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## NOTE

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From: General Secretariat of the Council  
To: Permanent Representatives Committee

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Subject: Position of the Council at first reading with a view to 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  
- Preparation for the third trilogue

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## I. INTRODUCTION

1. The Commission adopted its proposal for a revision of Regulation (EC) No 261/2004 and Regulation (EC) No 2027/97 (hereinafter “the 2013 proposal”) in March 2013.<sup>1</sup> In 2023, the Commission made two additional proposals on enforcement (hereinafter the “enforcement file”) and on multimodal journeys (hereinafter the “multimodal file”) which will also apply to air passengers and complement its 2013 proposal.
2. The European Parliament completed its first reading on the 2013 proposal in February 2014.<sup>2</sup> On 5 December 2024, the Committee on Transport and Tourism (“TRAN Committee”) of the

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<sup>1</sup> ST 7615/13

<sup>2</sup> 5941/14

EP appointed a new rapporteur (Andrey Novakov, EPP, Bulgaria). On 13 October 2025, the TRAN Committee adopted its guidelines for second reading negotiations.<sup>3</sup>

3. On 9 July 2025 the TRAN Committee decision to enter into interinstitutional negotiations on the enforcement file<sup>4</sup> and on the multimodal file<sup>5</sup> was confirmed by the European Parliament plenary.
4. The Council agreed on General Approaches on the enforcement and the multimodal files on 5 December 2024.<sup>6</sup>
5. The Council adopted its position on the 2013 proposal at first reading on 29 September 2025.<sup>7</sup>

## **II. NEGOTIATIONS WITH THE EUROPEAN PARLIAMENT**

6. A first trilogue was held on 15 October 2025, back-to-back with the first trilogues on the enforcement and the multimodal files. A second trilogue took place on 19 November 2025 and allowed a provisional political agreement on a number of provisions. Those provisions as well as the lines where the European Parliament did not amend the Council position are highlighted in **green** in the third column table contained in 15489/25 ADD1.
7. Since then 3 additional interinstitutional technical meetings have taken place. The third trilogue will aim to confirm agreement on some texts tentatively agreed at the technical level set out in detail and highlighted in **yellow** in the third column table contained in 15489/25 ADD1.
8. Open political lines for discussion at the third trilogue are highlighted in **red**.

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<sup>3</sup> 13590/25 REV1

<sup>4</sup> [REPORT on the proposal for a regulation of the European Parliament and of the Council amending Regulations \(EC\) No 261/2004, \(EC\) No 1107/2006, \(EU\) No 1177/2010, \(EU\) No 181/2011 and \(EU\) 2021/782 as regards enforcement of passenger rights in the Union | A10-0136/2025 | European Parliament.](#)

<sup>5</sup> [REPORT on the proposal for a Regulation of the European Parliament and of the Council on passenger rights in the context of multimodal journeys | A10-0120/2025 | European Parliament](#)

<sup>6</sup> 16535/24 and 16529/24.

<sup>7</sup> 10015/25

9. A number of provisions, without any colour code, are in relation with the enforcement of Regulation 261/2004 and hence, are discussed in the context of the interinstitutional technical meetings on the enforcement file.

### **III. PREPARATION FOR THE THIRD TRILOGUE**

10. The third trilogue is planned for 1 December 2025 and will address the most contentious issues. This will be the final opportunity to find an agreement with the European Parliament.
11. The Presidency will defend the position of the Council at first reading.
12. Building on exchange of views at technical level, the Presidency proposed options for a way forward for discussion at the Working Party on Aviation. While certain preferences were expressed, none of the options seem entirely satisfactory.
13. Against this background, the Presidency is seeking the views of delegations on the main parameters of the next negotiation, bearing in mind the mandate given by the Ministers in June at the Transport Council to achieve a clear and balanced Regulation and to meet the passengers' main wishes, which is to reach their final destination without further delays.
14. In the negotiation, the Presidency will use any flexibility granted on the condition the spirit of compromise is also matched by the European Parliament to achieve a result that is balanced.

#### ***Scope***

15. The Presidency suggests maintaining Council text as regards scope. The extension of the scope to all journeys arriving to the Union, requested by the Parliament, is not acceptable by the Council. The current geopolitical context is certainly not favourable, and the Commission should provide a complete analysis of implications as regards enforcement and conflict of jurisdictions before considering such an extension.
16. The Presidency suggests standing firm on the principle of the liability of the operating air carrier.

#### ***Thresholds for compensation***

17. On thresholds for compensation, the Presidency will defend the position of the Council at first reading. Nonetheless it is clear from exchange of views at technical level amongst the Member States, that none of the options explored at technical level seem entirely satisfactory.
18. It is also clear that the Council and the European Parliament differ on the structure of the thresholds for compensation. Whilst the European Parliament seeks a single threshold for the duration of the delay, the Council differentiates the duration of the delay to reflect the operational realities air carriers face, also levelling their financial burden and ensuring that passengers get to their destination at the soonest. Both co-legislators also diverge on the level of the amount of compensation.
19. In order to reach a compromise, the Presidency seeks flexibility on the possibility to explore linking the amount of compensation with the discomfort of passengers regardless of the distance of the journey but based on the duration of the delay and the use of pre-filled forms in all cases of disruption. Such reflection would be conditional on preserving the overall balance of the Regulation.
20. The Presidency also seeks the views of delegations on the possibility to adapt the compensation scheme for regional flights (below 1,000km).

