

# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure lapsed or withdrawn
Air transport: protection of passenger rights, denied boarding compensation system	
Subject 3.20.01 Air transport and air freight 4.60.06 Consumers' economic and legal interests	

Key players			
European Parliament	Former committee responsible		
	TRAN	Transport and Tourism	25/02/1998
	ARE <a href="#">GONZÁLEZ TRIVIÑO Antonio</a>		
	Former committee for opinion		
	JURI	Legal Affairs, Citizens' Rights	The committee decided not to give an opinion.
Council of the European Union	ENVI	Environment, Public Health and Consumer Protection	
	Council configuration	Meeting	Date
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2364</a>	27/06/2001
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2142</a>	30/11/1998
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2119</a>	01/10/1998
<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2108</a>	17/06/1998	

Key events			
30/01/1998	Legislative proposal published	COM(1998)0041	Summary
20/02/1998	Committee referral announced in Parliament, 1st reading		
17/06/1998	Resolution/conclusions adopted by Council		
23/06/1998	Vote in committee, 1st reading		Summary
23/06/1998	Committee report tabled for plenary, 1st reading	<a href="#">A4-0240/1998</a>	
16/07/1998	Debate in Parliament		Summary
17/07/1998	Decision by Parliament, 1st reading	T4-0455/1998	Summary

01/10/1998	Debate in Council	<a href="#">2119</a>	
19/10/1998	Modified legislative proposal published	COM(1998)0580	Summary
30/11/1998	Debate in Council	<a href="#">2142</a>	
28/07/1999	Vote in committee, 1st reading		
28/07/1999	Committee report tabled for plenary confirming Parliament's position	<a href="#">A5-0005/1999</a>	
16/09/1999	Decision by Parliament, 1st reading	<a href="#">T5-0015/1999</a>	Summary
27/06/2001	Resolution/conclusions adopted by Council		Summary
11/12/2001	End of procedure in Parliament		
11/12/2001	Additional information		Summary

#### Technical information

Procedure reference	1998/0022(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	EC Treaty (after Amsterdam) EC 080-p2
Stage reached in procedure	Procedure lapsed or withdrawn

#### Documentation gateway

Legislative proposal		<a href="#">COM(1998)0041</a> <a href="#">OJ C 120 18.04.1998, p. 0018</a>	30/01/1998	EC	Summary
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A4-0240/1998</a> <a href="#">OJ C 226 20.07.1998, p. 0003</a>	23/06/1998	EP	
Economic and Social Committee: opinion, report		<a href="#">CES0964/1998</a> <a href="#">OJ C 284 14.09.1998, p. 0014</a>	01/07/1998	ESC	
Text adopted by Parliament, 1st reading/single reading		T4-0455/1998 <a href="#">OJ C 292 21.09.1998, p. 0205-0214</a>	17/07/1998	EP	Summary
Modified legislative proposal		<a href="#">COM(1998)0580</a> <a href="#">OJ C 351 18.11.1998, p. 0007</a>	19/10/1998	EC	Summary
Reconsultation		SEC(1999)0581	28/04/1999	EC	
Committee final report tabled for plenary, 1st reading/single reading		<a href="#">A5-0005/1999</a> <a href="#">OJ C 054 25.02.2000, p. 0010</a>	28/07/1999	EP	
Text adopted by Parliament confirming position adopted at 1st reading		<a href="#">T5-0015/1999</a> <a href="#">OJ C 054 25.02.2000, p. 0056-0079</a>	16/09/1999	EP	Summary

#### Additional information

European Commission	<a href="#">EUR-Lex</a>
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OBJECTIVE: amending Regulation (EEC) No 295/91 establishing common rules for a denied-boarding compensation system in scheduled air transport. SUBSTANCE: Regulation 295/91/EEC established a system to provide adequate compensation for passengers denied boarding on overbooked flights. In practice, however, the Commission has noted a number of cases in which passengers were not compensated or were inadequately compensated. On the other hand despite their obligations under the regulation, some airlines failed to inform or only partially inform passengers about their entitlements to compensation. In this context, a revision of Regulation (EEC) 295/91 is necessary to make sure that air users are effectively given fair conditions of carriage and the Commission proposal accordingly provides for: - ending the distinction between scheduled and non-scheduled flights in this regulation; - improving information for passengers, in particular by displaying a notice at check-in counters; - adapting to the development of new forms of ticketing; - ensuring that the entire available capacity of the aeroplane is used before boarding is denied; - making it clear that the passenger will have the right to have the cost of his ticket reimbursed, including the cost of the part of his journey which has become useless for the purpose of his travel plan; - raising the compensation thresholds on the basis of inflation rises since 1991; - making it clear that non-compliance by the passenger with additional conditions imposed by the carrier such as reconfirmation of the booking by a set time before the flight is no reason for the air carrier to withdraw the passenger's right to compensation in the event of denied boarding; - making it clear that the air carrier denying boarding must pay the compensation to the passenger irrespective of whether or not it sold the passenger the ticket and it confirmed the reservation. The Commission also intends to begin an information campaign with the object of familiarizing the public at large with its right to denied boarding compensation. ?

