



Council of the European Union
General Secretariat

Brussels, 14 February 2025

**Interinstitutional files:
2013/0072 (COD)**

WK 1832/2025 INIT

LIMITE

**AVIATION
CONSUM
CODEC**

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Aviation
N° prev. doc.:	5123/1/20 REV 1
N° Cion doc.:	7615 2013 INIT
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 - Consolidated version of Regulation No 2027/97 as amended by the last compromise proposed by the HR Presidency in 2020

Delegations will find, in annex, for information, the consolidated version of Regulation No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air, as amended by the last compromise proposed by the HR Presidency in 2020.

WK 1832/2025 INIT

LIMITE

EN

Article 1

This Regulation implements the relevant provisions of the Montreal Convention in respect of the carriage of passengers and their baggage by air and lays down certain supplementary provisions. It also extends the application of these provisions to carriage by air within a single Member State.

Article 2

1. For the purpose of this Regulation:
 - (a) 'air carrier' shall mean an air transport undertaking with a valid operating licence;
 - (b) ~~'Community air carrier' shall mean an air carrier with a valid operating licence granted by a Member State in accordance with the provisions of Regulation (EEC) No 2407/92;~~ **'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;**
 - (c) 'person entitled to compensation' shall mean a passenger or any person entitled to claim in respect of that passenger, in accordance with applicable law;
 - (d) 'baggage', unless otherwise specified, shall mean both checked and unchecked baggage with the meaning of Article 17(4) of the Montreal Convention;
 - (e) 'SDR' shall mean a special drawing right as defined by the International Monetary Fund;
 - (f) 'Warsaw Convention' shall mean the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on 12 October 1929, or the Warsaw Convention as amended at The Hague on 28 September 1955 and the Convention supplementary to the Warsaw Convention done at Guadalajara on 18 September 1961;
 - (g) 'Montreal Convention' shall mean the 'Convention for the Unification of Certain Rules Relating to International Carriage by Air', signed at Montreal on 28 May 1999
 - (h) **'mobility equipment' shall mean any equipment whose purpose is to provide mobility to the disabled persons or persons with reduced mobility as defined in Article 2(a) of Regulation (EC) No 1107/2006¹, or assist them in their mobility.**
2. Concepts contained in this Regulation which are not defined in paragraph 1 shall be equivalent to those used in the Montreal Convention.

¹ 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.

Article 3

1. The liability of a Community air carrier in respect of passengers and their baggage shall be governed by all provisions of the Montreal Convention relevant to such liability. **This includes the liability of a Union air carrier concerning passenger or baggage delay.**

2. The obligation of insurance set out in Article 7 of Regulation (EEC) No 2407/92 as far as it relates to liability for passengers shall be understood as requiring that a Community air carrier shall be insured up to a level that is adequate to ensure that all persons entitled to compensation receive the full amount to which they are entitled in accordance with this Regulation.

Article 3a

~~The supplementary sum which, in accordance with Article 22(2) of the Montreal Convention, may be demanded by a Community 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 is related to the additional costs involved in transporting and insuring the baggage concerned over and above those for baggage valued at or below the liability limit. The tariff shall be made available to passengers on request.~~ **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 is related to the additional costs involved in transporting and insuring the baggage concerned over and above those for baggage valued at or below the liability limit. The tariff shall be made available to passengers on request.**

Article 5

~~1. The Community 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.~~ **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. ~~Without prejudice to paragraph 1, an advance payment shall not be less than the equivalent in euro of 16 000 SDRs per passenger in the event of death.~~ **Without prejudice to paragraph 1, an advance payment in case of death of passengers, shall not be less than 16% per passenger, of the limit of liability under Article 21(1) of the Montreal Convention and in line with the decisions by the International Civil Aviation Organization to review the limit of liability pursuant to Article 24(2) of the Montreal Convention.**

3. An advance payment shall not constitute recognition of liability and may be offset against any subsequent sums paid on the basis of Community air carrier liability, but is not returnable, except in the cases prescribed in Article 20 of the Montreal Convention or where the person who received the advance payment was not the person entitled to compensation.

