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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 Estonia on the Presidency non-paper (Less Contentious Issues)

Delegations will find, in Annex, comments from Estonia on less contentious issues.

Estonian written comments on the less contentious issues

Presidency non-paper about 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 (WK 9/2025)

2. Complaint and claim handling

We support the requirement for carriers to disclose their complaint handling procedures and contact details. In practice, complaints are often related to inadequate responses from carriers or a lack of response altogether. Passengers frequently encounter difficulties in reaching out to carriers, as it is unclear which forms and contact details should be used. Communication channels and contact information must be easily accessible, and passengers should have a clear understanding of the complaint handling process.

Regarding the response time for complaints, we support the proposal to establish in the regulation an obligation for carriers to respond to passenger complaints within two months. Currently, this deadline is merely a recommendation based on the European Commission's interpretative guidelines. Furthermore, we believe it should be specified that passengers must receive a final decision within this period, as, in practice, carrier responses are often vague, formalistic, or unnecessarily delayed.

Additionally, the regulation should address the obligation of carriers to respond to inquiries from National Enforcement Bodies (NEBs), as carriers frequently fail to meet the prescribed deadlines. This puts passengers in a difficult position, preventing them from effectively exercising their rights.

Regarding the deadline for submitting passenger complaints and deadline for carriers for confirming the receipt of a complaint, we support its establishment, but it should be reasonable for both parties. One possible solution would be to link the deadline to the carrier's obligation to inform passengers of their rights and the applicable complaint deadlines in the event of flight disruptions. In other words, the carrier's duty to inform passengers of their rights under the regulation should also include providing information on complaint submission deadlines. If the carrier fails to do so, the deadline should not apply to the passenger, meaning the carrier must also process complaints submitted at a later date.

3. TARMAC delay

We do support shorter time (e.g., 3 hours). In our view, even a three-hour period may be extremely burdensome for the passengers and cause significant inconvenience.

4. Rerouting

We support the amendment and inclusion of delay regulations in the regulation. If the new departure time of a flight is to be understood as a route change, the same requirements should apply. Under the current regulation, in the event of a flight cancellation, the carrier must offer a re-routing option at the earliest opportunity and under comparable travel conditions. In our view, the same should apply in cases of long time flight delays. In case of a delay, passengers

experience similar or even greater inconvenience; therefore, their rights must be safeguarded no less than in the case of flight cancellations.

We are hesitant to support the proposal that would require carriers to offer alternative flights with other airlines only after a 12-hour delay. The right to re-routing should apply from a delay of five hours, in line with the right to a ticket refund. Passengers should have the same options as in the case of flight cancellations.

Furthermore, if a re-routing option is available before the five-hour threshold, the carrier must provide it. The carrier must ensure re-routing at the earliest opportunity and under comparable conditions, even in the event of a longer delay. If the carrier fails to offer this despite a reasonable alternative being available, it should not be exempt from its compensation obligation, even if the delay is due to extraordinary circumstances.

Additionally, we would like to reiterate that passengers should be entitled to compensation if they choose to cancel their trip and request a ticket refund due to a longer flight delay, similar to the rights granted in case of cancellations. Currently, passengers do not have this right if they decide to forgo their journey and request a refund after a five-hour delay.

5. Rescheduling (to a later time)

We support the chosen approach.

6. Change of Schedule (bringing forward of departure time)

We support the proposal to treat the advancement of the departure similarly to a flight cancellation.

7. Out-of-court dispute resolution

We support the proposal to establish in the regulation that passengers may refer their complaints to National Enforcement Bodies (NEBs) either two months after contacting the carrier or after receiving a final response from the carrier that does not satisfy them.

In practice, there are issues related to the concept of a "final response," as some carriers employ delay tactics—sending vague replies or repeatedly requesting the same information and documents, despite having no valid grounds for refusal and being obligated to acknowledge the passenger's claim. As a result, passengers do not receive a clear and definitive response, making it difficult to determine when a "final response" has been provided. The proposed introduction of a response deadline in the regulation should help address this issue.

We support the position that the organization of complaint handling and oversight should remain at the discretion of individual Member States. However, it must be ensured that in every Member State, passengers have a designated authority to which they can submit complaints and that information about this authority is clear and easily accessible to passengers.

8. Enforcement – sanctioning

We could support the establishment of a committee; however, in our view, the current system, where the European Commission fulfills this role, is functioning effectively, and we do not see an immediate need for change.

Regarding the proposal to impose an additional reporting obligation on carriers and create a so-called "naming and shaming" mechanism, we believe this could generally be supported. However, it must be carefully designed to ensure its proper functioning. Specifically, it is crucial to define who will oversee the process, how and under what conditions entities will be listed, and the criteria for removal. This likely requires thorough analysis and careful consideration of its practical implementation.

9. Limit to assistance (cap on accommodation)

We support the provision of up to three nights of accommodation; however, the current cost limits for accommodation are likely outdated. The exclusion of accommodation for short-haul flights operated by small aircraft could be supported, provided that passengers are reimbursed for reasonable expenses incurred to reach their home or destination.

Regarding the duration limit on accommodation, we believe it can be supported on the condition that it does not unduly restrict passenger rights. If such limitations are introduced, in addition to the exemptions already proposed for certain individuals, there should also be an exemption in cases where adhering to these limits is not feasible due to the location of the flight disruption.

Regarding the cost cap, we support the position that carriers should have the ability to manage their expenses while properly fulfilling their duty of care by providing passengers with accommodation. However, if a carrier fails to meet this obligation, it must reimburse passengers for their full accommodation costs. This would incentivise carriers to fulfill their duty of care.

Under the current regulation, passengers are entitled to reimbursement of costs that are necessary, reasonable, and appropriate. Setting a fixed amount would reduce regulatory flexibility and limit its applicability to different situations.

The exclusion of accommodation provision, meaning the restriction of passenger rights on short-haul flights, could be supported on the condition that passengers are reimbursed for necessary expenses. However, we find it important to note that introducing exemptions may lead to greater confusion, which should be avoided where possible.

10. No-show policy

We agree that this requires clarification and acknowledge that it may constitute an unfair contractual term.

11. Contingency planning

We support the chosen approach. However, we support raising the passenger threshold at airports to 5 million passengers.