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#### **WORKING DOCUMENT**

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

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

## **Proposal amending Regulation (EC) No 261/2004**

### **Replies of the Czech Republic to the questions 1 - 5 (WK 9/2025)**

***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?***

CZ believes there is a considerable room for improvement in this area. In particular, the 2013 proposal is outdated in certain areas and does not properly reflect legal, economic and social developments. For example, it will be necessary to find a suitable solution for missed connecting flights (Article 6a) and take into account cases where the passengers miss the connecting flight due to factors such as their physical condition, time estimation or the size of the airport. Otherwise we will create again room for different (judicial) interpretations.

Another area that needs improvement is the area of providing accommodation for passengers. Article 9 sets an unified limit of financial liability (€100) for accommodation costs. This fixed limit does not take into account local differences and it will always be potentially unfair with respect to different price levels. The CJEU defines compensation as reparation for the passenger's inconvenience, not for actual damage. However, this approach contradicts the general principles of compensation as defined in national legislation.

***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?***

Digitalisation offers significant opportunities for improvement, particularly in the areas of passenger information and online handling of passenger requests. We are generally open to automation of the processes and other modern approaches.

However, we do not have a very good experience with the standardised EU Complaint Form. It has proven insufficient as it does not provide all the necessary information. It often misleads passengers into thinking that simply by filling in the form they have fulfilled all their obligations.

It is also important to draw attention to unfair practices of some intermediaries, which may undermine the enforcement of passengers' rights.

***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.***

No additional insights.

***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)?***

Given its time of origin, the 2013 Commission proposal does not account for significant legal developments, the growing volume of air traffic, nor does it address the lack of corresponding capacity improvement in some Member States. It also overlooks changes in the functioning of NEBs, which, according to CJEU case law, are not obliged to enforce the rights of each passenger individually. However, this omission can lead to confusion. The new wording of Article 16 allows for a contrary interpretation by the courts, potentially requiring NEBs to address each complaint. Such an approach is undesirable as passengers' claims are of a private law nature and should remain within the jurisdiction of national courts.

The 2013 proposal also modifies the liability of air carriers for damage to mobile equipment to its actual value, which is in line with the Montreal Convention. According to the Convention, air carriers should be required to offer the option of a free special declaration of interest. However, there is no clear definition of what can be considered as mobile equipment. In addition, there should be set a limit on the amount of the free declaration.

The proposal should also include rules for private companies / intermediaries involved in the recovery of financial claims to prevent speculative practices that harm the interests of passengers.

***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?***

In addition to the Omnibus proposal aiming to amend the Regulation (EC) 1107/2006, the further improvement of the PRM rights could include obligations for air carriers such as having a wheelchair on board to assist passengers to and from the toilet, addressing the seating for PRM and assistance dogs, creating pet relief areas at airports (e.g. to walk the dogs), and potentially limiting the number of PRM on board. The revision should take into account also the requirements of the European Accessibility Act (EAA).