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From: General Secretariat of the Council

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Subject: *Preparation of the Council meeting (Transport, Telecommunications and Energy) on 5 December 2013*

**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**

- Progress report

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**Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11  
February 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 repealing Regulation (EEC) No 295/91**

**(Text with EEA relevance)**

**Article 1**

**Subject**

1. This Regulation establishes, under the conditions specified herein, minimum rights for passengers when:
  - (a) they are denied boarding against their will;
  - (b) their flight is cancelled;
  - (c) their flight is delayed at departure or at arrival;
  - (d) the schedule of their flight has been changed;
  - (e) they are upgraded or downgraded.
- [2. Application of this Regulation to Gibraltar airport is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated.
3. Application of this Regulation to Gibraltar airport shall be suspended until the arrangements in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 enter into operation. The Governments of Spain and the United Kingdom will inform the Council of such date of entry into operation.]

## Article 2

### Definitions

For the purposes of this Regulation:

- (a) "air carrier" means an air transport undertaking with a valid operating licence;
- (b) "operating air carrier" means an air carrier that performs or intends to perform a flight under a contract with a passenger or on behalf of another person, legal or natural, having a contract with that passenger;
- (c) "Community **air** carrier" means an air carrier with a valid operating licence granted by a Member State in accordance with the provisions of Regulation (EC) No 1008/2008 of 24 September 2008 on common rules for the operation of air services in the Community;
- (d) "Organiser" means a person within the meaning of Article 2(2) of Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours;
- (e) "package" means those services defined in Article 2, point 1, of Directive 90/314/EEC;
- (f) "ticket" means a valid document giving entitlement to transport, or something equivalent in paperless form, including electronic form, issued or authorised by the air carrier or ~~its authorised agent~~ **ticket seller**;
- (g) "reservation" means the fact that the passenger has a ticket, or other proof, which indicates that the reservation has been accepted and registered by the air carrier ~~or tour operator~~ **organiser or ticket seller**;
- (h) "final destination" means the destination on the ticket presented when checking in, or, in the case of ~~directly~~ connecting flights, the destination of the last flight;

- (i) "**disabled person or person with reduced mobility**" means any person as defined in Article 2(a) of Regulation (EC) No 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air;
- (j) "denied boarding" means a refusal to carry passengers on a flight, although they have presented themselves for boarding under the conditions laid down in Article 3(2), except where there are reasonable grounds to deny them boarding, such as reasons of health, safety or security, or inadequate travel documentation;
- (k) "volunteer" means a person who has presented himself for boarding under the conditions laid down in Article 3(2) and responds positively to the air carrier's call for passengers prepared to surrender their reservation in exchange for benefits.
- (l) "cancellation" means the non-operation of flight, which was previously planned and on which at least one place was reserved. ~~A flight where the aircraft took off but was subsequently forced to land at an airport other than the airport of destination or to return to the airport of departure, shall be considered a cancelled flight, except when ultimately the aircraft reaches its final destination.~~
- (m) "extraordinary circumstances" means ~~unavoidable~~ circumstances which, ~~by their nature or origin, are not inherent in the normal exercise of the activity of the air carrier concerned and~~ are beyond ~~it's~~ the actual control of the air carrier. For the purposes of this Regulation, extraordinary circumstances shall include, but shall not be limited to the circumstances set out in the Annex;
- (n) "flight" means an air transport operation between two **specified** airports; intermediate stops for technical and operational purposes only shall not be taken into consideration;
- (o) "connecting flight" means a flight that carries the passenger from a transfer point to which the passenger was transported by a feeder flight, if the flights are, under the same contract of carriage and a single reservation. This excludes stopovers.

- (p) "journey" means a flight or a continued series of ~~connecting~~ flights transporting the passenger from ~~an~~ **the initial** airport of departure to his final destination in accordance with the contract of carriage;
- (q) "airport" means any area specifically adapted for the landing, taking-off and manoeuvring of aircraft, including the ancillary installations which these operations may involve for the requirements of aircraft traffic and services, including the installations needed to assist commercial air services;
- (r) "airport managing body" means a body which, in conjunction with other activities or not as the case may be, has as its objective under national laws, regulations or contracts the administration and management of the airport or airport network infrastructures and the coordination and supervision of the activities of the different operators present in the airports or airport network concerned;
- (s) "ticket price" means the full price paid for a ticket and including the air fare, and all applicable taxes, charges, surcharges and fees, including the management fees charged by the air carrier, paid for all optional and non-optional services related to the **air** transport services included in the ticket;
- (t) "flight price" means the value obtained by multiplying the ticket price by the ratio between the distance of the flight and the total distance ~~of the journey(s)~~ covered by the ticket;
- (u) "time of departure" means the time when the aircraft leaves the departure stand, pushed back or on its own power (off-block time);
- (v) "time of arrival" means the time when the aircraft reaches the arrival stand and the parking brakes are engaged (in-block time);
- (w) "tarmac delay" means, at departure, the time the aircraft remains on the ground between **the closing of the doors, or in any case the time that when** passengers can no longer leave the aircraft, and the take-off time of the aircraft or, at arrival, the time between the touch-down of the aircraft and the start of disembarkation of the passengers;

- (x) "night" means the period between ~~midnight~~ 00:00 and 6:00 a.m. local time;
- (y) "unaccompanied child" means a child who travels without an accompanying parent or guardian and where the air carrier has accepted responsibility for care in accordance with its published rules.'
- (ab) ~~"reasonable measures" means measures, which at the time when the extraordinary circumstances arise, meet conditions which are technically and economically viable for the air carrier concerned;~~
- (ac) "third country" means any state to which the Treaty is not applicable or any part of Member States' territory that is not subject to Treaty provision;
- (ad) "delay at departure" means the difference of time between the departure time indicated on the passenger's ticket and the actual departure time of the flight;
- (ae) "delay at arrival" means the difference of time between the time of arrival indicated on the passenger's ticket and the actual time of arrival;
- (af) "class **of transport**" means a part of the passenger cabin of the aircraft characterised by different seats, a different seat configuration or any other difference in the standard service provided to passengers compared to other parts of the cabin;
- (ag) "rerouting" means an alternative offer of transport at no extra cost to the passenger and allowing him to reach his final destination **or an alternative destination agreed with the passenger**;
- (ah) ~~"flight concerned" means the flight for which the passenger has a confirmed reservation, or the flight that rerouted him;~~
- (ai) "change of schedule" means the unilateral change of the scheduled ~~time~~ **hour and/or date** of departure **and/or arrival** by the operating air carrier;

- (aj) "ticket ~~vendor~~seller" means the ~~vendor~~ seller of an air ticket, other than an air carrier or an organiser, who arranges a contract of carriage on behalf of the air carrier with a passenger, whether for a flight on its own or as part of a package;
- (ak) "stopover" means a voluntary interruption of the performance of the contract of carriage by the passenger and agreed in advance by the air carrier as it appears on the ticket. For the purposes of this Regulation, a stopover point shall be regarded as a final destination;
- (al) "feeder flight" means a flight that carries passengers to a transfer point in order to take a further flight, if the flights are under a same contract of carriage and a single reservation.

