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From:	General Secretariat of the Council
To:	Council
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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 - Political agreement

I. **INTRODUCTION**

1. The Union legal framework for air passenger's rights is complex, making it challenging to understand and enforce effectively. Air passenger's rights in the Union are specified in different pieces of Union legislation. In particular, Regulation (EC) No 261/2004 establishes the rights of passengers in case of denied boarding, cancellation and delay and Regulation (EC) No 2027/97 translates the Montreal Convention into Union law which establishes the rights of passengers in case of mishandled baggage.
2. On many occasions, the Court of Justice of the European Union (CJEU) was requested by national courts to clarify certain provisions of Regulation (EC) No 261/2004 on air passenger rights. The case law on Regulation (EC) No 261/2004 amounts to more than 80 CJEU rulings.

3. In March 2013 the Commission proposed a revision of Regulation (EC) No 261/2004 and Regulation (EC) No 2027/97 (hereinafter “the 2013 proposal”).¹ The objectives of the proposal are to ensure that air carriers provide a high level of protection for air passengers during travel disruptions, while the right balance is ensured between the interests of passengers and the industry. To that end, the Commission proposed to clarify grey areas and close loopholes, to simplify complaint handling, to better coordinate enforcement policies and to ensure a realistic financial cost for air carriers.
4. In a special report issued in 2018, the Court of Auditors acknowledged that Union passenger rights are already comprehensive and identified issues with the enforcement of passenger rights and the lack of passenger awareness.² Those findings were confirmed in another special report issued in 2021.³
5. In 2020, the Commission published a study on the current level of protection of air passenger rights in the Union (hereinafter “the study”).⁴ The study shows that, in case of disruption, passengers’ priority is to receive assistance, followed by re-routing to arrive at their destination as soon as possible. The study also shows that, while delays have continued to increase, delays attributable to air carriers have decreased in proportion since 2011.
6. In 2023, the Commission made two additional proposals on enforcement and on multimodal journeys, which will also apply to air passengers and complement its 2013 proposal. The Council agreed on General Approaches on those proposals on 5 December 2024.⁵

¹ ST 7615/13

² EU passenger rights are comprehensive, but passengers still need to fight for them (30/2018)

³ Air passenger rights during the COVID-19 pandemic (15/2021)

⁴ <https://op.europa.eu/en/publication-detail/-/publication/f03df002-335c-11ea-ba6e-01aa75ed71a1>

⁵ 16535/24 and 16529/24.

II. WORK AT OTHER INSTITUTIONS

7. The European Parliament designated the Committee on Transport and Tourism (TRAN) as the responsible committee for the 2013 proposal. The Committee on Internal Market and Consumer Protection (IMCO) also issued an opinion. The European Parliament completed its first reading in February 2014, including 479 amendments.⁶ On 5 December 2024 the TRAN Committee of the EP appointed a new rapporteur (Andrey Novakov, EPP, Bulgaria).
8. The European Economic and Social Committee adopted an opinion on 11 July 2013. The Committee of the Regions decided not to issue an opinion.
9. The Spanish Cortes Generales, the Romanian Chamber of Deputies, the German Bundesrat and the Czech Senate adopted resolutions, respectively, on 7 May 2013, 7 June 2013, 5 July 2013 and 12 September 2013.

III. WORK WITHIN THE COUNCIL AND ITS PREPARATORY BODIES

10. Within the Council, several progress reports were prepared by the Irish, Lithuanian, Greek and Latvian Presidencies. In 2019, the Finnish Presidency resumed the work on the file which helped the Croatian Presidency to relaunch the discussion in more detail. However, due to the COVID-19 pandemic, discussions were halted.
11. On 5 December 2024, under the HU Presidency, the Council held a policy debate. Ministers emphasised the need for a system of simple and clear rules, which can be easily, effectively applied and enforced, and which achieve the right balance between a high level of protection for passengers and reasonable costs for air carriers. Moreover, several Ministers underlined the need to maintain the right incentives to air carriers so as not to endanger Union connectivity, especially on routes to/from less connected airports. In addition, several Ministers called for an improvement of rights of persons with disabilities and persons with reduced mobility (PRM).

