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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EC) No 261/2004, (EC) No 1107/2006, (EU) No 1177/20, (EU) No 181/2011 and (EU) 2021/782 as regards enforcement of passenger rights in the Union - Preparation for the second trilogue

I. INTRODUCTION

1. On 29 November 2023, the Commission submitted to the Council and the European Parliament a proposal for a Regulation of the European Parliament and of the Council amending Regulations (EC) No 261/2004, (EC) No 1107/2006, (EU) No 1177/20, (EU) No 181/2011 and (EU) 2021/782 as regards enforcement of passenger rights in the Union. The proposal is based on Article 91(1) and Article 100(2) of the Treaty on the Functioning of the European Union and is negotiated under the ordinary legislative procedure.

2. The proposal aims at addressing the shortcomings in the implementation and enforcement of passenger rights through ensuring effective and efficient enforcement of passenger rights in all transport modes, ensuring more effective complaint handling, and in case of airline tickets booked via an intermediary, regulating the right to reimbursement when the flight is not carried out as planned.

3. The Council adopted its general approach on 5 December 2024[1]. Work in the Council focused on the one hand on clarifying the provisions, and on the other hand, on reducing the administrative burden. In the context of the latter, the Council suggested, among others, the deletion of provisions on risk-based approach to the monitoring of compliance. The Council also expressed a preference towards postponing any decision on the introduction of service quality standards in all transport modes until a thorough assessment of their implementation in rail transport, as well as more general cost-benefit ratio is available.

4. The European Parliament appointed the file to the Committee on Transport and Tourism (TRAN) and designated Mr Matteo Ricci (S&D, IT) as the rapporteur. The Parliament confirmed the Committee decision to enter into interinstitutional negotiations[2] at the plenary session on 9 July 2025. The Parliament advocates, among others, for a greater harmonisation across different modes of provisions related to complaint handling processes and on the designation and tasks of national enforcement bodies.

5. The Parliament also used its enforcement mandate as a vehicle to update its 2014 position on the Commission'sproposal for a revision of Regulation (EC) No 261/2004 and Regulation (EC) No 2027/97 (the air passenger rights proposal). The Council adopted its position on the air passenger rights proposal at first reading on 29 September 2025.[3] On 21 January 2026, the European Parliament adopted amendments on the Council's first reading position. The air passenger rights revision is currently being negotiated at second reading and has entered into the conciliation phase of negotiations.

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1 16529/24.

2 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.

3 10015/25.

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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 air passenger rights and the multimodal passenger rights files. During that trilogue, it was agreed to give an overall mandate to the technical level to negotiate in clusters, based on the thematic approach.

7. The amendments have been organised in 7 clusters: intermediaries, persons with disabilities and reduced mobility (PRMs), national enforcement bodies (NEBs), common form and complaint handling, information for passengers, service quality standards (SQS), and procedural issues and other provisions. The first of the clusters is relevant only for the amendments to Regulation (EC) 261/2004 on air passenger rights, while the other clusters contain provisions from all five Regulations covered by the amending Regulation.

8. In preparation of the second trilogue, 7 interinstitutional technical meetings (ITMs) have taken place. All provisions have been examined with varying levels of convergence in positions. In view of interlinkages with the ongoing negotiations of the air passenger rights revision, the discussions in the ITMs focused primarily on Article 1 (amendments to Regulation (EC) 261/2004) and Article 2 (amendments to Regulation (EC) 1107/2006) of the enforcement proposal. However, it is understood that once horizontal provisions are agreed for air transport, then, they will be aligned in other modes, while ensuring necessary sector-related adjustments.

9. A number of provisions in Article 1, labelled by the Parliament as “for AirPax negotiations”, were excluded from negotiations, and it is understood that they are being discussed in the context of the conciliation negotiations on air passenger rights.

III. PREPARATION FOR THE SECOND TRILOGUE

10. The second trilogue is scheduled for 18 May 2026 and will address the outstanding issues in the cluster on NEBs, those provisions of the cluster on common form and complaint handling that concern complaint handling, as well as clusters on intermediaries, SQS, and PRMs.

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11. Building on the Council's general approach, elements of the Council's first reading position on the air passenger rights, preliminary agreements reached in ITMs, as well as feedback from delegations, the Presidency prepared a revised mandate on the provisions to be discussed during the upcoming trilogue. The parameters of that mandate are set out below, while concrete drafting proposals are outlined in the Addendum to this note.

12. A number of politically complex issues require further technical work, and progress on certain elements is necessarily linked to the outcome of the parallel negotiations on air passenger rights. Alignment between the two files must be ensured before those specific provisions can be finalised.

13. Nevertheless, the Presidency expects the trilogue to deliver meaningful progress. The aim is to close, or substantially advance, a number of important topics through balanced compromises with the European Parliament, and to have a guiding political discussion on the issues where further work would still be needed. In the negotiation, in order to achieve a balanced result, the Presidency will use any flexibility granted on the condition that the spirit of compromise is also matched by the Parliament.

14. With that in mind, the Presidency proposes a mandate which takes into account the progress made on both this file and the air passenger rights negotiations. The revised mandate remains firmly anchored in the priorities that delegations have expressed throughout this process.

National enforcement bodies

15. During the trilogue the co-legislators will confirm a preliminary agreement reached in ITMs on the provisions related to the **designation of NEBs** (*lines 64m to 64r*), as well as **exchange of information and cross-border coordination between NEBs** (*lines 64am to 64ao*).