### Article 3

#### Scope

1. This Regulation shall apply:
  - (a) to passengers departing from an airport located in the territory of a Member State to which the Treaty applies;
  - (b) to passengers departing from an airport located in a third country to an airport situated in the territory of a Member State to which the Treaty applies, unless they received benefits or compensation and were given assistance in that third country, if the operating air carrier of the flight concerned is a Community carrier.
2. Paragraph 1 shall apply on the condition that passengers:
  - (a) have a confirmed reservation on the flight concerned and, except in the case of cancellation referred to in Article 5, and in the case of change of schedule referred to in Articles 6 and 6-1a, present themselves for boarding **after on-line or physical check-in**,

- as stipulated and at the time indicated in advance and in writing (including by electronic means) by the air carrier, the organiser or a ticket ~~vender~~ **seller**,

or, if no time is indicated,

- not later than 45 minutes before the scheduled departure time; or

(b) have been transferred by an air carrier or organiser from the flight for which they held a reservation to another flight, irrespective of the reason.

3. This Regulation shall not apply to passengers travelling free of charge or at a reduced fare not available directly or indirectly to the public. However, it shall apply to passengers having tickets issued under a frequent flyer programme or other commercial programme by an air carrier or ~~tour operator~~ **organiser**.

4. ~~Without prejudice to Article 8(6),~~ This Regulation shall only apply to passengers transported by motorised fixed wing aircraft. ~~However, where a part of the journey is carried out, in accordance with a contract of carriage, by another mode of transport or by helicopter, this Regulation shall apply for the whole journey and the part of the journey carried out by another mode of transport shall be considered as a connecting flight or feeder flight for the purposes of this Regulation.~~

5. This Regulation shall apply to any operating air carrier providing transport to passengers covered by paragraphs 1 and 2. Where no contract exists between the operating air carrier and the passenger, the performer of rights and obligations under this Regulation shall be regarded as doing so on behalf of the contracting parties.

6.

7. This Regulation shall also apply to passengers transported by air according to package travel contracts but shall not affect the rights of passengers under ~~Council~~ Directive 90/314/EEC. The passenger shall be entitled to present claims under this Regulation and under ~~Council~~ Directive 90/314/EEC, but may not, in relation to the same grounds of liability, cumulate rights under both legal acts. This Regulation shall not apply in cases where a package tour is cancelled or delayed for reasons other than cancellation, **change of schedule** or delay of the flight.

#### **Article 4**

##### **Denied boarding**

1. When an operating air carrier reasonably expects to deny boarding on a flight, it shall first call for volunteers to surrender their reservations in exchange for benefits under conditions to be agreed between the passenger concerned and the operating air carrier. This agreement with the voluntary passenger replaces provisions related to compensation as laid down in Article 7(1), only if this agreement is approved in a signed document by the voluntary passenger. It shall also remind the passenger of his rights to compensation according to the present Regulation. Volunteers shall be assisted in accordance with Article 8, such assistance being additional to the benefits mentioned in this paragraph and, when applicable, the care in accordance with Article 9.
2. If an insufficient number of volunteers comes forward to allow the remaining passengers with reservations to board the flight, the operating air carrier may then deny boarding to passengers against their will.
- 3.

4. If boarding is denied to passengers against their will, the operating air carrier shall **immediately** ~~compensate them in accordance with Article 7 without any further formality,~~ and assist them in accordance with Article 8. Where the passenger opts for rerouting at the earliest opportunity pursuant to Article 8(1)(b) and where the departure time is at least two hours after the initial departure time, the operating carrier shall assist the passenger in accordance with Article 9. **The operating air carrier shall without delay and without any requirement of a separate claim, compensate the passenger in accordance with Article 7.**
5. Paragraphs 1, 2 and 3 shall also apply to return tickets where the passenger is denied boarding at the return journey on the grounds that he/she did not take the outward journey, or did not pay an additional charge for this purpose, unless having been contacted by the air carrier, the passenger confirms that he/she will not be taking the return journey.
- 4a. Paragraph 4 shall not apply where the ~~outbound~~ **outward** or return journey includes more than two flights, and ~~the passengers are~~ **is** denied boarding on the grounds that ~~carriage is not used on all individual flights were used or they were not used in the agreed sequence as shown in the ticket.~~
6. Where the passenger, or an intermediary acting on behalf of the passenger, reports an obvious spelling mistake in the name or given name(s) 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 this at least once up until ~~48~~ **72** hours before departure without any additional charge to the passenger or the intermediary, except where ~~this is regulated differently~~ **it is prevented from doing so** by applicable national or international law, ~~in particular regarding security law.~~ In the confirmation of reservations sent to or placed at disposal of the passenger or the intermediary, air carriers shall provide information to the passenger or the intermediary on the deadline and on the procedure by which he/she can request the correction of a spelling mistake as specified in this paragraph, without any additional charge.

7. ~~Paragraphs 1, 2 and 3 shall also apply where the passenger misses the flight because it took place before the scheduled departure time while the passenger was on time in accordance with Article 3(2).~~

## **Article 5**

### **Cancellation**

1. In case of cancellation of a flight, the passengers concerned shall:
  - (a) be offered by the operating air carrier the choice between the options specified in Article 8 in an express and reliable manner; and
  - (b) be offered by the operating air carrier in the event of re-routing at the earliest opportunity pursuant to Article 8(1)(b):
    - (i) when the reasonably expected time of departure of the new flight is at least 2 hours after the planned departure of the cancelled flight, the care specified in Article 9 (1)(a) and 9(2); and
    - (ii) when the reasonably expected time of departure of the new flight is at least 5 hours after the planned departure of the cancelled flight and the waiting time occurs **at any stage** during the night, the care specified in Article 9(1)(b) and 9(1)(c); and
  - (c) have the right to compensation by the operating air carrier in accordance with Article 7, unless:
    - (i) they are informed of the cancellation at least ~~two weeks~~ **14 days** before the scheduled time of departure; or
    - (ii) they are informed of the cancellation between two weeks and seven days before the scheduled time of departure and are offered re-routing, allowing them to depart no more than two hours before the scheduled time of departure and to reach their final destination less than four hours after the scheduled time of arrival; or

