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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	30 September 2025
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
Subject:	COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT pursuant to Article 294(6) of the Treaty on the Functioning of the European Union concerning the position of the Council on the adoption of 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

Delegations will find attached document COM(2025) 630 final.

Encl.: COM(2025) 630 final

EUROPEAN
COMMISSION

Brussels, 30.9.2025
COM(2025) 630 final

2013/0072 (COD)

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT

pursuant to Article 294(6) of the Treaty on the Functioning of the European Union

concerning the

position of the Council on the adoption of 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

(Text with EEA relevance)

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1. BACKGROUND

Date of transmission of the proposal to the European Parliament and to the Council (document COM(2013) 130 final – 2013/0072 COD):	13 March 2013.
Date of the opinion of the European Economic and Social Committee:	11 July 2013.
Date of the position of the European Parliament, first reading:	5 February 2014.
Date of transmission of the amended proposal:	N/A
Date of adoption of the position of the Council:	29 September 2025.

2. OBJECTIVE OF THE PROPOSAL FROM THE COMMISSION

The proposal aims to improve enforcement of passenger rights. Firstly, it clarifies key principles and corresponding passenger rights that have given rise to many disputes between airlines and passengers in the past. Secondly, it improves and coordinates better enforcement policies carried out at national level. The proposal also aims to better take into account the financial capacities of air carriers as well as to ensure better enforcement of passenger rights with regard to mishandled baggage.

3. COMMENTS ON THE POSITION OF THE COUNCIL

The position of the Council as adopted at first reading on 29 September 2025 reflects the political agreement which the Council reached on 5 June 2025.

The main points of this agreement are the following:

Regulation (EC) 261/2004 (air passenger rights)

Compensation thresholds – the Council reduced the number of distance thresholds from three to two: one for journeys up to 3 500km and one for journeys above 3 500 km. In the case of delays, it set the compensation thresholds at 4 hours (for journeys up to 3 500 km) and 6 hours (for journeys above 3 500 km). The amounts for compensation have been adapted to EUR 300 and EUR 500 respectively to be reviewed in a first report by the Commission 3 years after the date of application of the revised Regulation. Those provisions aim to protect passenger rights, while at the same time taking into account the financial burden of air carriers.

The **right to compensation** in case of flight **cancellation** is extended to cases where passengers are informed of the cancellation less than 14 days before departure and choose reimbursement or re-routing at a later date, at their convenience. In case of cancellation, the airline must provide passengers with pre-filled forms for compensation requests. This strengthens passenger rights.

The rights to be reimbursed, re-routed and compensated are extended to cases of **long delay at departure** and of **missed connections**, as proposed by the Commission.

Role of the national enforcement bodies (NEBs) and out-of-court bodies: As proposed by the Commission, the role of the NEBs (general monitoring) versus bodies (out of court resolution of disputes) which deal with individual complaints, is clarified.

However, the Council removed the possibility for the Commission to ask the NEBs to investigate specific suspected practices by one or more air carriers and report its findings to the Commission. The strengthening of the NEBs' role is thus less ambitious than in the Commission's proposal. (The Council did the same with a similar provision proposed for passenger rights for the other modes of transport and for multimodal passenger rights in its General Approaches regarding COM(2023)752 and 753).

In the **out-of-court resolution of disputes** (Article 16a), the choice of mechanism is left to the Member States. The Commission considers that it needs to be avoided that the NEB procedure is without procedural guarantees. On this point the Council position falls short of the Commission's proposal.

Also, the relationship with the Alternative Dispute Resolution (ADR) Directive 2013/11/EU requires further adjustment to ensure that nothing in the Regulation prevents the consumers from bringing their individual disputes before the alternative resolution bodies under Directive 2013/11/EU, nor limits the Member States' obligation to ensure access to ADR in the air transport.

Reporting by the NEBs: The NEBs are obliged to report on their activities only every 5 years. This is less ambitious than the annual reporting in the Commission's proposal and does not allow the activities of the NEBs to be monitored on a more regular basis. (For the other modes of transport, NEBs have to report every 2 years – for the latest details, see the rail passenger rights Regulation (EU) 2021/782).