⁶ https://www.europarl.europa.eu/doceo/document/TA-7-2014-0092_EN.html

12. The Polish Presidency resumed the work on the 2013 proposal on 10 January 2025 on the basis of a non-paper summarising the state of play within the Council and amendments by the European Parliament on main issues. Since January 2025, the 2013 proposal has been discussed in the Working Party on Aviation 16 times.
13. On the basis of those discussions, the Presidency proposes a compromise in line with the objectives defined by Ministers in December. The outcome of technical discussion is an updated and streamlined text, which **makes it easier for passengers to understand and apply their rights**, introduces a significant number of new passenger rights, and reduces administrative burdens and litigation risks.
14. The compromise text applies the same distances for the calculation of the delay and of the amount for compensation. It reduces the number of distance thresholds to two: for journeys below or above 3500 km. **The logic for the compensation thresholds reflects differences in operational constraints, passenger experiences and competition conditions.** In the case of delays, the compromise sets the compensation thresholds at 4 and 6 hours. **A lower delay threshold of 3 hours is tailored for short trips**, such as trips for imperative personal or professional reasons, where a delay of more than 3 hours deprives the trip of its purpose. Amounts for compensation have been adapted accordingly and the Presidency proposes compensation amounts to be revised every three years.
15. **Equal treatment of passengers on journeys within the Union** is ensured while the specific situation of passengers on journeys between **outermost regions** and other territories of the Union is addressed.
16. The compromise also introduces several changes as regard the rules on compensation:
 - Passengers who are informed of the cancellation of their flight less than 14 days before departure are now entitled to a compensation.
 - Air carriers may not reach a voluntary agreement with the passenger that replaces the compensation.
 - A passenger has up to 6 months from the disruption to submit a request or a complaint to the air carrier. A deadline of 14 days from the submission of the request is introduced for the air carrier to pay the compensation or to provide a substantiated reply to the passenger

17. Within 3 years of the application of Regulation (EC) 261/2004, the Commission is mandated to assess the need to adjust the thresholds for compensation on the basis of statistics regarding the evolution of cancellations and delays from five preceding years and every year since the date of application of this Regulation.
18. Whilst introducing new provisions, the compromise also clarifies rights and obligations stemming from the different rulings of the European Court of Justice. For example, liability of the air carrier operating a disrupted flight has been limited to disruptions on flights it operates.
19. The compromise contains an updated non-exhaustive list of extraordinary circumstances beyond the air carrier control. The Commission is mandated to review and propose, as appropriate, an update of the list every 3 years.
20. Other elements of the compromise are summarised below:
 - In order to **improve awareness of passengers on their rights**, obligations of air carriers and intermediaries in terms of pre-contractual information and information in case of disruption have been strengthened.
 - Rerouting rules have been significantly improved. **An air carrier must offer to passengers alternatives to its own services** at comparable transport conditions (e.g. services by another air carrier or another transport mode) so that passengers arrive at the earliest possible opportunity.
 - **If the air carrier does not offer rerouting within 3 hours after the passenger confirmed its choice to be rerouted, the passenger can make his or her own arrangements.** In such cases, the air carrier must reimburse the passengers' expenses within 14 days and up to 400% of the full cost of the ticket.
 - Rules on assistance to passengers have also been clarified and strengthened. The rights to refreshments, food, accommodation are detailed. **Should the air carrier not fulfil its assistance obligations, the passengers have the right to make their own arrangements and be reimbursed by the air carrier within 14 days.**
 - In alignment with the Package travel Directive, in case of extraordinary circumstances, an air carrier may **limit the accommodation provided to 3 nights, without a cap on hotel price.** The limitation on the number of nights does not apply to persons with specific needs.

- **In case of tarmac delay** passengers are entitled to minimum assistance and must be disembarked after 3 hours.
- The rights of passengers with specific needs, such as persons with reduced mobility and persons with disabilities, but also pregnant women, children and persons with specific medical needs, are significantly strengthened. **Denying boarding to persons with specific needs is prohibited.** The possibility to be accompanied by recognised assistance dogs is introduced and persons with specific needs may be seated together with persons accompanying them. In case of damage, loss, destruction of mobility equipment or injury or death of recognised assistance dogs, the air carrier must provide **temporary replacement or an alternative replacement solution.**

21. With a view to improving the level playing field between Union and third country air carriers, the Commission is mandated to assess, within 3 years of the application of Regulation (EC) 261/2004, the feasibility of an extension of scope of the Regulation to passengers arriving from third countries on flights operated by third country air carriers, and to recommend possible ways forward to solve conflicts of jurisdiction and enforcement issues.
22. Finally, the compromise does not create any overlap with the additional proposals on enforcement and multimodal journeys referred to in point 6. In that respect, the Presidency considers that enforcement aspects should primarily be addressed in the negotiations on the enforcement proposal. To facilitate this approach, the compromise aligns deadlines, and terminology to the maximum possible extent with the General Approaches agreed by the Council in December 2024.
23. The Permanent Representatives Committee examined the text on 28 May and 4 June 2025 in preparation of the Council.

IV. CONCLUSION

24. In light of the above, the Council (Transport, Telecommunications and Energy) is invited to reach a political agreement on the text presented in ST 9430/25 ADD1-3 at its meeting on 5 June 2025 with a view to adopting its position at first reading.