- (iii) they are informed of the cancellation less than seven days before the scheduled time of departure and are offered re-routing, allowing them to depart no more than one hour before the scheduled time of departure and to reach their final destination less than two hours after the scheduled time of arrival.
2. When passengers are informed of the cancellation, an explanation shall be given concerning possible alternative transport.
3. An operating air carrier shall not be obliged to pay compensation in accordance with Article 7, if it can prove that the cancellation is caused by extraordinary circumstances and that the cancellation could not have been avoided even if all reasonable measures had been taken. ~~Where the air carrier does not produce such evidence in view of a passenger's claim, the compensation remains due.~~
- 3a. In case of technical reasons, extraordinary circumstances can only be invoked for the flight concerned in so far as they affect this flight or the immediately preceding flight operated by the same aircraft. This paragraph shall not apply to flights operated to, from and within outermost regions, as referred to in Article 349 of the TFEU.
4. The burden of proof concerning the questions as to whether and when the passenger has been informed of the cancellation of the flight shall rest with the operating air carrier.
- 4a.** ~~Paragraphs 1, 2 and 3~~ **This Article** shall also apply where the passenger misses the flight because it took place before the scheduled departure time while the passenger was on time in accordance with Article 3(2). *[moved from Article 4(6)]*

**Article 5a**  
**Airport contingency plans**

1. At airports whose annual traffic has been ~~not less than three~~ over five million passengers for at least three consecutive years, the airport managing body shall ensure that the operations of the airport and of airport users, in particular the air carriers and the suppliers of ground handling services, are coordinated through a proper contingency plan in view of possible situations of multiple cancellations and/or delays of flights leading to a considerable number of passengers stranded at the airport, ~~including in cases of airline insolvency or revocation of the operating licence.~~ **The contingency plan shall be set up to ensure that adequate information is given to stranded passengers.**
2. The contingency plan shall be set up with the participation of the Airport Users Committee set up pursuant to Article 4 of Regulation .../... on groundhandling services at Union airports to ensure adequate information and assistance to the stranded passengers. The contingency plan shall also contain the contact data of the person(s) designated by each air carrier in order to represent it ~~on the spot~~ in relation with the authorities, airport managing body and passengers and who shall ensure that the obligations of the air carrier in case of cancellation, delay, change of schedule or denied boarding, arising from this Regulation, are respected.
3. The managing body of the airport shall communicate the contingency plan and any amendments to it to the National Enforcement Body designated pursuant to Article 16 or any other authority designated for this purpose.
4. At airports below the above-mentioned threshold, the airport management body shall make all reasonable efforts to coordinate airport users **and to make arrangements with airport users** ~~and to assist and to~~ inform stranded passengers in such situations.

**Article 6**  
**Delay at departure**

1. When an operating air carrier ~~reasonably~~ expects a flight to be delayed at departure, beyond its scheduled time of departure, passengers shall be offered by the operating air carrier:
  - (i) when the delay is of at least two hours, the care specified in Article 9(1)(a) and 9(2); and
  - (ii) when the delay is of at least five hours during the nights, the care specified in Article 9(1)(b) and 9(1)(c); and
  - (iii) when the delay is at least five hours, the assistance specified in Article 8(1)(a).
2. Paragraph 1(i) and (ii) shall also apply when an operating **air** carrier postpones the scheduled time of departure beyond the originally scheduled time, unless the passenger was informed of the schedule change at least four hours before the originally scheduled time of departure.
3. Where an operating air carrier advances the scheduled time of departure by more than five hours, passengers shall be offered by the operating air carrier the assistance specified in Article 8(1)(a).

**Article 6-1a**  
**Delay at arrival**

1. The passenger shall have the same right to compensation from the operating air carrier as a passenger of a cancelled flight with regard to the measures in Article 5 where he arrives at his final destination:
  - (a) five hours or more after the originally scheduled time of arrival for all intra-Community journeys and for journeys to/from third countries of 3500 kilometres or less;

- (b) nine hours or more after the originally scheduled time of arrival for journeys to/from third countries between 3500 and 6000 kilometres;
  - (c) twelve hours or more after the originally scheduled time of arrival for all journeys not falling under (a) or (b).
2. Paragraph 1 shall also apply where the operating air carrier has postponed the scheduled times of departure and arrival causing a delay compared to the time of arrival of the original schedule, unless the passenger was informed of the schedule change more than two weeks in advance of the originally scheduled time of departure.
4. *[kept by reference to Article 5 in paragraph 1 of this Article]*

#### Article 6-2a

#### Tarmac delay

1. Subject to safety constraints, where a tarmac delay occurs, the operating air carrier shall provide free of charge access to toilet facilities and drinking water, shall ensure adequate heating or cooling of the passenger cabin, and shall ensure that adequate medical attention is available if needed.
2. Where a tarmac delay reaches a maximum of **[two] [three]** hours, ~~the meals or refreshments as specified in Article 9(1)(a) shall be provided.~~

~~3. unless there are safety, immigration or security related reasons why the aircraft cannot leave its position on the tarmac, where a tarmac delay reaches a maximum of three hours, the aircraft shall return to the gate or another suitable disembarkation point where passengers shall be allowed to disembark and to benefit from the same assistance as specified in paragraph 1 Article 9, unless there are safety, immigration or security-related reasons why the aircraft cannot leave its position on the tarmac. including the option of reimbursement and return flight, as specified in Article 8(1)(a), which shall be offered at the time of disembarkation.~~

#### Article 6a

##### Missed connecting flights

1. Where a passenger misses a connecting flight, **in an airport situated in a territory of a Member State to which the Treaty applies**, as a result of a delay or change of schedule to a **feeder** ~~preceding~~ flight, the Community air carrier operating the ~~onward connecting that feeder~~ flight shall offer the passenger:
  - (i) the assistance specified in Article 9(1)(a) and 9(2) if the passenger's waiting time for the connection is prolonged by at least two hours; and
  - (ii) re-routing as specified in Article 8(1)(b); and
  - (iii) when the scheduled time of departure of the alternative flight or other transport offered under Article 8 is at least 5 hours after the scheduled time of departure of the flight missed and the delay ~~includes one or several nights~~ **is at any stage during the night**, the assistance specified in Article 9(1)(b) and 9(1)(c).

2. Where a passenger misses a connecting flight, **in an airport situated in a territory of a Member State to which the Treaty applies**, as a result of a delay or change of schedule to a ~~preceding connecting-feeder~~ flight, the passenger shall have a right to compensation by the ~~Community~~ air carrier operating that ~~preceding feeder~~ flight in accordance with Article 6-1a(1). For these purposes, the delay shall be calculated by reference to the scheduled time of arrival at the final destination. **However, where the delay of the feeder flight at the transfer point was less than [x] hour, the air carrier operating the preceding flight may reduce the compensation due under Article 6-1a(1) by [y] %.**
3. Paragraph 2 shall be without prejudice to any indemnity arrangements made between affected air carriers.
4. ~~Paragraphs 1 and 2 apply also to third country air carriers operating a connecting flight to or from an EU airport.~~

#### Article 7

##### Right to compensation

1. **Without prejudice to Article 4(3)**, where reference is made to this Article, **without losing the right of transport**, passengers **may request from the operating air carrier** ~~shall receive~~ compensation amounting to:
  - (a) EUR 250 for all journeys of 1500 kilometres or less;
  - (b) EUR 400 for all intra-Community journeys of more than 1500 kilometres, and for all other journeys between 1500 and 3500 kilometres;
  - (c) EUR 600 for all journeys not falling under (a) or (b).