## Air transport: protection of passenger rights, denied boarding compensation system

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Proposals to tackle the overbooking problems of which most airlines are guilty were endorsed by the Committee, when the report by Antonio GONZALEZ TRIVINO (ERA, E) on amending Regulation EEC 295/91 establishing common rules for denied-boarding compensation in scheduled air transport was adopted unanimously. Committee members welcomed the Commission's proposal and said that better protection should be given to the thousands of air passengers who, every year in the EU, are refused seats even when they have booked them in advance. The committee adopted amendments aimed at much stricter rules for air carriers. The rules cover a better compensation system for passengers (and the amounts to be paid), the problems of cancelled flights, upgrading/downgrading and more and better information on displaying the denied-boarding rules in plain, intelligible language. In future, and under certain conditions, an air carrier will, immediately after boarding has been denied, have to pay at least the following amounts in compensation: ECU 185 for flights of up to 3500 km and ECU 370 for flights of more than 3500 km. This compensation must be paid in cash, by bank transfer or, with the signed agreement of the passenger, in the form of travel vouchers and/or other services. As some of the worst offenders are third-country airlines, the rapporteur proposes that, in addition to the rules on denied boarding forming part of a carrier's "conditions of carriage", member states should make explicit mention of the rules when issuing permits to foreign carriers operating on EU territory ?

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Commissioner Kinnock stated that the Commission could accept Amendments Nos 4, 7, 11, 12, 18, 21, 22 and 23 in full and Amendments Nos 3, 4, 5, 6, 8, first paragraph, 9, 13, 15, 17, 19 and 20 in part. However, the following amendments could not be accepted: No 1 for reasons of clarity and transparency, No 2 because it was superfluous, No 8, third paragraph, for reasons of fairness, No 10, second and third paragraphs, because this added bureaucratic burdens which were not essential, and Nos 14 and 16 because, in some instances, they would oblige airlines to pay higher compensation than the actual ticket price (?bingo? arrangement).

## Air transport: protection of passenger rights, denied boarding compensation system

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In adopting the report by Mr Antonio GONZALEZ TRIVINO (ARE, E) Parliament proposed measures which condemned overbooking, a practice of which the majority of airlines were guilty. It called for measures concerning a better system of compensation for passengers (and the amounts to be paid), cancelled flights, the allocation of seats in a higher or lower class and more comprehensive information which should contain in plain and intelligible language the rules concerning the compensation offered in the event of boarding being denied. In future and under certain conditions the company should pay as soon as it denies boarding, the following minimum sums in compensation: ECU 185 for flights of up to 3 500 km and ECU 370 for flights of more than 3 500 km. This compensation is to be paid in cash, by bank transfer or, with the signed agreement of the passenger, in travel vouchers or other services. These amounts can be adjusted every three years where that is made necessary by economic trends. For some of the most affected companies, because they are based in third countries, Parliament proposed not only that rules on denied boarding should form part of the conditions of transport stipulated by the carrier but that the Member States should also make reference to these rules when issuing permits to third-country air carriers operating on Union territory. The air carrier should not be obliged to pay denied boarding compensation in cases where the passenger is travelling free of charge or at reduced fares not available directly or indirectly to the public. Lastly, in the event of conflict between the provisions of this Regulation and any lawful requirement of a third country on air carriers operating on its territory, air carriers should give passengers the benefit of the most favourable provisions. ?

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The Commission's amended proposal incorporates, in part or in full, the 18 amendments adopted by the European Parliament at first reading. These amendments seek mainly to: - ensure that passengers receive equal protection where flights are cancelled for commercial reasons or due to overbooking; - include persons accompanying or assisting disabled persons; - ensure that Member States refer to denied boarding compensation rules in permits issued to third country air carriers using Community airports, given that these rules also concern them; - stipulate that tickets issued under a loyalty programme are covered by the compensation scheme in the event of boarding being denied; - replace the deadline proposed by the Commission (which has already expired) by a neutral procedure relating to the final date of adoption of the proposal; - confirm that airlines are listed in the reports and ensure that the information collected by the Member States on cases of denied boarding due to overbooking are also made available to consumer associations; - improve the information supplied to the consumer; - stipulate that load limitations may be imposed for safety reasons; - extend the field of application to Community carriers leaving third countries; -

stipulate that it is up to the airline company to identify the passengers still in the queue when the check-in closes; - invite the airline companies to disseminate denied boarding compensation rules to travel agencies; - simplify the procedures for adjusting the amount of compensation by replacing a new committee with an existing committee; - propose means of additional payment.

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The Council adopted certain conclusions on the rights of air passengers. It confirmed its desire that these rights - in areas where legislation is not required - primarily be improved by voluntary means. It noted that the voluntary arrangement does not address the question of monitoring of the compliance with the arrangements. Services to air passengers would be improved in so far as airlines would help passengers to obtain a better deal when booking flights, better information, assistance and information in the case of delays, cancellations and mishandled baggage and a better response to complaints and prompt refunds. Persons with reduced mobility ought to have a right to travel by air at the same cost and level of convenience as other passengers irrespective of whether they require a higher level of service. The Council believes that passengers ought to be able to claim the fulfilment of contracts and of the service promised in the voluntary commitments through systems for out of court dispute settlements.?

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The Directorates General or responsible departments have asked for this proposal to be withdrawn. The reasons are indicated as follows: A) for objective reasons (change of de facto situation, objectives already achieved by other means, etc) B) because the Commission has now adopted another approach : - the proposal is replaced implicitly, - a new proposal is in preparation, - no planned replacement.?