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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 Germany on the Presidency non-paper (questions 1 to 5)

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

**Comments from the German Delegation
on Presidency Non-Paper (WK 9/25): Questions 1 – 5**

Preliminary remarks

- We would like to thank the Presidency for taking up the question of revision of the Regulation on air passenger rights.
- We see both an ambitious approach to the level of consumer protection and a reasonable balance with the interests of the aviation industry as important aspects. Germany is therefore ready and willing to make a constructive contribution to revision negotiations.
- In-depth debate is necessary, and the Presidency non-paper offers a very good basis for discussion. Our thanks to the Presidency for preparing the non-paper.
- An important point to emphasise is that the aviation sector has undergone major changes since 2013, and that is the context in which we need to discuss this reform. For example, ticket prices, the range of flights available, the role of sustainability and digitalisation in aviation, and the challenges facing the sector have all changed as a result of the COVID-19 pandemic.
- Our thanks for the guiding questions for discussion. We require more time to answer those questions, not least because we wish to engage with the relevant stakeholders. We therefore maintain a full scrutiny reservation.
- We would therefore ask the Presidency to allow the delegations sufficient time for debate – quality should take precedence over speed.
- Our thanks also for document WK10/25 with the consolidated text of the Regulation on air passenger rights currently in force, the 2013 Commission proposal for a revised regulation on air passenger rights, and the 2023 Commission proposal for the enforcement regulation (“the omnibus regulation”; COM(2023)753). We would ask that such a document also be compiled for the text version of the proposed omnibus regulation that was the subject of the General Approach (documents ST 16123/24 and ST 16529/24) to ensure that there is transparency on the outcome of those negotiations.
- In principle we support the aim, as highlighted by the Presidency, of creating a system of simple and clear rules to ensure that provisions give all parties involved a framework that is easy to understand and apply.

WK 9/25 questions

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?

- Revised provisions on care and assistance should both ensure a high level of consumer protection for air passengers and take reasonable account of the needs and interests of the aviation industry.
- The Commission proposal, however, includes not only improvements but also limits – for example a cap on accommodation costs, and higher thresholds for access to compensation in the case of delays.
- We therefore still need to examine in detail whether the proposals from 2013, complemented by the General Approach on the 2023 enforcement proposal, could offer a reasonable balance.
- Regarding the overall outcome of a final compromise, the level of consumer protection should not be lowered.

2. Given the increasing digitalisation of the aviation sector, does your delegation consider that some improvements could be made in the automation of care and assistance (for instance through automated vouchers) or of compensation and claim handling beyond the improvements brought by the 2023 proposals?

- Fundamentally, we take the view that digitalisation can benefit both airlines and consumers alike in the conclusion and performance of contracts.
- Whether or not, and to what extent, digitalisation should also be used to automate the handling of claims under the Regulation on air passenger rights is a question that we need to scrutinise.
- In this area, too, there needs to be a system of simple and clear rules that all parties can easily understand and apply.
- On this point, we would welcome specific proposals for discussion from the Presidency.

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.

- Care must be taken to ensure a coherent approach, across all sector regulations on passenger rights, regarding who is entitled to bring claims and against whom those claims can be brought, and regarding what information should be available for air passengers. The question of who the parties to a contract of carriage are also needs to be addressed.
- There needs to be a careful look at how proposals relate to the Package Travel Directive.
- Another point to examine is whether the 2013 Commission proposal concept of connecting flights is still applicable in light of the General Approach on the multimodal journeys proposal. Under Article 3(4) of the 2013 Commission proposal, “connecting flights” could be journeys with other means of transport and still come under the scope of the Regulation on air passenger rights.

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)?

- Ten years have passed since the Commission presented its proposal on the revision of the air passenger rights regulation, during which time there have been numerous CJEU judgments. Whether or not further revisions are required in the light of those decisions should therefore be examined.
- Developments in the aviation sector regarding new forms of collaboration between airlines and third parties should also be taken into account, for example virtual interlining in provisions on connecting flights. In virtual interlining models, third parties (for example booking platforms or airports) combine flights operated by different airlines in one booking, sometimes with, and sometimes without, the airlines' knowledge.
- Passengers can reportedly find it difficult to compare costs when booking flights, because there are variations in the extent to which seat reservation and luggage costs are included in prices displayed at the start of the booking process. The question of a response to this development should be addressed.

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?

- Amendments to Regulation (EC) 1107/2006 are included in the proposal for the omnibus regulation. We will happily examine the need for any further changes. Ensuring the right provisions for persons with disabilities and persons with reduced mobility is extremely important to us. They must be taken into account when striking a balance between the various interests.