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16. On the **enforcement tasks** (*lines 64t to 64ac*), the Presidency aims at keeping as much flexibility for the NEBs as possible, by maintaining a focus on their essential tasks – the monitoring. Conscious of the delegations' reservations concerning the risk based approach to monitoring of compliance (*lines 73 to 80*), the Presidency included a paragraph on the monitoring task instead of the article on risk based approach. The Parliament has shown openness towards this approach during the ITMs, though it insisted on specifying further what monitoring activities would entail, as well as on ensuring regular and frequent monitoring cycles. The Presidency therefore suggests showing some flexibility on the frequency of NEB reporting.

17. The Council's position on **cooperation between Member States and the Commission** (*lines 116 to119b*) is well-known to delegations, with the corresponding provisions having been consistently deleted across both the general approach and the first reading position on air passenger rights. The Parliament's position, by contrast, not only supports the Commission's original proposal but goes considerably further, adding an empowerment for the Commission to support dialogue, adopt guidelines or propose amendments, as well as introducing a new Article on inspections of national enforcement bodies. The Presidency is fully aware of the sensitivities that this issue carries for delegations, and wishes to be clear that it will not accept any provisions that introduce new obligations or administrative burden on national enforcement bodies.

    With that firm boundary in mind, and with a view to finding a workable landing zone with the Parliament, the Presidency presented a new draft Article on "Information about suspected practices of non-compliance" to delegations. Following the preferences expressed by delegations, the Presidency proposes to formalise the Commission's right to alert NEBs about suspected practices of non-compliance, while protecting the independence of NEBs in line with the principle of subsidiarity.

18. On **penalties** (*lines 88o to 88q*), the Presidency presented a compromise to the Parliament that accommodates the diversity of legal systems across Member States, including the possibility that authorities other than NEBs may hold competence to investigate infringements and impose penalties in certain jurisdictions. The Parliament has indicated a favourable disposition towards this approach.

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19. When it comes to **information on alternative dispute resolution – ADR** (*lines 86 to 88b*), the Presidency is leaning towards a deletion of the dedicated Article, on the grounds that equivalent provisions are already captured within the Article on complaint handling by NEBs (Article 16b). Should that deletion be confirmed, the Presidency suggests incorporating the reference to the interactive tool with a list of notified ADR entities in Article 16b. The Presidency also intends to firmly defend the non-binding character of ADR procedures.

Service Quality Standards

20. On the issue of **SQS** (*lines 60 to 64a and Annex I*), the Presidency will convey to the Parliament the position expressed by a large majority of Member States, that there should be a thorough assessment of functioning of SQS in rail passenger transport before any decision on extending the provisions to other modes can be taken.

Complaint handling

21. As regards **complaints to air carriers and intermediaries** (*lines 64c to 64l*), a provisional agreement has been reached with the Parliament on the applicable procedures. Pending alignment with the air passenger rights negotiations, there is an outstanding issue of deadlines.

22. When it comes to **complaints to NEBs and other bodies** (*lines 64ae to 64ak*), the handling of individual complaints by such bodies remains one of the Parliament's top priorities in this file. The Presidency intends to remain as close as possible to the compromise text discussed previously with Member States, while suggesting some editorial changes to improve, where necessary, the clarity and readability of the provisions.

Additionally, as regards the identification of the competent bodies to handle complaints in cases involving cross-border or third-country elements in air passenger transport, should the Parliament wish to regulate the issue, the Presidency intends to keep the current operational regime, set out in the so-called NEB-NEB agreement, as the basis for the Council's position at the trilogue.

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Intermediaries

23. There is a reasonable convergence of views between co-legislators on the **definitions** (*lines 38b, 38c and 39*), **legal representatives** (*lines 71a to 71f*) and **oversight mechanism of third country intermediaries** (*lines 88h and 88i*), as well as **transfer of information by the intermediary** (*lines 52 to 58a,* with an exception of *line 54a* linked to the issue of intermediation fees). Those provisions seem likely to be agreed in the trilogue.

24. However, on **intermediation fees** (*lines 48, 49, 50ao and 54a*), the Parliament's position diverges significantly from that of the Council. The Parliament requests that, in cases of disruption, passengers be reimbursed the full cost of the air ticket, including any intermediation fees paid. The Council, on the contrary, argues that the intermediary should be able to retain a certain level of intermediation fees in case of ticket reimbursement due to travel disruption, provided that the passenger is made aware at the time of the booking of the intermediation fees applied and their reimbursable amount. The Presidency will remain firm on the Council's position as agreed in the general approach, whereby the contractual obligation of an intermediary should be contingent upon, and exhausted by, the performance of its core service, namely the booking of a ticket or related services, and providing the passenger with information on the intermediation fees.

Persons with reduced mobility or disability

25. The trilogue is expected to confirm a provisional agreement on the definitions of **recognised assistance dog** (*line 39a*) and **accessible format** (*line 39d*).

26. On the question of whether a **person accompanying a passenger with reduced mobility or disability should travel free of charge** in air transport (*lines 93 to 93a*), where such accompaniment is required by the carrier, the Presidency suggests that the accompanying person should be exempted from paying the air fare itself, while their entitlement should not extend beyond that scope. Such approach is in line with the Council's broader commitment to accessibility and the rights of persons with reduced mobility, but at the same time it takes into account the specificity of the air transport and the complexity of charges and taxes applicable to plane tickets, and respects national competences in terms of shaping fiscal policies. The Presidency therefore considers this a balanced and proportionate approach.

IV. CONCLUSION

27. The Permanent Representatives Committee is invited to provide the Presidency with a mandate for the second trilogue planned for 18 May 2026, based on the main issues outlined in point III above and the extract of the 4-column table contained in the addendum to this note.

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