



Council of the European Union
General Secretariat

Brussels, 27 January 2025

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

WK 318/2025 ADD 12

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.:	WK 9/25
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 – Comments from Hungary on the Presidency non-paper (questions 1 to 5)

Delegations will find, in Annex, comments from **Hungary** on questions 1 to 5 of the Presidency non-paper.

Comments from Hungary

on the 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

Aviation working party – 16.01.2025 (WK 9/2025 INIT; WK 10/2025) Questions 1-14.

General observation

Hungary maintains a scrutiny reservation on the entire text of the proposal and highlights the importance of its full and thorough review.

Hungary is committed to a high level of consumer protection. The consumer protection requirements set by the Court of Justice are already generally applied and seem to be favourable from a consumer protection perspective. However, in order for the new regulation to strike the right balance between a high level of passenger protection and industry interests, we consider it necessary to examine a few issues thoroughly on the basis of objective criteria, before taking any specific position.

Accordingly we would like to ask

1. the Council Legal Service to provide information on
 - how Art 38 of the Charter can be complied with (i.e. what kind of requirements the regulation has to contain to ensure compliance);
 - if compliance with Article 38 of the Charter does not necessitate the codification of certain CJEU rulings (e.g. compensation for delays, interpretation of extraordinary circumstances), then in what manner is it possible to deviate from these rulings in the new regulation;

2. We would like to ask the Commission to provide information on the following
 - the impact of compensation for delays on the reduction of the number of delays;
 - whether EU airlines are placed at a competitive disadvantage compared to third-country air carriers due to their obligation to pay compensation for delays;
 - the causes of flight delays, in particular the proportion of delays that are due to commercial reasons within the airline's sphere of interest;
 - the proportion of delays for which airlines can effectively claim extraordinary circumstances;
 - the burden placed on the authorities in assessing whether flight delays were caused by extraordinary circumstances. (In this respect, it is noted that it is extremely difficult for the Hungarian authorities to decide on the existence of extraordinary circumstances, given that delays are typically caused by several factors over different periods of time.)

In this regard, we would like to note that the Presidency's non-paper states that failure by the legislator to establish an obligation to compensate for delays is contrary to Article 38 of the EU Charter of Fundamental Rights (requiring EU policies to ensure a high level of consumer protection). In our view, the CLS merely held that, in the absence of such an obligation imposed by the legislature, it was necessary to examine whether it was compatible with Article 38 of the Charter and the requirement of equal treatment.

Further replies to Question 1. - Please indicate whether there is room for improvement in the care and assistance provisions as proposed by the Commission in 2013 and complemented by the Council General Approaches on the 2023 proposals?

Article 9 (5): While the goal of encouraging passengers to choose alternative transport modes for short-distance journeys is understandable, the proposed restriction may undermine the high level of consumer protection. This is especially problematic if the service already exists, and these passengers would be left without accommodation, especially if such rights are guaranteed in other transport modes.

We propose that the above arguments are considered.

In case Member States decide to include such limitations in the Regulation, we propose that if no other public transport option exists on the given route, the obligation to provide accommodation should remain.

Article 9 (6):

We propose the following text:

„Where, while being at the airport where the delay or cancellation occurs, a passenger opts for reimbursement pursuant to Article 8(1)(a), or opts for rerouting at a later date pursuant to Article 8(1)(c), the passenger shall have no further rights with regard to care under Article 9(1) in relation to the relevant flight.”

Justification: the definition of “departure airport of his journey” is imprecise. A "journey" can consist of connecting flights. In such cases, it may not be the first flight but a subsequent one that is delayed or cancelled. "At the airport where the delay or cancellation occurs" would clarify that this provision is applied at the airport where the flight irregularity occurs.

Question 3: please indicate whether there are some concepts (e.g. Transport contract) or mechanisms agreed in the General Approach on the multimodal journeys proposal that should be considered in the context of the work on the 2013 proposal.

In our view, it is necessary to ensure coherence between the Multimodal Passenger Rights Proposal, the Package Travel Directive, and this proposal.

Question 4 - Does your delegation see any gaps in the 2013 Commission proposal that have not been addressed by the 2023 Commission proposals or other Commission proposals (e.g. Proposal to amend the Package Travel Directive)?

We propose that potential codification of judgments of the Court of Justice of the European Union adopted since 2013 is considered with a view to enhance legal clarity and enforcement efficiency, together with setting the right balance between consumer protection and industry interests.

We propose that the term “*final destination*” in Article 2(h) is clarified, as the current wording may lead to misinterpretation.

The objective of **Article 3(2)(b)** requires clarification, as passengers are typically rebooked on alternative flights in the event of delays or cancellations.

For Article 7, we propose that a clear deadline for compensation payments is set to ensure passengers’ rights are upheld and airlines fulfil their obligations precisely.

5. „Most of rights of PRM when travelling by air are in Regulation (EC) 1107/2006. The 2013 air passenger rights proposal so far did not amend Regulation (EC) 1107/2006. On the other hand, the Omnibus proposal aims to amend Regulation (EC) 1107/2006. Considering the General approaches on the 2023 proposals, how could the rights of persons with disabilities and persons with reduced mobility be further improved?“

See our comments under Question 1, Art 11.