Article 6

1. All air carriers shall, when selling carriage by air in the Community, ensure that a summary of the main provisions governing liability for passengers and their baggage, including deadlines for filing an action for compensation and the possibility of making a special declaration for baggage, is made available to passengers at all points of sale, including sale by telephone and via the Internet. In order to comply with this information requirement, Community air carriers shall use the notice contained in the Annex. Such summary or notice cannot be used as a basis for a claim for compensation, nor to interpret the provisions of this Regulation or the Montreal Convention. **The Commission shall be empowered, by means of a delegated act in accordance with Article 6c, to adjust the amounts mentioned in the Annex, with the exception of the amount mentioned in Article 5(2), in line with the decisions by the International Civil Aviation Organization pursuant to Article 24(2) of the Montreal Convention.**

2. In addition to the information requirements set out in paragraph 1, all air carriers shall in respect of carriage by air provided or purchased in the Community, provide each passenger with a written indication of:

- the applicable limit for that flight on the carrier's liability in respect of death or injury, if such a limit exists,
- the applicable limit for that flight on the carrier's liability in respect of destruction, loss of or damage to baggage and a warning that baggage greater in value than this figure should be brought to the airline's attention at check-in or fully insured by the passenger prior to travel;
- the applicable limit for that flight on the carrier's liability for damage occasioned by delay.

3. In the case of all carriage performed by Community air carriers, the limits indicated in accordance with the information requirements of paragraphs 1 and 2 shall be those established by this Regulation unless the Community air carrier applies higher limits by way of voluntary undertaking. In the case of all carriage performed by non-Community air carriers, paragraphs 1 and 2 shall apply only in relation to carriage to, from or within the Community.

4. **All air carriers shall provide at the airports and points of sale situated on the territory of a Member State to which the Treaty applies and on their websites a form which allows the passenger to immediately file a complaint about damaged, delayed or lost baggage. The date of submission of such a complaint shall be considered by the air carrier as the filing date of the complaint pursuant to Article 31(2) and 31(3) of the Montreal Convention, even if the air carrier requests further information at a later date.**

This possibility shall not affect the right of the passenger to submit a complaint via other means within the deadlines given by the Montreal Convention.

Article 6a

1. **Whenever carrying checked in mobility equipment, the Union air carrier shall ensure that each disabled person or person with reduced mobility as defined in Article 2(a) of Regulation (EC) No 1107/2006² is offered the option to make a special declaration of interest pursuant to Article 22(2) of the Montreal Convention, at booking and at the latest when the equipment is handed over. The special declaration shall be offered free of charge.**

~~2.~~

3. **In case of destruction, loss, damage or delay in the carriage of checked mobility equipment, 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.**

Article 6c

1. **The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.**

2. **The delegation of power referred to in Article 6(1) shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.**

3. **The delegation of power referred to in Article 6(1) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.**

4. **As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.**

5. **A delegated act adopted pursuant to Article 6(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.**

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

Article 6d

1. **Without prejudice to Regulation (EC) No 1008/2008, Union air carriers shall clearly indicate, at booking and on their website, and also 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 included in the ticket price and free of charge within the cabin, and in the hold of the aircraft on 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 and infant seats shall be transported in the passenger cabin or in the cargo hold of the aircraft,
 - potential additional charges applied for the carriage of baggage.
2. **1a. Without prejudice to Regulation (EC) No 1107/2006, irrespective of the prescribed maximum cabin baggage allowance, passengers shall be permitted to carry in the cabin, at no extra cost, essential personal items or belongings, and at least one bag of airport shopping³.**

³

The following recital is added:

"In order to ensure a sufficient personal comfort during their travel, passengers should be allowed to take at no cost personal items and belongings into the cabin, provided that their weight and dimension is reasonable and the items comply with applicable safety and security requirements. Such items may include, for example, a lady's handbag or purse, infant's food, medication, small musical instruments, an overcoat, an umbrella, a small camera, a small music player, reasonable amount of reading material and airport purchases."

3. **Where specific reasons, such as safety reasons, capacity reasons or a change of the aircraft type since the booking was made, preclude the carriage in the cabin of items included in the carry-on baggage allowance, the air carrier may carry them in the hold of the aircraft, but at no extra cost to the passenger.**
4. **This Article does not affect the restrictions on carry-on baggage established by EU and international security and safety rules such as Regulations (EC) No 300/2008 and (EU) 2015/1998.**

Article 7

~~No later than three years after the date on which Regulation (EC) No 889/2002 (1) begins to apply, the Commission shall draw up a report on the application of this Regulation. In particular, the Commission shall examine the need to revise the amounts mentioned in the relevant Articles of the Montreal Convention in the light of economic developments and the notifications of the ICAO Depository. **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.**~~

Article 8

This Regulation shall enter into force one year after the date of its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

ANNEX

AIR CARRIER LIABILITY FOR PASSENGERS AND THEIR BAGGAGE

This information notice summarises the liability rules applied by **Union** air carriers as required by EU legislation and the Montreal Convention.