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

2. Where the passenger has opted for the continuation of his travel pursuant to Article 8(1)(b), the right to compensation can arise only once **for the same reason** during his travel to the final destination, even if a new cancellation or missed connection should arise during rerouting.
- ~~2. When passengers are offered re-routing to their final destination on an alternative flight pursuant to Article 8, the arrival time of which does not exceed the scheduled arrival time of the flight originally booked~~
  - ~~(a) by two hours, in respect of all flights of 1500 kilometres or less; or~~
  - ~~(b) by three hours, in respect of all intra-Community flights of more than 1500 kilometres and for all other flights between 1500 and 3500 kilometres; or~~
  - ~~(c) by four hours, in respect of all flights not falling under (a) or (b);~~

~~the operating air carrier may reduce the compensation provided for in paragraph 1 by 50 %.~~
3. The compensation referred to in paragraph 1 shall be paid within 7 days **of the passenger's request** in cash, by electronic bank transfer, bank orders, credit card refund or bank cheques. **Following appropriate information to the passenger regarding his rights under this Regulation, or,** with the signed agreement of the **passenger compensation may also be paid** in travel vouchers and/or other services.
4. The distances given in paragraphs 1 shall be measured by the great circle route method.
5. [deleted]

## Article 8

### Right to reimbursement or re-routing

1. Where reference is made to this Article, the passengers shall be offered, free of charge, the choice between three options:
  - (a) - reimbursement within seven days of the passenger's request, by the means provided for in Article 7(3), of the flight price, for the part or parts of the journey not made, and for the part or parts already made if the flight is no longer serving any purpose in relation to the passenger's original travel plan, together with, when relevant,
    - a return flight to the first point of departure, at the earliest opportunity;
  - (b) continuation of the passengers' travel plans by re-routing them to their final destination at the earliest opportunity; or
  - (c) re-routing to their final destination at a later date at the passenger's convenience, subject to availability of seats.
2. Paragraph 1(a) shall also apply to passengers whose flights form part of a package, except for the right to reimbursement where such right arises under Directive 90/314/EEC.
3. If an operating air carrier offers a passenger a flight to or from an airport alternative to that for which the reservation was made, the operating air carrier shall bear the cost of transferring the passenger from that alternative airport either to that for which the reservation was made, or, with regard to the destination airport, to another neighbouring destination agreed with the passenger.
4. Where agreed by the passenger, the return flight or flights referred to in paragraph 1(a) or the re-routing referred to in paragraph 1(b) or 1(c) may, at comparable comfort conditions **as set out in the transport contract**, use services operated by another air carrier, involve a different routing, or, where appropriate for the distance to be travelled, use another mode of transport.

5. Where passengers choose the option referred to in paragraph 1(b), they shall, subject to availability, have the right to re-routing via another air carrier or another mode of transport where the operating air carrier cannot **foreseeably** transport the passenger on its own services and in time to arrive at the final destination within 12 hours of the scheduled arrival time.
6. ~~Whenever passengers are offered, pursuant to paragraph 1, a total or partial rerouting by another mode of transport, this Regulation shall still apply to the operating air carrier with regard to the transport carried out by that other mode of transport as if it were carried out by fixed wing aircraft.~~

## Article 9

### Right to care

1. Where reference is made to this Article, passengers shall be offered free of charge:
  - (a) meals and refreshments in a reasonable relation to the waiting time;
  - (b) hotel accommodation in cases
    - where a stay of one or more nights becomes necessary, or
    - where a stay additional to that intended by the passenger becomes necessary;
  - (c) transport between the airport and place of accommodation (hotel, place of residence of the passenger or other) and return.

~~The passenger is obliged to reduce the expenses for the air carrier as far as it is reasonable and proportionate.~~

2. In addition, passengers shall be offered free of charge **the choice between two** telephone calls, ~~telex or fax messages, e-mails or internet access~~ **other web-based message services.**

3. In applying this Article, the operating air carrier shall pay particular attention to the needs of **disabled persons and persons** with reduced mobility and any persons accompanying them, as well as to the needs of unaccompanied children.
4. If the operating air carrier can prove that the cancellation, delay at departure or change of schedule is caused by extraordinary circumstances and that the cancellation, delay at departure or change of schedule could not have been avoided even if all reasonable measures had been taken, it may limit the total cost of accommodation provided according to paragraph 1(b) to EUR 100 per night and per passenger and to maximum of 3 nights. **Taking into account prices charged locally, Member States may adopt rules more favourable to the passenger regarding the monetary limitation for the cost of accommodation.** If the operating air carrier chooses to apply this limitation, it shall nevertheless provide the passengers with information about available accommodation after the three nights, in addition to the continued obligations for information specified in Article 14.
5. **Member States may decide to exempt air carriers from** The obligation to offer accommodation under paragraph 1(b) shall not apply where the flight concerned **departs from an airport in its territory**, is of 250 km or less and scheduled to be operated by an aircraft with a maximum capacity of 80 seats or less, except where the flight is a feeder or a connecting flight. If the operating air carrier chooses to apply this exemption, it shall nevertheless provide the passengers with information about available accommodation. **Member States that choose to apply this exemption shall inform the Commission about their decision before the exemption enters into force.**
6. Where a passenger opts for reimbursement pursuant to Article 8(1)(a) while being at the ~~departure airport of his journey~~ **first point of departure**, or opts for rerouting at a later date pursuant to Article 8(1)(c), the passenger shall have no further rights with regard to care under Article 9(1) in relation to the relevant flight.

**Article 10**  
**Upgrading and downgrading**

1. If an operating air carrier places a passenger in a class **of transport** higher than that for which the ticket was purchased, it ~~may not request~~ **it shall not be entitled to** any supplementary payment.
2. If an operating air carrier places a passenger in a class **of transport** lower than that for which the ticket was purchased, it shall within seven **working** days, by the means provided for in Article 7(3), reimburse
  - (a) 30 % of the flight price for all flights of 1500 kilometres or less, or
  - (b) 50 % of the flight price for all intra-Community flights of more than 1500 kilometres, except flights between the European territory of the Member States and the French overseas departments, and for all other flights between 1500 and 3500 kilometres, or
  - (c) 75 % of the flight price for all flights not falling under (a) or (b), including flights between the European territory of the Member States and the French overseas departments.

