

Air passenger rights

2013/0072(COD) - 22/01/2014 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Transport and Tourism adopted the report by Georges BACH (EPP, LU) 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.

The committee recommended that Parliaments position adopted in first reading, following the ordinary legislative procedure, should amend 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 grants 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 report 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.

In determining the distance, the basis shall be the last destination at which the denial of boarding or cancellation will delay the passenger's arrival after the scheduled time.

Rights with regard to connecting flights: a new Article has been introduced by the Commission under which 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 considered that in light of the large number of carriers operating regional flights of shorter distances within the EU, the financial burden should be reduced for those carriers. With this in mind, they 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.

Contingency plans: if an air carrier suddenly ceases operation, such plans are of particular necessity in order to help stranded passengers. The report considered that the threshold of three million passengers per year for airports is too high and should be lowered to 1.5 million. The involvement of national, regional and local authorities in the development of such contingency plans is deemed to be important. The need for coordinated action by all parties concerned, more detailed indication of what contingency plans should include as regards information and assistance to passengers, and a particular obligation for air carriers to put in place procedures in case of flight disruptions are highlighted by relevant amendments.

Extraordinary circumstances: in order to increase legal certainty for passengers and air carriers, the concept of extraordinary circumstances should be clarified. Members have made substantial amendments to the non-exhaustive list of these circumstances annexed to the Commissions proposal (the Commission shall be empowered to adopt delegated acts in order to add to this list).

Right to accommodation: if the operating air carrier can prove that the cancellation, delay or change of schedule is caused by extraordinary circumstances and that the cancellation, delay or change of schedule could not have been avoided even if all reasonable measures had been taken correctly, it may limit the total duration of accommodation to a maximum of five 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 (compared to EUR 100 as proposed by the Commission).

Spelling mistakes: where the passenger, or an intermediary acting on behalf of the passenger, reports spelling mistakes in the name of one or several passengers included in the same contract of carriage that may lead to a denial of boarding, the air carrier shall correct those mistakes at least once up until 48 hours before departure without any additional charge to the passenger or the intermediary, except where it is prevented from doing so by national or international law.

Information on passenger rights: the report 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.

The provision of information to passengers about their rights and possibilities for complaints and claims needs to be improved

Price transparency: Members proposed adding to the Commissions definition a number of basic services which should always be included in the ticket price, such as the issue of a boarding card, minimum luggage allowances and payment-related costs such as credit card fees.

Insolvency: the financial protection of passengers in the event of airline failure is a key component of an effective passenger rights regime. In order to strengthen air passengers protection in the event of cancellations of flights due to the insolvency of an air carrier or the suspension of an air carriers operations due to the revocation of its operating licence, air carriers should be obliged to provide sufficient evidence of security for the reimbursement of passengers or their repatriation.

Complaint 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. The refusal of airlines to participate in ADR systems and procedures constitutes a particular problem, and the regulation should therefore provide for the obligation of airlines to adhere to an ADR system. The complaint procedure with the air carrier does not prejudice the passengers right of access to the judicial system and to out-of-court resolution.

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.