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NOTE

From:	General Secretariat of the Council
To:	Delegations
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Subject:	Proposal for a regulation 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 - Compromise proposed by the Polish Presidency on Regulation (EC) No 2027/97

In view of the Working Party on Aviation of 19 May 2025, delegations will find, in Annex, a revised compromise proposed by the Presidency on Regulation 2027/97.

Changes compared to the previous version are highlighted in **bold underlined** and ~~striketrough~~.

Delegations are requested to send their comments, if any, in writing to avia-mar@consilium.europa.eu by 20 May 2025.

Article 2

Regulation (EC) No 2027/97 is amended as follows:

-1. Paragraph 1 of Article 2 is amended as follows:

(a) Point (b) is replaced by the following:

"Union 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;¹

(b) Point (h) is added:

'(h) 'mobility equipment' shall mean any equipment that is intended to assist persons with disabilities and persons with reduced mobility with their mobility as defined in Article 2(a) of Regulation (EC) No 1107/2006².

(c) Point (i) is added:

'(i) 'recognised assistance dog' means a dog specifically trained to increase independence and self-determination of persons with disabilities, officially recognised in accordance with applicable national rules, where such rules exist.'

(d) Point (j) is added:

'(j) 'accessible format' means a format that the person with disabilities or with reduced mobility¹ an access to any relevant information, including allowing such person to have access as feasibly and comfortably as a person without any of the impairments or disabilities, and which meets accessibility requirements defined in accordance with the applicable legislation such as Annex I to Directive (EU) 2019/882.'

¹ Alignment of definition and terminology throughout the text will be part of the legal-linguistic revision.

² Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air, OJ L 204, 26.7.2006, p.1.

(e) Point (k) is added:

‘(k) ‘intermediary’ means any natural or legal person, other than a carrier, who is acting, for purposes relating to their trade, business or profession, on behalf of a carrier or a passenger for the conclusion of a transport contract;’

(f) Point (l) is added:

‘(l) ‘personal item’ means a piece of unchecked baggage, **constituting a necessary aspect of the carriage of passengers**, which complies with security and safety requirements, with ~~minimum~~ **maximum** dimensions of 40x30x15cm or on condition that it fits under the front seat.’

(g) Point (m) is added:

‘(m) ‘hand baggage’ means a piece of unchecked baggage which is not a personal item and which complies with security and safety requirements, with a total sum of its height, width and depth not exceeding 115cm, with each of those dimensions not exceeding 56cm and with maximum weight of 10kg.’

1a. The following sentence is added to Article 3(1):

‘This includes the liability of a Union air carrier concerning passenger or baggage delay.’

1. Paragraph 2 of Article 3 is deleted.

1a. Article 3a is replaced b:

‘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 Union 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 reflects the additional costs of transport and insurance for baggage valued above the liability limit. The tariff shall be made available to passengers on request.’

1b. Paragraph 1 of Article 5 is replaced by the following:

'1. In case of death or injury of passengers, the Union 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. Paragraph 2 of Article 5 is replaced by the following:

'2. Without prejudice to paragraph 1, an advance payment in case of death of passengers, shall not be less than 16% per passenger, of the minimum amount of liability set under Article 21(1) of the Montreal Convention and by the International Civil Aviation Organization pursuant to Article 24(2) of the Montreal Convention.

3. [...]

3a. The following indent is added at the end of Article 6(2):

- an information to disabled person or person with reduced mobility on their right to make, free of charge, a special declaration of interest on the value of their mobility equipments.

3b. The following paragraphs are added to Article 6:

'4. All air carriers and intermediaries shall, on their mobile applications and on their websites, provide a form which allows the passenger to immediately file an online or an on-paper complaint about damaged, delayed or lost baggage. The date of submission of the form shall be considered by the air carrier or the intermediary as the filing date of the complaint pursuant to Article 31(2) and 31(3) of the Montreal Convention, even if the air carrier or the intermediary requests further information at a later date. This paragraph shall not affect the right of the passenger to submit a complaint via other means within the deadlines given by the Montreal Convention.

5. All information provided pursuant to this Article shall be in accessible format.

6. All information obligations pursuant to this Article shall also apply to intermediaries, when selling carriage by air to, from of within the Union.'

4. The following Articles are inserted:

'Article 6a

1. Whenever carrying checked in mobility equipment or recognised assistance dogs, the Union air carrier shall ensure that each disabled person or person with reduced mobility is offered the option to make, in accessible format, a special declaration of interest pursuant to Article 22(2) of the Montreal Convention, at booking, at the same time as the notification pursuant to Article 6 of Regulation (EC) No 1107/2006, and at the latest when the equipment is handed over to the air carrier and, in the case of recognised assistance dog, at boarding. In such case, the Union air carrier shall not request the passengers concerned an additionnal fee. When the equipment is destroyed, lost, damaged or delayed, or in case of death or injury of a recognised assistance dog the Union air carrier may require from the disabled person or person with reduced mobility to support the amount of the interest in the declaration with a proof of the cost of replacement, including temporary replacement, of the mobility equipment or the recognised assistance dog.