**Article 11**  
**Persons with reduced mobility or special needs**

1. Operating air carriers shall give priority to carrying **disabled** persons **or persons** with reduced mobility and any persons or certified service dogs accompanying them, as well as unaccompanied children.
2. In cases of denied boarding, cancellation, **change of schedule** and delays of any length, persons with reduced mobility and any persons accompanying them, as well as unaccompanied children, shall have the right to care in accordance with Article 9 as soon as possible.

3. ~~The operating air carrier shall not apply the limitations set out in~~ Articles 9(4) and 9(5) **shall not apply** if the passenger is a **disabled person or person** with reduced mobility or any person accompanying him/her, an unaccompanied child, a pregnant woman or a person in need of specific medical assistance. Except for unaccompanied children and persons covered by Regulation (EC) 1107/2006, the **operating** air carrier may, at the earliest 2 weeks after the event, request the concerned passengers to provide evidence of their condition.

## **Article 12**

### **Further rights**

1. This Regulation shall not affect further rights and claims of the passenger granted under other legal acts. The compensation granted under Articles 7 and 10(2) of this Regulation as well as ~~claims to~~ compensation granted under other legal acts due to denied boarding, cancellation, delay at arrival and downgrading shall be deducted from each other.
2. Without prejudice to relevant principles and rules of national law, including case-law, paragraph 1 shall not apply to passengers who have voluntarily surrendered a reservation under Article 4(1).

## **Article 13**

### **Right of redress**

In cases where an operating air carrier pays compensation or meets the other obligations incumbent on it under this Regulation, no provision of this Regulation may be interpreted as restricting its right to seek compensation for the costs incurred under this Regulation from any third parties which contributed to the event triggering compensation or other obligations.

## Article 14

### Obligations to inform passengers of their rights

1. The operating air carrier shall ensure that on its website at the time of booking, at the check-in desks (including at self-service check-in machines) and at the boarding gate, a clearly legible notice containing the following text is displayed in a manner clearly visible to passengers: "If you are denied boarding or if your flight is cancelled, delayed or rescheduled for at least two hours, ask at the check-in counter or boarding gate for the notice stating your rights, particularly with regard to assistance, **care** and possible compensation". This notice shall be displayed at least in the language(s) of the place of departure and in English.
2. An operating air carrier denying boarding or cancelling a flight shall provide each passenger affected with a written notice setting out the rules for compensation and assistance in line with this Regulation, including information on possible limitations pursuant to Articles 9(4) and 9(5). It shall also provide each passenger affected by a delay or a change of schedule of at least two hours with an equivalent notice. The contact details of the **operating air carrier, of and of the** competent complaint handling bodies designated under Articles **16 and 16a** shall also be given to the passenger in written form.
3. In respect of blind and visually impaired persons, the provisions of this Article shall be applied using appropriate alternative means.
4. The airport managing body shall ensure that general information on passenger rights is clearly and visibly displayed within the passenger areas of the airport.
5. In the event of cancellation or delay in departure, passengers shall be informed by the operating air carrier of the situation, ~~and of the underlying reason,~~ as soon as possible and in any event no later than the scheduled departure time. **Passengers shall also be informed of the reasons for the cancellation or delay**, and of the estimated departure time as soon as this information is available.

6. Where the passenger does not acquire a ticket directly from the operating air carrier, but via an ~~intermediary~~ **organiser or ticket seller** established within the European Union, ~~this intermediary~~ **the organiser or ticket seller** shall provide the passenger's contact details to the air carrier, on condition that the passenger has given his explicit and written authorisation. This authorisation may only be given on an "opt-in" basis, after the passenger has been informed of the purpose of this transfer of data. The air carrier may use these contact details exclusively for the purpose of fulfilling the information obligation under this Article and not for marketing purposes and shall delete the contact details within 72 hours after the completion of the contract of carriage. The processing, access and storage of these data shall be undertaken in accordance with Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data.
7. An ~~intermediary~~ **organiser or ticket seller** shall be exempted from paragraph 6 if it can prove the existence of an alternative system that ensures that the passenger is informed without the transmission of the relevant contact details. In such case, the airline shall fulfil its information obligations under this Article towards the ~~intermediary~~ **organiser or ticket seller** who shall ensure the correct and timely transmission of the information to the passenger.

## **Article 15**

### **Exclusion of waiver**

1. Obligations vis-à-vis passengers pursuant to this Regulation may not be limited or waived, notably by a derogation or restrictive clause in the contract of carriage.
2. If, nevertheless, such a derogation or restrictive clause is applied in respect of a passenger, or if the passenger is not correctly informed of his rights and for that reason has accepted compensation which is inferior to that provided for in this Regulation, the passenger shall still be entitled to take the necessary proceedings before the competent courts or bodies in order to obtain additional compensation.

## Article 16

### Enforcement

1. Each Member State shall designate a National Enforcement Body responsible for the enforcement of this Regulation as regards flights from airports situated on its territory and flights from a third country to such airports. The Member States shall inform the Commission of the body that has been designated in accordance with this paragraph.
  - 1a. At the time of reservation, air carriers, organisers and ~~other ticket vendors~~ **sellers** shall provide information to passengers on the enforcement by the National Enforcement Body and their right to submit complaints to this body on the non-compliance of the operating carrier with the obligations under this Regulation. *[moved from paragraph 2b.]*
2. The National Enforcement Body shall closely monitor compliance with the requirements of this Regulation and take the **necessary** measures ~~necessary~~ to ensure that the rights of passengers are respected. For this purpose, air carriers and airport managing bodies shall provide the relevant documents to the National Enforcement Body at its request and within 1 month of its request. The air carriers shall also give the National Enforcement Body online access to a database containing information on all delays, cancellations, changes of schedule and denied boarding, and the underlying reasons, for the last two years.
  - 2b. The National Enforcement Body may also **investigate and** decide on enforcement actions based on **information contained in** individual complaints submitted by passengers. ~~At the time of reservation, air carriers, organisers and other ticket vendors~~ **sellers** shall provide information to passengers on the enforcement by the National Enforcement Body and their right to submit complaints to this body on the non-compliance of the operating carrier with the obligations under this Regulation. *[moved to paragraph 1a.]*

3. The sanctions laid down by Member States for infringements of this Regulation shall be effective, proportionate and dissuasive. In particular, such sanctions shall be sufficient to provide carriers with a financial incentive to comply consistently with the Regulation.
4. [deleted]
5. For each year, at the latest at the end of ~~April~~ **June** of the following calendar year, the National Enforcement Bodies shall publish ~~statistics~~ **a report** on their activity, **on the enforcement action and its outcome**, including ~~on~~ sanctions applied. **These reports shall be submitted to the Commission and** also be made available on the websites of the National Enforcement Bodies.
6. Air carriers shall communicate their contact details of the office or person authorised to act on a permanent basis for the undertaking, for matters covered by this Regulation, to the National Enforcement Bodies of the Member States in which they operate.

