterway passenger rights? (If yes, please specify)

No

How has Article 9 of the Regulation on access conditions for disabled persons or persons with reduced mobility been implemented in your country?

During the inspections the NEB also ascertains how the terminal operators assure the rights of the disabled persons or persons with reduced mobility.

7) General information on the environment in which the Regulation is applied in your Member State:

Could you briefly describe the sea and inland waterway market in your Member State? (If you have any data on the number of operators falling under the Regulation, the volume of passengers transported, please specify.)

Sea and inland waterway market have a big meaning in trading and tourism sector in Estonia.

Approximately 10 million passengers visit the harbours of Tallinn (travelling mainly from and to Helsinki (8,5 million passengers), Stockholm (1 million passengers) and Saint Petersburg (150 000 passengers) in a year and approximately 50 000 passengers visit the harbours of mainland and islands of Estonia to travel between mainland and islands in a year.

Articles 2(3) and 2(4) of the Regulation allow Member State to give exemptions from the application of the Regulation to domestic seagoing ships of less than 300 GT and to services covered by public service obligations/contracts. Please indicate whether your Member State has applied (one of) those exemptions and if so, please provide details.

Estonia has not applied those exemptions.

8) Any other comment/information to be reported

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