

# Air passenger rights

2013/0072(COD) - 13/03/2013 - Legislative proposal

**PURPOSE:** to modify the current legal framework in order to ensure a more effective application of the rights of airline passengers in the Union.

**PROPOSED ACT:** Regulation of the European Parliament and of the Council (amendment of Regulation (EC) N° 261/2004 and Regulation (EC) N° 2027/97).

**ROLE OF THE EUROPEAN PARLIAMENT:** the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

**BACKGROUND:** **Regulation (EC) No 261/2004** of the European Parliament and of the Council establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and **Council Regulation (EC) No 2027/97** on air carrier liability in respect of the carriage of passengers and their baggage by air have significantly contributed to protecting the rights of air passengers when their travel plans are disrupted by denied boarding, long delays, cancellations or mishandled baggage.

**A number of shortcomings revealed during the implementation of the rights under the Regulations** have, however, prevented their full potential in terms of passenger protection from being realised. In order to ensure a more effective, efficient and consistent application of air passenger rights across the Union, a **series of adjustments to the current legal framework** is required. This was underlined in the Commission's [2010 EU Citizenship Report on dismantling obstacles to EU citizens' rights](#), which announced measures to ensure a set of common rights, notably for air passengers, and the adequate enforcement of these rights.

In its [resolution of 29 March 2012](#), the European Parliament considered that proper application of the existing rules by Member States and air carriers, enforcement of sufficient means of redress and providing passengers with accurate information concerning their rights should be the cornerstones of regaining passengers' trust.

**IMPACT ASSESSMENT:** the Commission evaluated four options:

**Option 1:** focus on economic incentives (moderate change of enforcement);

**Option 2:** balance stronger enforcement policy with economic incentives:

- **Variant 2a:** increasing the time threshold after which the passenger has a right to compensation in case of delays from the current three hours to at least five;
- **Variant 2b:** extending the scope of "extraordinary circumstances" to include most technical defaults;

**Option 3:** focus on stronger enforcement and clarify passenger rights;

**Option 4:** centralised enforcement.

The impact assessment concludes that **option 2** is preferable to the others, as it would most effectively and efficiently enhance passengers' rights while taking into account the financial impact on the air transport sector. **Variante 2a** is slightly preferred to 2b.

LEGAL BASIS: Article 100 (2) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposal aims to **promote the interest of air passengers** by ensuring that air carriers comply with a high level of air passenger protection during travel disruptions, while taking into account the financial implications for the air transport sector and ensuring that air carriers operate under harmonised conditions in a liberalised market.

In concrete terms, the proposal:

- **clarifies the definition of "extraordinary circumstances** in line with the European Court's decision in the case C-549/07 (Wallentin-Herman) i.e. circumstances which, by their nature or origin, are not inherent in the normal exercise of the activity of the air carrier concerned and are beyond its actual control;
- **increases the time threshold after which the right to compensation arises** from three to **five hours for all journeys within the EU**. For journeys to/from third countries, the threshold will be dependent upon the distance of the journey: (i) 5 hours for outside-EU journeys of 3500 km or less; (ii) **9 hours** for outside-EU journeys between 3500 and 6000 km, and (iii) **12 hours** for outside-EU journeys of 6000 km and more;
- stipulates that if the air carrier cannot **reroute the passenger** on its own services within 12 hours, it must consider other carriers or other transport modes, subject to seat availability;
- introduces a single time threshold **for care of 2 hours** for flights of all distances;
- confirms that **passengers that miss a flight connection** because their previous flight was delayed have a right to care and, under certain circumstances, a right to compensation. However, such right would only apply where the connecting flights are part of a single contract of carriage;
- confirms that **passengers of flights rescheduled** with a notice of period of less than two weeks in advance of the originally scheduled time have similar rights to delayed passengers;
- clearly sets out the rights of passengers when their aircraft is delayed on the tarmac, in particular a **right to disembark after five hours**;
- provides that passengers should have a right to information about the **flight disruption** as soon as the information is available;
- clarifies the **role of the National Enforcement Bodies (NEBs)**, and extends their role to the monitoring of compliance with the baggage provisions of Regulation (EC) No 2027/97, and also enhances the exchange of information and the coordination between the NEBs, and between the NEBs and the Commission;
- requires air carriers to **inform passengers, at the time of reservation, about their claim and complaint handling procedures**, and provide electronic means to submit complaints. Airlines will be required to respond to passengers within two months.

Lastly, the proposal ensures better enforcement of **passenger rights with regard to mishandled baggage** : (i) **passengers with reduced mobility** should have the same right to free movement, and non-discrimination as other citizens; (ii) increased liability of air carriers with regard to **mobility equipment** up to the actual value of the equipment; (iii) enhanced transparency with regard to **baggage allowances**; (iv) measures with regard to **musical instruments**; (v) require air carriers to issue a **claim form** at the airport where passengers can complain about delayed, damaged or lost baggage

**BUDGETARY IMPLICATIONS:** the proposal has no implications for the EU budget.

**DELEGATED ACTS:** the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.