When selling carriage by air on behalf of an Union air carrier, intermediaries shall offer the passengers concerned the option to make, in accessible format, a special declaration of interest pursuant to Article 22(2) of the Montreal Convention, at booking and at the same time as the notification pursuant to Article 6 of Regulation (EC) No 1107/2006. This special declaration of interest shall be given under the same conditions as set out in the previous paragraph. The intermediary shall transmit the declaration to the Union air carrier as soon as possible.

2. [...]

3. In case of destruction, loss, damage or delay in the carriage of checked mobility equipment or in case of death or injury of a recognised assistance dog, the Union 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.

4. Where paragraph 3 applies, and without prejudice to Articles 7, 8 and Annex I fourth subparagraph of Regulation 1107/2006, the Union air carriers shall rapidly make all reasonable efforts to provide immediately needed temporary replacements for checked mobility equipment and temporary solutions in replacement of recognised assistance dogs. The disabled person or the person with reduced mobility shall be permitted to keep that temporary replacement free of charge until the compensation referred to in paragraph 3 has

been paid or until the Union air carriers have compensated the legal or natural persons for the costs of ~~other~~ **needed** temporary replacement of mobility equipment or of a recognised assistance dogs.

5. Compliance with paragraph 4 shall not constitute a recognition of liability of the Union air carrier.

Article 6b

[...]

Article 6c

[...]

Article 6d

1. Without prejudice to Regulation (EC) No 1008/2008, when selling carriage by air to, from ~~or~~ within the Union, all air carriers and intermediaries, shall clearly indicate, in accessible format, at booking, as well as on their mobile applications and on their website, and also, for air carriers, make available on request at the airport (including at self-service check-in machines):

- the maximum baggage allowance in terms of dimension and weight that passengers are permitted to carry within the cabin, and in the hold of the aircraft for the respective fare class for each of the flights included within a passenger's reservation,
- any restrictions on the number of items that would be applied within a given maximum baggage allowance,
- the conditions under which fragile or valuable items, such as musical instruments, sports equipment, children's pushchairs, infant seats shall be transported in the passenger cabin or in the cargo hold of the aircraft,
- without prejudice to paragraph 1a, potential additional charges applied for the carriage of checked and unchecked baggage, including musical instruments referred in Article 6e,

- the specific reasons which may preclude the carriage in the cabin of unchecked baggage pursuant to paragraph 2.

1a. Without prejudice to Regulation (EC) No 1107/2006, ~~Union~~ air carriers shall permit passengers to carry a personal item in the cabin and at no extra cost.

1b. Without prejudice to Regulation (EC) No 1107/2006, ~~Union~~ air carriers shall permit passengers to carry hand baggage in the cabin.

2. Where specific reasons, such as safety reasons, capacity reasons or a change of the aircraft type since the reservation was made, preclude the carriage in the cabin of a personal item referred in paragraph 1a or hand baggage referred in paragraph 1b, the air carrier may carry such unchecked baggage in the hold of the aircraft, but at no extra cost to the passenger.

2a. Paragraphs 1a, 1b and 2 shall apply to all flights operated by Union air carriers and to all flights departing from the Union.

However, paragraph 1b shall not apply to flights operated by air carriers with aircraft types where the hand baggage does not fit in the overhead compartments.

3. This Article does not affect the restrictions on unchecked baggage established by EU and international security and safety rules such as Regulation (EC) No 300/2008 and Commission Implementing Regulation (EU) 2015/1998.

Article 6e

1. A Union air carrier shall permit a passenger to carry a musical instrument in the passenger cabin of an aircraft subject to applicable security and safety rules and the technical specifications and constraints of the aircraft concerned. Musical instruments shall be accepted for carriage within an aircraft cabin provided such instruments can be stowed safely in a suitable baggage compartment within the cabin or under an appropriate passenger seat. An air carrier may determine that a musical instrument shall form part of a passenger's unchecked baggage allowance and not be carried in addition to that allowance.'

2. Subject to applicable security and safety rules, where a musical instrument is too large to be stowed safely in a suitable baggage compartment within the cabin or under an appropriate passenger seat, an air carrier may request the payment a second fare where such musical instruments are carried as unchecked baggage on a second seat. Furthermore, passengers may be required to select and purchase adjacent seats for both the passenger and the musical instrument, one always being a window seat for the musical instrument. Where available and if requested, musical instruments shall be carried in a heated part of an aircraft cargo hold subject to applicable safety rules, space constraints and the technical specifications of the aircraft concerned.

5. Article 7 is replaced by the following:

‘Article 7

The Commission shall report to the European Parliament and the Council by [date to be indicated at a later stage] on the operation and the results of this Regulation.’

6. The Annex to Regulation (EC) No 2027/97 is replaced by Annex 2 to the present Regulation.