#### **Article 16a**

##### **Passenger claims**

1. At the time of reservation, air carriers, organisers and other ticket ~~vendors~~ **sellers** shall provide information to passengers on the air carrier's claim handling processes in relation to the rights set out in this Regulation and on the relevant contact addresses, to which passengers can file claims, including via electronic means of transmission.

2. If a passenger wants to file a claim to the **operating** air carrier with regard to his rights under this Regulation, he, **or his legal representative** shall submit it in writing within ~~3~~ **6** months from the date on which the flight was performed or was scheduled to be performed. ~~Beyond these three months, and subject to national law, the passenger retains the right of access to the judicial system and to out-of-court resolution.~~ Within 7 days of the filing of the claim, the air carrier shall confirm the receipt of the claim. Within two months of the filing of the claim, the air carrier shall provide a full justified answer to the passenger as well as the relevant contact details of out-of-court redress entities, including postal address, phone number, website and e-mail address. ~~In case the air carrier does not provide the full answer within these two months, it is deemed to agree with the passenger's claim.~~
3. **Following the procedure referred to in paragraph 2** and subject to **periods of limitation in accordance with** national law, the passenger retains the right of access to the judicial system and to out-of-court dispute resolution. **To this end**, Member States shall ensure that air passengers can submit disputes with air carriers concerning rights and obligations established by this Regulation to independent, effective and efficient out-of-court redress mechanisms. ~~For disputes within the scope of Directive 2013/11/EU, only Directive 2013/11/EU shall apply.~~ **For the purposes of this paragraph, Directive 2013/11/EU shall apply mutatis mutandis.**
4. [deleted]
5. [deleted]
6. The procedure **for out-of-court dispute resolution** under paragraph ~~2~~ **3** and the passenger's participation to such a procedure shall ~~not preclude his possibility of seeking~~ **be without prejudice to his right to seek** redress through court proceedings.
7. ~~Claims under this Regulation shall become barred by the statute of limitations one year after the carriage was performed and, if the carriage was not performed, from the day on which it was to be performed.~~

## Article 16b

### Cooperation between Member States and the Commission

1. The Commission shall support dialogue and exchange of information between ~~Member States~~ the National Enforcement Bodies concerning the application of this Regulation. ~~through the Committee referred to in Article 16e.~~
- 1a. ~~To this end,~~ **At the request of the Commission, the** National Enforcement Bodies shall ~~regularly~~ send relevant information concerning the national interpretation and application of this Regulation to the Commission, ~~which will make this information available in electronic form to other National Enforcement Bodies,~~ **including where appropriate by national courts.**
2. ~~National Enforcement Bodies shall provide annually a report on their activities to the Commission, at the latest at the end of April of the following calendar year. The report shall include information on the enforcement action and its outcome, including on sanctions taken and on cooperation with out of court dispute resolution bodies. The Commission may decide on the precise content of this report via implementing acts. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 16e(2).~~
3. [deleted]
4. At the request of a Member State, or on its own initiative, the Commission shall examine cases where differences in the application and enforcement of any of the provisions of this Regulation arise and particularly concerning the interpretation of extraordinary circumstances. To this end, the Commission may issue a recommendation after consultation ~~of~~ **with the National Enforcement Bodies.** ~~Committee referred to in Article 16e(1), with a view to promoting a common approach.~~

5. In case of a specific suspected practice by one or several air carriers simultaneously in several Member States, the Commission may request the Member States concerned to investigate this **specific** practice and to report their findings to the Commission within ~~4~~ **6** months of the request. **The Commission shall support the exchange of information and the coordination of the respective National Enforcement Bodies with regard to the issue concerned.**

#### Article 16c

##### Committee procedure

- ~~1. The Commission shall be assisted by the Passenger Rights Committee, composed of two representatives of each Member State and of which at least one will represent a National Enforcement Body. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.~~
- ~~2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.~~

#### Article 17

##### Report

The Commission shall report to the European Parliament and the Council by 1 January **2017** on the operation and the results of this Regulation. The Commission shall also include information on the enhanced protection of air passengers on flights from third countries operated by non-Community carriers, in the context of international air transport agreements.

~~The report shall be accompanied where necessary by legislative proposals.~~

#### Article 18a

##### Transitional measures

**Non-exhaustive list of circumstances considered as extraordinary circumstances and of circumstances not considered as extraordinary for the purposes of this Regulation**

1. The following circumstances shall be considered as extraordinary:
  - i. natural and environmental disasters ~~incompatible with~~ **which could affect** the safe operation of the flight;
  - ii. unexpected flight safety shortcomings **stemming from technical defects** for which:
    - the ~~airline~~ **operating air carrier** can deliver proof that maintenance has been executed in accordance with the up-to-date approved maintenance programme, by an appropriate qualified maintenance organisation and using the prescribed maintenance data as specified in in accordance with Annex IV of Regulation (EC) No 216/2008, **or for third country carriers with ICAO Annex 6**;
    - in accordance with Regulation (EC) No 216/2008, **or for third country carriers with ICAO Annex 6**, the Minimum Equipment List (MEL) prescribes an immediate termination action of the flight operation; and
    - first discovery is made during the flight from the pre-flight check until the engine shutdown at destination;
  - ii(a). **a hidden** manufacturing defect revealed by the manufacturer or a competent authority and which impinges on flight safety;
  - iii. security risks, acts of sabotage or unlawful acts, incompatible with the safe operation of the flight;
  - iii(b). war or political instability where **the competent** national public authorities **of the country of departure** advise against travel;

- iv. health risks or medical emergencies (such as serious illness) **discovered at short notice before flight takeoff, or** necessitating the interruption or deviation of the flight;
- v. air traffic management restrictions or closure of airspace;
- v(c) unscheduled closure of an airport;
- vi. meteorological conditions incompatible with the safe operation of the flight or resulting in capacity restrictions at the airport of departure or of arrival; and
- vii. **unannounced** labour disputes **at the operating air carrier** at essential service providers such as airports and Air Navigation Service Providers;
- viii. disruptive passenger behaviour endangering the safe operation of the flight **where the operating air carrier has not contributed to such behaviour**;
- ix. collision of birds with the aircraft during a flight which may cause damage that requires immediate compulsory checks and possible repair;
- x. damage to the aircraft caused by third parties for whom the air carrier, **in the absence of contractual relations**, is not responsible on the ground prior to departure of the flight and requiring immediate assessment or repair.
- xi. damage to the aircraft which could affect the safety of the flight or the integrity of the aircraft and requires immediate assessment and/or repair and is caused by ~~other~~ meteorological events (for example: lightning strikes, hailstones, thunderstorms, severe turbulence etc);

2. The following circumstances shall not be considered as extraordinary:

- i. technical problems identified during the scheduled maintenance or during the pre-flight check of the aircraft where the part or system in question was scheduled to be checked;
- i.(a) technical problems which arise due to failure to correctly carry out such scheduled maintenance or pre-flight check;

- i.(b) technical problems revealed by SAFA (Safety Inspection of Foreign Aircraft) aircraft inspections which reveal technical issues requiring immediate assessment and/or aircraft repair and**
- ii. unavailability of flight crew or cabin crew where this occurs as a result of poor operational planning by the air carrier.