#### ***Extraordinary circumstances***

21. The Presidency suggests maintaining a non-exhaustive list. As per the Council position at first reading, the air carrier must take reasonable measures to mitigate those circumstances and prove the causal link.
22. The Presidency seeks some flexibility on the content of the list, in particular on the deletion of extraordinary circumstances where the Council departed from the case law. Additionally, the Presidency is seeking some flexibility on the number of flights in the rotation on which it may invoke extraordinary circumstances; that later flexibility being conditional on the content of the list.
23. Finally, the Presidency seeks flexibility on the possibility for the Commission to supplement the non-exhaustive list of extraordinary circumstances through Delegated Act.

#### ***Information, deadlines and means of payment***

24. When it comes to the information of passengers in case of disruption, the Presidency suggests streamlining the process as follows:
- The air carrier informs the passenger of the disruption without undue delay;
  - If the passenger is entitled to compensation but extraordinary circumstances apply, the air carrier informs the passenger in writing on the reasons for the delay within 14 days of the disruption, without the need for a written request from the passenger.
25. The Presidency suggests that compensation may be granted upon request from the passenger and the passengers would have up to six months to submit their request for compensation. The Presidency suggests maintaining the deadlines for reimbursement and compensation defined in the Council position since those are more realistic for the air carriers to comply with. The Presidency also suggests maintaining the possibility to extend the deadline in case contingency plans are activated.
26. As regards the means of payment, the Presidency suggests insisting on the possibility for air carriers to use vouchers in agreement with the passenger.

### ***Denied boarding***

27. The Presidency suggests maintaining the exceptions defined in the Council position (health, safety, security or inadequate travel documentation) to justify a denied boarding since those exceptions are reasonable and defined already in the current legislation.
28. The Presidency suggests rejecting the amendment introduced by the European Parliament allowing passengers to travel on domestic flights without adequate travel documentation provided they prove their identity through other documents allowed under the national law of the State where boarding takes place. Such an amendment could cause significant security risks and is to be analysed in a more global Schengen context, given the possibility of subsequent connecting flights. In addition, it would require substantial administrative burden from air carriers to keep up to date on national legislations. By the same token, the Presidency suggests not retaining the possibility for passengers to transfer their ticket as proposed by the European Parliament.
29. With a view to restoring the balance of any potential political agreement, the Presidency is suggesting some flexibility on the ban of no show, with the possibility for the air carrier to

require the payment of an additional fee, corresponding to the difference between the price of the ticket with return and the price of the one-way ticket and provided the passenger has been informed of such at the time of the booking.

### ***Enforcement***

30. The Presidency seeks flexibility on the designation of a body or bodies for the enforcement of Regulation 2027/97. Such body or bodies would have the same competences and powers as the body or bodies designated under Article 16 of Regulation 261/2004 in the Council position at first reading.
31. All horizontal enforcement aspects of Regulation 261/2004 are to be discussed under the enforcement file. However, the Presidency is seeking the views of delegations on the following flexibilities:
  - Introduction of requirements of independence vis-à-vis commercial interests for the bodies responsible for out of court dispute settlement;
  - A mechanism of cooperation between National enforcement Bodies;
  - Possibility to voluntarily apply the ADR Directive for disputes between passengers and Third Country air carriers under Regulation 261/2004.

### ***Compensation scheme for persons with disabilities or reduced mobility and unaccompanied children***

32. At the second trilogue, the European Parliament insisted on the introduction of a compensation scheme for Persons with disabilities or reduced mobility where the airport managing body does not comply with its assistance obligations under Regulation 1107/2006, and for unaccompanied children where the dedicated assistance contractually provided by the air carrier affects their journey. The Presidency seeks flexibility for the introduction of such a compensation scheme in the Regulation 261/2004 while mandating the Commission through implementing act to detail the modalities of such scheme and of the mechanisms of redress for the air carriers towards the airport managing bodies.

### ***Additional flexibilities***

33. The Presidency seeks flexibility on the possibility for the Commission to define standard hand baggage dimensions through an implementing act in Regulation 2027/97. In addition, the Presidency seeks flexibility on the possibility of accepting the possibility of free check-in at the airport, introduced by the European Parliament.

#### IV. CONCLUSIONS

34. The Presidency seeks the flexibilities listed in point III with a view to obtaining a balanced political agreement ensuring a high level of protection for passengers, while preserving the competitiveness of EU air carriers and air connectivity across the Union. Any openness from the Presidency towards the European Parliament will be on the understanding that the Council's flexibility needs to be reciprocated by the Parliament and situated in the overall context of reaching a balanced compromise.
35. The Permanent Representatives Committee is invited to provide the Presidency with a mandate for the third trilogue, planned for 1 December 2025, based on the main issues outlined in point III above and the three-column document in ADD 1.