

Air passenger rights

2013/0072(COD) - 05/02/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 580 votes to 41, with 48 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending 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 and Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air.

Parliament position adopted at first reading following the ordinary legislative procedure amended the Commission proposal as follows:

Right to reimbursement or re-routing: where passengers choose the re-routing option, they shall, subject to availability and provided that comparable alternatives exist, have the right to re-routing, at the earliest opportunity, via another air carrier or another mode of transport where the operating air carrier cannot transport the passenger on its own services and in time to arrive at the final destination within eight hours of the scheduled arrival time. The air carrier shall inform the passenger, within 30 minutes after the scheduled departure time, whether it will transport the passenger on its own services within the time limit.

Right to compensation in case of long delays: the amended text seeks to grant passengers, in case of long delays, i.e. of more than three hours, the same rights as passengers whose flights are cancelled. The trigger point of five hours is therefore replaced by one of three hours.

Where the revised schedule involves too long a delay, passengers shall be offered the possibility to ask for reimbursement or rerouting. In addition, passengers should be offered the possibility to organise rerouting for themselves and claim reimbursement of the associated costs if the operating air carrier fails to offer the choice of rerouting.

With the aim to facilitate further the application of the current system and to create greater clarity for passengers and airlines, the resolution proposed to streamline the compensation amounts:

- EUR 300 for all journeys of 2 500 kilometres or less;
- EUR 400 for all journeys between 2 500 km and 6 000 km;
- EUR 600 for all journeys of 6 000 km or more.

A new Article stipulated that the air carrier may reach a **voluntary agreement** with the passenger that replaces the compensation with other, non-monetary, benefits of at least equivalent value (for example: air travel vouchers without expiration date to the value of 100% of the entitlement to compensation), provided that this agreement is confirmed by a document signed by the passenger which unambiguously informs the passenger of his rights to compensation under this Regulation.

Rights with regard to connecting flights: the amended text stated passengers concerned should be offered assistance, care and rerouting by the preceding air carrier responsible for the delay at the transfer point which leads to passengers missing their connecting flight. Passengers who miss a connecting flight should also be able to claim compensation on a similar basis to those whose flights are delayed or cancelled. Members added a minimum threshold of **90 minutes** of delay to the preceding flight at the transfer point, which shall entitle the passenger to compensation provided that the delay at the final destination of the journey is more than three or five hours respectively.

Denied boarding: the current definition of ‘denied boarding’ should be modified in order to include cases where a passenger misses a flight because the departure time has been brought forward. In order to improve levels of protection, it should not be possible for passengers to be denied boarding on a section of the journey of a two-way (return) ticket on the grounds that they have not travelled on every leg of the journey covered by the ticket.

An airline may not refuse boarding to a passenger with a disability or reduced mobility on the grounds that he/she is unaccompanied and may not insist on another person systematically accompanying him/her.

Information on passenger rights: the resolution called for the presence of a **local point of contact** representing the air carrier at the airport, with the ability to take immediate action on behalf of the carrier in case of necessity. The operating air carrier shall provide the passengers with **clearly legible and transparent information about passenger rights** and contacts for help and assistance on electronic tickets and electronic and printed versions of a boarding card.

In the event of denied boarding, flight cancellation, delay or change of schedule of at least two hours, the operating air carrier shall as soon as possible fully inform the passenger affected and provide him with a written notice or a notice in electronic form setting out the rules for compensation and assistance, and shall inform him of possible alternative transport modes. The air carrier shall have documents available at the check-in counter and the boarding gate containing the **European Air Passengers Charter**, which its staff shall give to air passengers on request. The European Commission shall update such documents Charter every time there is a substantial change to air passengers' rights.

Luggage: passengers would have to be informed early in the booking process about baggage allowances. A new Article has been included stipulating that passengers should be permitted to carry on board into the cabin, free of charge, essential personal items or belongings such as coats and handbags, including at least one standardised bag of airport shopping, in addition to the prescribed maximum cabin baggage allowance.

Contingency plans: the amended text stated that to ensure that passengers are not stranded when an air carrier goes **bankrupt**, Parliament inserted requirements for carriers to have in place appropriate **guarantee mechanisms**, such as guarantee funds, or to take out insurance policies. The contingency plan shall be set up by the airport management body in cooperation with the airport users, in particular the air carriers, the suppliers of ground handling services, the air navigation service providers, the airport retail outlets, and special assistance providers for disabled passengers or passengers with reduced mobility, and with the participation of the relevant national, regional or local authorities and organisations when appropriate.

Complaints procedure: the amended text introduced several amendments on claims and complaint procedures, in order to align the text with the new [Directive 2013/11/EU](#) on Alternative Dispute Resolution (ADR) which obliges Member States to create national bodies to deal with out-of-court resolution. These will be the future handling bodies of passenger complaints.

Air carriers which fail to reply to a complaint within 2 months would be deemed to have accepted the passenger's claims. Those citing “extraordinary circumstances” in which they need not pay compensation would have to give the passenger a full written explanation. The draft rules include an exhaustive list of such circumstances, which include bird strikes, political unrest and unforeseen labour disputes.

However, in long-lasting extraordinary circumstances, air carriers' liability to pay for passenger accommodation would be limited to 5 nights. If the passenger decides to arrange his own accommodation,

it may further limit the cost of accommodation to EUR 125 per night, per passenger. If the operating air carrier chooses to apply this limitation, it shall nevertheless provide the passengers with information about available accommodation after the five nights, in addition to the continued obligations for information.

Lost and damaged or delayed baggage: for practical reasons a special baggage claim service should be available at all airports, in order to speed up and facilitate the procedure. A standardised EU-wide claim form should be made available alongside the revised regulation.