**COUNCIL REGULATION (EC) No 2027/97 of 9 October 1997 on air carrier liability in  
the event of accidents**

**Article 1**

This Regulation implements the relevant provisions of the Montreal Convention in respect of the carriage of passengers and their baggage by air and lays down certain supplementary provisions. It also extends the application of these provisions to carriage by air within a single Member State.

**Article 2**

1. For the purpose of this Regulation:

- (a) ‘air carrier’ shall mean an air transport undertaking with a valid operating licence;
- (b) ‘Community air carrier’ shall mean an air carrier with a valid operating licence granted by a Member State in accordance with the provisions of Regulation (EC) No 1008/2008;
- (c) ‘person entitled to compensation’ shall mean a passenger or any person entitled to claim in respect of that passenger, in accordance with applicable law;
- (d) ‘baggage’, unless otherwise specified, shall mean both checked and unchecked baggage with the meaning of Article 17(4) of the Montreal Convention;
- (e) ‘SDR’ shall mean a special drawing right as defined by the International Monetary Fund;
- (f) ‘Warsaw Convention’ shall mean the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on 12 October 1929, or the Warsaw Convention as amended at The Hague on 28 September 1955 and the Convention supplementary to the Warsaw Convention done at Guadalajara on 18 September 1961;

(g) 'Montreal Convention' shall mean the 'Convention for the Unification of Certain Rules Relating to International Carriage by Air', signed at Montreal on 28 May 1999.

2. Concepts contained in this Regulation which are not defined in paragraph 1 shall be equivalent to those used in the Montreal Convention.

### **Article 3**

The liability of a Community air carrier in respect of passengers and their baggage shall be governed by all provisions of the Montreal Convention relevant to such liability. This includes the liability of a Community air carrier concerning a passenger's **or baggage** delay.

2. *[moved to Article 6]*

### **Article 3a**

The supplementary sum which, in accordance with Article 22(2) of the Montreal Convention, and without prejudice to Article 6a, may be demanded by a Community air carrier when a passenger makes a special declaration of interest in delivery of their baggage at destination, shall be based on a tariff which is related to the additional costs involved in transporting and insuring the baggage concerned over and above those for baggage valued at or below the liability limit. The tariff shall be made available to passengers on request.

### **(Article 4)**

*[deleted by amending Regulation (EC) 889/2002]*

### **Article 5**

1. In case of death ~~and or serious~~ **injury of passengers**, the Community air carrier shall without delay, and in any event not later than fifteen days after the identity of the natural person entitled to compensation has been established, make such advance payments as may be required to meet immediate economic needs on a basis proportional to the hardship suffered.

2. Without prejudice to paragraph 1, an advance payment in case of death ~~or injury~~ of passengers shall not be less than 16% **per passenger**, of the limits of liability under Article 21(1) of the Montreal Convention ~~in force at the time when the accident occurred~~ and in line with the decisions by the International Civil Aviation Organization to review the limits of liability pursuant to Article 24(2) of the Montreal Convention.
3. An advance payment shall not constitute recognition of liability and may be offset against any subsequent sums paid on the basis of Community air carrier liability, but is not returnable, except in the cases prescribed in Article 20 of the Montreal Convention or where the person who received the advance payment was not the person entitled to compensation.

### Article 6

1. All air carriers shall, when selling carriage by air in the ~~Community~~ **Union**, ensure that a summary of the main provisions governing liability for passengers and their baggage, including deadlines for filing an action for compensation and the possibility of making a special declaration for baggage, is made available to passengers at all points of sale, including sale by telephone and via the Internet. In order to comply with this information requirement, Community air carriers shall use the notice contained in the Annex. Such summary or notice cannot be used as a basis for a claim for compensation, nor to interpret the provisions of this Regulation or the Montreal Convention. The Community air carriers **shall adjust the amounts of compensation limit of liability** mentioned in the notice and contained in the Annex ~~are automatically adjusted~~ in line with the decisions by the International Civil Aviation Organization pursuant to Article 24(2) of the Montreal Convention.
2. In addition to the information requirements set out in paragraph 1, all air carriers shall in respect of carriage by air provided or purchased in the ~~Community~~ **Union**, provide each passenger with a written indication of:
  - the applicable limit for that flight on the carrier's liability in respect of death or injury, if such a limit exists,

- the applicable limit for that flight on the carrier's liability in respect of destruction, loss of or damage to baggage and a warning that baggage greater in value than this figure should be brought to the airline's attention at check-in or fully insured by the passenger prior to travel;
  - the applicable limit for that flight on the carrier's liability for damage occasioned by delay.
3. In the case of all carriage performed by Community air carriers, the limits indicated in accordance with the information requirements of paragraphs 1 and 2 shall be those established by this Regulation unless the Community air carrier applies higher limits by way of voluntary undertaking. In the case of all carriage performed by non-Community air carriers, paragraphs 1 and 2 shall apply only in relation to carriage to, from or within the ~~Community~~ **Union**.
4. All air carriers shall provide at the airports and points of sale situated on the territory of a Member State to which the Treaty applies and on their websites a form which allows the passenger to immediately file a complaint about damaged, delayed or lost baggage. The date of submission of such a complaint shall be considered by the air carrier as the filing date of the complaint pursuant to Article 31(2) and 31(3) of the Montreal Convention, even if the air carrier requests further information at a later date. This possibility shall not affect the right of the passenger to submit a complaint via other means within the deadlines given by the Montreal Convention. [*moved from Article 3(2)*]

#### **Article 6a**

1. Whenever carrying checked wheelchairs or other mobility equipment or assistive devices, the Community air carrier, **its servants or agents** and, ~~where appropriate, its agents~~ ~~groundhandling service providers~~ shall offer each disabled person or person with reduced mobility as defined in Article 2(a) of Regulation (EC) No 1107/2006 the option to make a special declaration of interest pursuant to Article 22(2) of the Montreal Convention, at booking and at the latest when the equipment is handed to the carrier. The special declaration is to be offered free of charge if the Community air carrier so decides.