Compensation: Clearer rules on complaints and compensation deadlines for passenger complaints against carriers and intermediaries, with clear deadlines and the obligation to communicate these rules to the passengers and to reply to passengers on substance. Passengers have up to 6 months to submit a request for compensation or a

complaint to the air carrier; the air carrier must pay the compensation or provide a substantiated reply within 14 days. This is in line with the objectives of the Commission proposal.

However, the obligation to pay compensation is limited to the air carrier operating the particular disrupted flight, while under the current rules – as interpreted by the Court of Justice of the European Union in Cases C-502/18 *České aerolinie*, C-367/20 *KLM* and C-561/20 *United Airlines* – passengers can claim compensation from any of the carriers operating a leg of the journey. This limitation was not proposed by the Commission.

Extraordinary circumstances: The Council extended the non-exhaustive list of extraordinary circumstances that can lead to the exemption of air carriers from paying compensation, and added the requirement for carriers to reply within a certain deadline with a clear and substantiated explanation. The Commission would be obliged to review the list every 3 years and propose, as appropriate, an update.

This update can only be adopted by ordinary legislative procedure and not through comitology as set out in the Commission's proposal. This does not allow the interpretation of the list to be quickly clarified or the list to be updated for the purpose of legal certainty. Experience shows that the legislative procedure takes usually more than 3 years for air passenger rights. As a consequence, the Regulation would be constantly under revision by the legislator if the list had to be updated every 3 years.

Tarmac delay: After 3 hours passengers have the choice between re-routing and reimbursement of the ticket as well as the right to disembark. This is a shorter threshold than the 5 hours the Commission had proposed.

No-show: There is a full ban on no-show policies for return flights (without conditions attached) instead of the partial ban proposed by the Commission. Under the Commission's proposal, airlines would be allowed to require passengers to pay a fee in order to take a return flight where they fail to show up for the outbound flight. The Commission opted against a full ban on "no show" policies because it would impair or weaken the ability of airlines to offer indirect flights at lower prices than direct flights and therefore hurt competition. Still, this provision is acceptable for the Commission as it strengthens passenger rights.

Right to assistance: Passengers' rights to be cared for while waiting due to a flight disruption have been improved; details for the provision of refreshments, food and accommodation have been added. This is more passenger-friendly than the Commission's proposal.

Improved rights for passengers with specific needs: The rights of **persons with disabilities or reduced mobility (PRMs)**, but also pregnant women, children and persons with specific medical needs, are strengthened significantly. Denying boarding to persons with specific needs is prohibited. The possibility to be accompanied by recognised assistance dogs is introduced and persons accompanying these persons or accompanying a child must be offered, free of charge, the possibility to be seated on adjacent seats, subject to availability**.** This is more passenger friendly than the Commission's proposal.

Right to information: Information of passengers about their rights, the obligations of air carriers and intermediaries in terms of pre-contractual information and information in the event of disruption are all strengthened. These provisions are more passenger friendly than the Commission proposal.

Correction of passenger names: spelling mistakes made by passengers while booking or changes of names after booking can be corrected, at no cost, up to 48 hours before departure, as set out in the Commission proposal; this right has been extended also in the event of an administrative change to those names.

Where a flight is part of a package under Directive (EU) 2015/2302 it is clarified that compensation under Regulation (EC) 261/2004 can be deducted from compensation received from a package organiser, to avoid the passenger being overcompensated. This addition is in line with the objectives of the Commission's proposal.

Extension of some deadlines for payments: Reimbursement - an increase of the refund period for air carriers from (currently) 7 days to 14 days (aligned with the refund deadline under the Package Travel Directive and the bus passenger rights Regulation (EU) No 181/2011; the deadline under the rail passenger rights Regulation is 30 days, under the ship passenger rights Regulation still 7 days); compensation in case of denied boarding – an increase of the refund period from currently "immediately" to 7 days. The Commission had not proposed to change these periods which are less beneficial for passengers than the current ones.

Re-routing on other carriers or modes of transport: before re-routing, air carriers must offer passengers different options so they can reach their destination at the earliest opportunity. Such alternatives are subject to the passenger's agreement and include re-routing on another air carrier or via other modes of transport. Those provisions are in line with the objectives of the Commission proposal.

Self re-routing by passengers if they are not offered re-routing by the air carrier within 3 hours, with a cost limit of four times the cost of the original booking (if this price cap is not acceptable for passengers, they can still insist on being re-routed by the carrier). This new provision strengthens the rights of passengers in the event of travel disruption.

