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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Aviation
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Subject:	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 – Comments from the Czech Republic on the Presidency non-paper (Less Contentious Issues)

Delegations will find, in Annex, comments from the Czech Republic on less contentious issues.

Proposal amending Regulation (EC) No 261/2004

Replies of Czechia to the Less Contentious Issues

1. INFORMATION

Good and timely information is the basis for the proper exercise of the passenger rights. CZ agrees with the obligations to provide information contained in the 2013 proposal and also in the 2023 complementing proposals. We are open to discuss further possible strengthening of the obligations in this area.

2. COMPLAINT AND CLAIM HANDLING

CZ supports the obligation for air carriers and also for intermediaries to provide contact details and complaint handling procedures. We are ready to discuss the proposed time limits to introduce a complaint/acknowledge/answer. We would also welcome a time limit for the payment of compensation, possibly connected to the response deadline. Naturally, all the deadlines should be reasonable and realistic.

3. TARMAC DELAY

CZ considers it important to clearly define obligations of air carriers regarding on-board services in cases of tarmac delays, such as: access to toilet, air conditioning/temperatures, availability of water/refreshments, etc. Defining minimum standards seems to be better for interpretation than the vague terms such as “reasonably” or “adequate”. We consider the proposed right to disembark after 5 hours to be acceptable, but we understand the reasons for a shorter period. We have also to take into account that tarmac delays are most common at congested airports and disembarkation can bring additional operational complications and delays. CZ is open to reasonable suggestions on this issue.

4. REROUTING

The obligation of air carrier to reroute passengers should be primarily/only connected to cancellation or denied boarding. It has to be defined properly what does it mean cancellation or when the flight is regarded as having been cancelled. We can be flexible about the time limit, however, 12 hours seems to be too much for possible considering other air carriers or other transport modes.

5. RESCHEDULING (TO A LATER TIME)

CZ agrees with the 2013 proposal that passengers of rescheduled flights have similar rights to delayed passengers (with a notice period of less than two weeks in advance).

6. CHANGE OF SCHEDULE (BRINGING FORWARD OF DEPARTURE TIME)

We think if an operating air carrier brings the flight forward by more than one hour (CJEU rulings) and if the passenger is not informed of this change at least 14 days before the scheduled departure date, then such a change of schedule should be considered as a cancelled flight.

7. OUT-OF-COURT DISPUTE RESOLUTION

CZ does not support the designation of new bodies for out-of-court dispute resolution to be obligatory for Member States. Alternative dispute resolution methods already exist in CZ and it is up to passengers whether they use these methods or not. In addition, we do not consider it appropriate to create additional bodies when the market of claims agencies is not regulated.

8. ENFORCEMENT – SANCTIONING

One general comment. In the context of the multimodal and omnibus proposals, it is necessary to unify and harmonise the enforcement of passenger rights in a way that does not excessively increase the administrative burden for NEBs. We believe that the main role of the NEBs, which consists primarily in supervising the fulfilment of air carriers' obligations, should be maintained, without requiring them (NEBs) to act in such a way that each individual passenger can obtain/enforce its rights outside the judicial system.

We don't think it is necessary to introduce a new committee to support the Member States in applying the Regulation.

9. LIMIT TO ASSISTANCE (CAP ON ACCOMMODATION)

CZ can generally support the idea - if the air carrier can invoke extraordinary circumstances then it may limit the right to accommodation to e.g. 3 nights; the limitation does not apply to certain groups of passengers (PRM, etc.). The monetary limit should be activated (only) in case when passengers need to make their own arrangements. To determine a correct limit is of course very difficult. We are open to discussion.

10. "NO-SHOW" POLICY

First, the problem is that passengers are usually not aware of the "no show" policy, so the air carrier should be obliged to explicitly inform the passengers at the time of booking about the rules. Second, we have to consider what impact the abolishment of this policy would have on airlines and how it can be addressed in reservation systems.

11. CONTINGENCY PLANNING

CZ agrees with the contingency planning, it could be part of the airport emergency planning. We can be flexible about the threshold (3 or 5 million).

12. LIABILITY FOR BAGGAGE, INCLUDING THE MOBILITY EQUIPMENT OF PRM

We are against the proposal that the NEB will also be responsible for the enforcement of the rights of passengers with regard to delayed, lost or damaged baggage. We believe it is better to leave it in the private law area, as provided for in the Montreal Convention, otherwise it would bring an excessive burden for the NEBs.

Regarding the mobility equipment of PRM, we are ready to find a common solution so that the equipment is covered even above the limit set by the Montreal Convention.