



Council of the European Union
General Secretariat

Brussels, 02 March 2020

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

WK 2387/2020 ADD 1

LIMITE

**AVIATION
CONSUM
CODEC**

WORKING PAPER

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.:	ST 5123/20
N° Cion doc.:	ST 7615/13
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 Member States on the Presidency compromise

Delegations will find attached comments from Finland on the above mentioned document.

First reactions from Finland - on main points of the compromise proposal

It is good that the Croatian presidency has put air passengers' rights on the agenda. In the discussions during the Finnish presidency, the Member States agreed that there is a need to arrive at a balanced system of simple and clear rules, which can be easily and effectively applied.

While the latest compromise proposal includes good elements, more ambition is needed in particular as regards provisions on compensation for delays and cancellations. According to the Steer report, the number of flights disrupted, in terms of cancellations and delays over two hours, has increased significantly between 2011 and 2018; cancellations grew from 1.0% to 1.7% of flights between 2011 and 2018, and delays grew from 0.9% to 1.4% of flights. Overall in 2018, 17.6 million passengers were affected by a cancellation and 16.5 million by a long delay.

In the light of the above mentioned, it is obvious that we should not continue with the system which requires case-by-case examination of delays and cancellations by NEBs and ADR-bodies.

Significant administrative burden is caused for both authorities and air carriers.

It is not sufficient to merely look at the thresholds which trigger the right to compensation and extraordinary circumstances, but all the elements, i.e. also the amounts of the compensation.

In our view, the amounts of compensation should be significantly lower and thresholds which trigger the compensation shorter and ideally the reason of delay should not be examined.

Furthermore, we note that a difference should be made between delays and cancellations, in particular in cases where the cancellation is done for commercial reasons. The level of passenger protection would reduce substantially in particular in cases of cancellation, if the latest compromise proposal were accepted. Finally, we have major reservations regarding the exemption according to which compensation should not be paid if the cancelled/delayed flight arrives at/departs from an airport with an average passenger traffic less than 1 million per year. This type of exemption could well be in contradiction with the principle of equal treatment and would also be problematic from the point of view of ensuring a level playing field between different air carriers.

We hope that the presidency together with COM examines more technical comments we presented during the meeting e.g. relating to need to update some of the provisions due to a fact that Directive (EU) 2015/2302 does not merely cover packages, but also linked travel arrangements. Furthermore, it would be important to clarify in the text the issue of burden of proof, as was done in the compromise text under the LV presidency.