COMPENSATION IN THE CASE OF DEATH OR INJURY

There are no financial limits to the liability for passenger injury or death caused by an accident on board the aircraft or during any of the operations of embarkation and disembarkation.

Without prejudice to Article 20 of the Montreal Convention on the exoneration of the air carrier, for damages up to **128 821** SDRs (the air carrier shall indicate between brackets the approximate amount in local currency), the carrier cannot exclude or limit its liability. Above that amount, the air carrier is not liable if it proves that:

- the damage was not due to the negligence or other wrongful act or omission of the carrier or its servants or agents, or
- that the damage was solely due to the negligence or other wrongful act or omission of a third party.

ADVANCE PAYMENTS

If a passenger is killed or injured, the air carrier must make an advance payment, to cover immediate economic needs, within 15 days from the identification of the person entitled to compensation. In the event of death, this advance payment shall not be less than **20 611** SDRs (the amount is 16% per passenger of the limit of liability referred in the preceding paragraph and shall remain 16% whenever the amount is adapted in accordance with Article 6; the air carrier shall also indicate between brackets the approximate amount in local currency).

PASSENGER DELAYS

In case of passenger delay, the air carrier is liable for damage unless it took all reasonable measures to avoid the damage or it was impossible to take such measures. The liability for passenger delay is limited to **5 346** SDRs (the air carrier shall indicate between brackets approximate amount in local currency).

BAGGAGE DELAYS

In case of baggage delay, the air carrier is liable for damage up to **1 288** SDRs (the air carrier shall indicate between brackets the approximate amount in local currency), the compensation limit being applicable per passenger and not per piece of checked baggage. The air carrier shall not be liable when it has taken all reasonable measures to avoid the damage resulting from such delay or when it was impossible to take such measures.

DESTRUCTION, LOSS OR DAMAGE TO BAGGAGE

The air carrier is liable for damage up to **1 288** SDRs (the air carrier shall indicate between brackets the approximate amount in local currency), the compensation limit being applicable per passenger and not per piece of baggage.

In the case of damaged or lost checked baggage, the air carrier is liable unless the damage is caused by an inherent defect, quality or vice of the baggage.

In case of unchecked baggage (hand luggage), including personal items, the air carrier is only liable if the damage has resulted from its fault or that of its servants or agents.

HIGHER LIMITS FOR BAGGAGE

A passenger can benefit from a higher liability limit by making a special declaration at the latest at check-in and by paying a supplementary fee if so required. Such supplementary fee shall be based on a tariff which is related to the additional costs involved in transporting and insuring the baggage concerned over and above the liability limit of **1 288** SDRs (the air carrier shall indicate between brackets the approximate amount in local currency). The tariff shall be made available to passengers upon request.

EXONERATION

If the carrier proves that any damage covered by the liability rules applied by **Union** air carriers as required by Regulation (EC) 2027/97 and the Montreal Convention, including death or injury, was caused or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he or she derives his or her rights, the carrier shall be wholly or partly exonerated from its liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage.

TIME LIMIT FOR COMPLAINTS ON BAGGAGE

If the baggage is damaged, delayed, lost or destroyed, the passenger must in all cases write and complain to the air carrier as soon as possible. The passenger must complain in writing within a time limit of 7 days in case of damage to checked baggage and within a time limit of 21 days in case of delayed baggage, in both cases from the date on which the baggage was placed at the passenger's disposal. In order to facilitate compliance with these deadlines, the air carrier must offer passengers the possibility to file a complaint at the airport through a form. Such complaint form must be accepted by the air carrier at the airport as a complaint. The date of submission of such a complaint shall be considered by the air carrier as the filing date of the complaint pursuant to Articles 31(2) and 31(3) of the Montreal Convention, even if the air carrier requests further information at a later date.

LIABILITY OF CONTRACTING AND ACTUAL CARRIERS

If the air carrier actually performing the flight is not the same as the contracting air carrier, the passenger has the right to address a complaint or to make a claim for damages against either. This includes cases where a special declaration of interest at delivery has been agreed with one or the other of the two carriers.

TIME LIMIT FOR ACTION

Any action in court to claim damages must be brought within two years from the date of arrival of the aircraft, or from the date on which the aircraft ought to have arrived.

BASIS FOR THE INFORMATION

The basis for the rules described above is the Montreal Convention of 28 May 1999, which is implemented in the **Union** by Regulation (EC) No 2027/97 (as amended by Regulation (EC) No 889/2002 and by Regulation (EU) No xxx) and national legislation of the Member States.