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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Aviation
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Subject:	Proposal for a regulation 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 Spain on the compromises proposed by the Polish Presidency	

Delegations will find, in annex, comments from Spain on the compromise proposed by the Polish Presidency.

Brussels, 30 April 2025
(OR. en)

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2013/0072 (COD)

7503/25
ADD 1

LIMITE

AVIATION 36
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NOTE

From:	General Secretariat of the Council
On:	30 April 2025
To:	Delegations
Subject:	Proposal for a regulation 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 ■ Revised compromise proposed by the Polish Presidency

In view of the Working Party on Aviation of 8 May 2025, delegations will find, in Annex, a revised compromise proposed by the Presidency on Amendments to Regulation 261/2004.

Changes compared to the previous version are highlighted in **bold underlined** and ~~striketrough~~.

Delegations are requested to send their comments, if any, in writing to

avia-mar@consilium.europa.eu by 9 May 2025.

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

Article 1

Regulation 261/2004 is amended as follows:

~~10.~~ Article 1 is amended as follows:

(a) Paragraph 1 is replaced by the following:

‘1. This Regulation establishes, under the conditions specified herein, minimum rights for air passengers **in the event that when:**

- (a) they are denied boarding;
- (b) their flight is cancelled;
- (c) their flight is delayed ~~or rescheduled~~;
- (d) they miss a **connecting flight**;
- (e) they are upgraded or downgraded.’

[Paragraphs 2 and 3 remain unchanged.]¹

~~12.~~ Article 2 is amended as follows:

(-a) The definition in point (b) is replaced by the following:

“Operating air carrier” means an air carrier that performs or intends to perform a flight under an air transport contract with a passenger ~~holding a ticket~~ **or on behalf of an intermediary, having an air transport contract with that passenger.** The fact that an

¹ Under consideration.

Commented [REDACTED]: GENERAL COMMENTS

- Spain's position is in favour of quality of service standards and supervision of NEBs using a risk-based approach.
- Spain continues to consider that it is essential that there are requirements on airlines to report periodically on issues related to this Regulation (cancellations, delays, complaints received, etc.).
- Another notable omission in the proposal is the absence of a guarantee fund to address an air carrier insolvency. Such a fund is crucial to ensure that passengers are compensated in cases of insolvency. We therefore propose to add to the proposal a couple of articles with text analogous to that in articles 17 and 18 of the Directive (EU) 2015/2302 on package travel.

Commented [REDACTED]: ES considers that if the scope of application is finally left as “flight” instead of “journey”, this point does not seem to be applicable except for intra-European connections. ES is in favour of a ‘journey’ approach.

operating air carrier uses the aircraft of another air carrier, with or without crew of that other carrier, shall not change the designation of the former air carrier as operating air carrier for the purposes of this Regulation.'

(a) The definition in point (c) is replaced by the following:

'''Union air carrier"² means an air carrier with a valid operating licence granted by a Member State in accordance with the provisions of Regulation (EC) No 1008/2008 of 24 September 2008 on common rules for the operation of air services in the Community³.'

(b) The definition in point (d) is replaced by the following:

'''Organiser"² means a person within the meaning of Article 3, **point 8, (8)** of Directive (EU) 2015/2302 ~~of 25 November 2015 on package travel and linked travel arrangements~~⁴.'

(ba) The definition in point (e) is replaced by the following:

'''Package" means a combination of travel services as defined in Article 3, point 2, of Directive (EU) 2015/2302;'

(bb) The definition in point (f) is replaced by the following:

'''Ticket" means valid evidence, regardless of its form, of the conclusion of a transport contract,⁵

(bc) The definition in point (g) is ~~deleted~~ replaced by the following:

'''Reservation" means an authorisation, on paper or in electronic form, giving entitlement to transportation subject to previously confirmed personalised transport arrangements.'

² **Alignment throughout the text will be part of the legal-linguistic revision.**

³ OJ L293, 31.10.2008, p. 3.

⁴ OJ L 326, 11.12.2015, p. 1–33

⁵ **It is proposed to add the following recital:**

Tickets are issued or authorised by the operating air carrier following the conclusion of an air transport contract with a passenger. They should be deemed to cover one flight or connecting flight covered by the air transport contract, without taking into account intermediate stops for technical and operational purposes. They should contain several pieces of information regarding that flight or connecting flight such as the flight date, departure and arrival, the scheduled times of departure and arrival, the passenger's name, surname, and the flight number.