Better taking into account the financial capacities of air carriers – As explained above under 'compensation thresholds', the time threshold for paying compensation is raised to 4 hours (for flights up to 3 500 km and intra-EU flights) and 6 hours (for flights above 3 500 km). Furthermore, the deadline for reimbursements is raised from 7 calendar days to 14 calendar days and to 30 days in situations where contingency plans are activated; the originally proposed list of extraordinary circumstances is extended. In cases of extraordinary circumstances, the air carrier may limit the accommodation to be provided to three nights except for persons with specific needs. This is in line with the objectives of the Commission proposal.

The **requirement for Member States to inform the Commission** regularly about the national interpretation and application of the Regulation and the possibility for the Commission to decide on the issues to be addressed in these reports via implementing acts has been deleted. On this point the Council position falls short of the Commission's proposal.

Revision of the scope of the Regulation: the Council added in Article 17(2)(a) the requirement for the Commission to include in the first report (three years after the date of application of the Regulation) an assessment regarding the necessity and the feasibility of a revision of the scope of the Regulation with a view to further enhancing passengers' protection and the level playing field between Union and Third country carriers. This would include a potential extension of the scope to inbound flights operated by non-EU carriers.

Regulation (EC) No 2027/97(air carriers' liability):

Clearer rules regarding liability concerning PRMs' mobility equipment: As regards PRMs, the text includes clearer and enhanced liability provisions in the event of destruction of or damage to checked-in mobility equipment, including assistance dogs, as well as air carriers' obligations regarding the immediate provision of temporary/ free replacements for mobility equipment and temporary solutions to replace assistant dogs. These provisions are more ambitious than the Commission's proposal.

Easier access to complaint forms: Air carriers are required to provide passengers with complaint forms in accessible format and make them available also to persons not using digital tools, which is an improvement for passengers compared to the Commission's original proposal. However, the Commission had proposed physical desks for passengers at the airport, which has not been retained by Council. In that respect the Council position is less passenger friendly than the Commission proposal.

Baggage: The Council sets the dimensions of a 'personal item' which passengers always have a right to carry into the cabin at no extra cost: it either fits under the seat in front of them or does not exceed 40 x 30 x 15 cm in size. In addition, where a personal item or a piece of hand baggage cannot go in the cabin due to specific reasons, such as safety reasons, capacity reasons or a change in the type of aircraft, it can be put in the hold at no further cost.

The Commission's proposal did not regulate the dimensions of hand luggage. In its first reading position the Council explicitly refers to hand luggage and defines the dimensions of a 'personal item'. The Commission notes that this is a minimum free allowance, and that, in practice, many passengers already enjoy this size or a larger allowance of hand luggage on many airlines.

Specific information requirement as regards PRMs, including the air carrier's obligations to offer PRMs the right to make, for free, a special declaration of interest on the value of their mobility equipment. This is in line with the objectives of the Commission's proposal.

Information on baggage - more extensive information to be provided by both air carriers and intermediaries regarding maximum baggage allowances and dimensions, specific conditions for valuable/ fragile items such as musical instruments and transparency regarding additional charges. This is in line with the objectives of the Commission's proposal.

Right to carry musical instruments in the cabin: Passengers are allowed to carry a musical instrument into the cabin of an aircraft, subject to applicable security and safety rules and the technical specifications and constraints of the aircraft concerned. This is in line with the objectives of the Commission's proposal.

The Commission's proposal required **NEBs to enforce also the provisions of Regulation (EC) No 2027/97** concerning rights of passengers regarding delayed, lost or damaged luggage, including complaints relating to mobility equipment of passengers with disabilities and/or with reduced mobility (PRMs). The Council deleted this requirement. In this regard the Council position falls short of the Commission's proposal.

The **possibility for the Commission to regularly adapt the liability limits** mentioned in the Montreal Convention via delegated acts has been replaced by a

dynamic reference to the limits set under the Montreal Convention, as last updated by the International Civil Aviation Organization (ICAO). This solution is less suitable as regards legal certainty. On this point the Council position falls short of the Commission's proposal.

4. CONCLUSION

The Commission can overall support the political agreement which is reflected in the Council's position at first reading. While it considers that the position of the Council – reached by a qualified majority – does not meet all of the essential aims of its proposal, the Commission considers it an overall acceptable basis for entering into negotiations with the European Parliament.