2. [deleted]
3. In case of destruction, loss, damage or delay in the carriage of checked wheelchairs or other mobility equipment or assistive devices, the Community air carrier shall be liable to pay a sum not exceeding the sum declared by the passenger; unless it proves that the sum claimed is greater than the person's actual interest in delivery at destination.

### **Article 6b**

~~1. The Member States shall designate a body or bodies that shall ensure that:~~

~~the terms and conditions of air transport contracts of Community air carriers are compliant with this Regulation;~~

~~Community air carriers, for which an operating licence has been issued by their national authority comply with Articles 6 and 6a, and the terms and conditions of their air transport contracts are compliant with fulfil the requirements of this Regulation.~~

~~2. [deleted]~~

~~3. The sanctions laid down by Member States for infringements of this Regulation shall be effective, proportionate and dissuasive. In particular, such sanctions shall be sufficient to provide air carriers with a financial incentive to comply consistently with this Regulation.~~

~~4. Member States shall inform the Commission of the body or bodies designated in accordance with this Article.~~

**Article 6c**

[deleted]

**Article 6d**

1. Without prejudice to Regulation (EC) No 1008/2008, Community air carriers shall clearly indicate, at booking and at the check-in desks (including at self-service check-in machines), the maximum baggage allowance passengers are permitted to carry within the cabin and hold of the aircraft on each of the flights included within a passenger's reservation. This information shall also indicate at what conditions fragile and valuable items, such as musical instruments, **sports equipment and children's pushchairs** shall be transported in the passenger cabin or in the cargo hold of the aircraft. Where additional charges are applied for the carriage of baggage air carriers shall clearly indicate details of those charges at booking and on request at the airport.
  - 1a. Without prejudice to Regulation (EC) No 1107/2006, carry-on baggage allowances may be expressed in maximum dimensions and/or maximum weights of the total carry-on baggage allowance per passenger, but without a restriction to a specific number of items of baggage.
2. Where specific reasons, such as safety reasons or a change of the aircraft type since the booking was made, preclude the carriage in the cabin of items included in the carry-on baggage allowance, the air carrier may carry them in the hold of the aircraft, but at no extra cost to the passenger.
3. This Article does not affect the restrictions on carry-on baggage established by EU and international security and safety rules such as Regulations (EC) No 300/2008, (EC) No 820/2008 and (EC) No 216/2008.

**Article 6e**

[deleted]

## Article 7

The Commission shall report to the European Parliament and the Council by 1 January 2017 on the operation and the results of this Regulation.

It shall apply to claims arising from contracts concluded after [the first day of the month] following its entry into force.

**AIR CARRIER LIABILITY FOR PASSENGERS AND THEIR BAGGAGE**

This information notice summarises the liability rules applied by Community air carriers as required by EU legislation and the Montreal Convention.

**COMPENSATION IN THE CASE OF DEATH OR INJURY**

There are no financial limits to the liability for passenger injury or death caused by an accident on board the aircraft or during any of the operations of embarkation and disembarkation. For damages up to 113,100 SDRs (approximate amount in local currency and adapted in accordance to the decisions by the International Civil Aviation Organization pursuant to Article 24(2) of the Montreal Convention), the **air** carrier cannot exclude or limit its liability. Above that amount, the air carrier is not liable if it proves that it was not negligent or otherwise at fault, or that the damage was solely due to the negligence or other fault of a third party.

**ADVANCE PAYMENTS**

If a passenger is killed or injured the air carrier must make an advance payment, to cover immediate economic needs, within 15 days from the identification of the person entitled to compensation. In the event of death ~~or injury~~, this advance payment shall not be less than the approximate amount in local currency of 16% **limit** of the liability for death or injury.

**PASSENGER DELAYS**

In case of passenger delay, the air carrier is liable for damage unless it took all reasonable measures to avoid the damage or it was impossible to take such measures. The liability for passenger delay is limited to 4 694 SDRs (approximate amount in local currency and adapted in accordance to the decisions by the International Civil Aviation Organization pursuant to Article 24(2) of the Montreal Convention).

## BAGGAGE LOSS, DAMAGE OR DELAY

In case of baggage loss, damage or delay, the air carrier is liable for damage up to 1 113 SDRs (approximate amount in local currency and adapted in accordance to the decisions by the International Civil Aviation Organization pursuant to Article 24(2) of the Montreal Convention), the compensation limit being applicable per passenger and not per piece of checked baggage, unless a higher limit has been agreed upon between the carrier and the passenger through a special declaration of interest. For damaged or lost baggage, the air carrier is not liable if the damage or loss is caused by an inherent quality or defect of the baggage. For delayed baggage, the air carrier shall not be liable when it has taken all reasonable measures to avoid the damage resulting from the delay of the baggage or when it was impossible to take such measures. In case of hand luggage, including personal items, the airline is only liable if the damage has resulted from its fault.

## HIGHER LIMITS FOR BAGGAGE

A passenger can benefit from a higher liability limit by making a special declaration at the latest at check-in and by paying a supplementary fee if so required. Such supplementary fee shall be based on a tariff which is related to the additional costs involved in transporting and insuring the baggage concerned over and above the liability limit of 1 131 SDRs (approximate amount in local currency and adapted in accordance to the decisions by the International Civil Aviation Organization pursuant to Article 24(2) of the Montreal Convention). The tariff shall be made available to passengers upon request.

## TIME LIMIT FOR COMPLAINTS ON BAGGAGE

If the baggage is damaged, delayed, lost or destroyed, the passenger must in all cases write and complain to the air carrier as soon as possible. A time limit to e complain of 7 days applies in case the baggage was damaged and 21 days in case it was delayed, in both cases from the date on which the baggage was placed at the passenger's disposal. In order to easily meet these deadlines, the air carrier must offer passengers the possibility to fill in a complaint form at the airport. Such complaint form must be accepted by the air carrier at the airport as a complaint. **The date of submission of such a complaint shall be considered by the air carrier as the filing date of the complaint pursuant to Article 31(2) and 31(3) of the Montreal Convention, even if the air carrier requests further information at a later date.**

#### LIABILITY OF CONTRACTING AND ACTUAL CARRIERS

If the air carrier actually performing the flight is not the same as the contracting air carrier, the passenger has the right to address a complaint or to make a claim for damages against either. This includes cases where a special declaration of interest at delivery has been agreed with the actual carrier.

#### TIME LIMIT FOR ACTION

Any action in court to claim damages must be brought within two years from the date of arrival of the aircraft, or from the date on which the aircraft ought to have arrived.

#### BASIS FOR THE INFORMATION

The basis for the rules described above is the Montreal Convention of 28 May 1999, which is implemented in the Community by Regulation (EC) No 2027/97 (as amended by Regulation (EC) No 889/2002 and by Regulation (EU) No xxx and national legislation of the Member States.

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