(bd) The definition in point (h) is replaced by the following:

"Final destination" means the destination of the flight or of the last **connecting** flight, ~~of a journey as indicated in the reservation;~~

(c) The definition in point (i) is replaced by the following:

"person with disabilities" and "person with reduced mobility"² mean any person who has a permanent or temporary physical, mental, intellectual or sensory impairment which, in interaction with various barriers, may hinder his or her full and effective use of transport on an equal basis with other passengers or whose mobility when using transport is reduced due to age; '

(ca) The definition in point (j) is replaced by the following:

"denied boarding" means a refusal to carry passengers on a flight, **although they have presented themselves for boarding under the conditions laid down in Article 4(0) or when they were informed in advance that they will be denied boarding against their will,** except where there are reasonable grounds to deny them boarding, such as reasons of health, safety or security, or inadequate travel documentation;⁶

(cb) The definition in point (k) is replaced by the following:

"volunteer" means a passenger who has presented himself or herself for boarding under the conditions laid down in Article 4(0) and responds positively to the air carrier's call for passengers prepared to surrender their ~~seat reservation~~ in exchange for benefits;'

(d) The definition in point (l) is replaced by the following:

~~“(4) “~~**"cancellation"**~~”~~² means:

- the non-operation of a flight which was previously planned and ~~on for~~ which at least one **ticket was issued**~~seat was reserved~~. A flight where the aircraft took off but, for whatever reason, diverted to an airport other than the airport of **arrival stated in the ticket** ~~final destination~~, or to return to the airport of departure, is to be treated as a cancellation, unless the **actual** airport of arrival and the airport of **arrival** stated in the ~~ticket~~**air transport**

⁶ **The related recital will be adapted.**

~~contract~~ serve the same town, city or region and the air carrier provided transport to the passenger to the airport of arrival stated in the ticket ~~final destination~~. The case when a passenger has been issued a ticket for a flight and the scheduled time of departure ~~take-off time~~ has been brought forward by more than one hour, unless there is no change in the check-in and boarding times, or unless the passenger has taken the rescheduled flight, is also to be treated as a cancellation.

(e) The following definitions are added:

- (~~aa~~) "third country" means any country or part of a territory of a Member State to which the Treaties ~~does~~ not apply;
- (~~ab~~) "delay at departure" means the difference of time between the scheduled time of departure ~~indicated on the passenger's reservation~~ and the actual time of departure of the flight;
- (~~ac~~) "delay at arrival" means the difference of time between the scheduled time of arrival ~~indicated on the passenger's reservation~~ at the passenger's final destination, and the actual time of arrival of the flight;
- (~~ad~~) "class of transport" means a part of the passenger cabin of the aircraft characterised by different seats, a different seat configuration or any other difference in the standard service provided to passengers compared to other parts of the cabin;
- (ga) "air transport contract" means a contract of carriage between an operating air carrier or an intermediary, and a passenger, for the provision of one or more flights;
- (m) "extraordinary circumstances" means circumstances which by their nature or origin, are not inherent in the normal exercise of the activity of the air carrier concerned and are beyond its actual control. For the purpose of this Regulation, a non-exhaustive list of extraordinary circumstances is, ~~including in particular the list of extraordinary circumstances~~ presented in the Annex;
- (n) "flight" means an air transport operation operated by a single aircraft between two airports identified on the ticket reservation through a predetermined itinerary, a schedule and a single identification number; intermediate stops for technical and operational purposes only shall not be taken into consideration;

- (o) "connecting flight" means a flight which, under a single air transport contract, is intended to enable the passenger to arrive at a transfer point in order to depart on another flight, or, where appropriate in the context, means that other flight departing from the transfer point;

(oo) "stopover" means an intentional interruption of travel under an air transport contract for a period of time beyond that required for direct transit through or, when changing flights, for a period normally extending to the time of departure of the next connecting flight and exceptionally including an overnight stay.

- ~~(p) "journey" means a flight or a continued series of flights transporting the passenger from the initial airport of departure to his final destination in accordance with a single air transport contract. The outward and the return journey are to be considered as separate journeys;~~

(q) [...]

(r) [...]

(s) [...]

(t) [...]

- (u) "time of departure" means the time when the aircraft leaves the departure stand, pushed back or on its own power (off-block time);

- (v) "time of arrival" means the time when the aircraft reaches the arrival stand and the parking brakes are engaged (on-block time);

- (w) "tarmac delay" means, ~~at departure, the~~ **any time above 30 minutes during which** the aircraft remains on the ground between the **off-block time** and the take-off time of the aircraft, **at departure**, or, ~~at arrival, the time between the touch-down of the aircraft and the on-block time,~~ **at arrival**;

- (x) "night" means the period between midnight and 6 a.m;

(y) [...]

- (ya) ~~"children/infant"~~ **"children/infant"** - means ~~a~~ persons below the age of ~~12~~ **18** years;

Commented [1]: We wonder what happens to the time between door closure and off-block. If what is intended to be controlled is the time a passenger remains inside a "forced" aircraft, the start should be from the time boarding is completed. We consider that the above definition is better because between the blocking time and the closing of doors there may be a period of time that is not being monitored.
Paragraph 3.3.3. of the Interpretative Guidelines of the Regulation refers to a judgment in which the Court concludes that the "concept of "arrival time" used to determine the extent of the delay suffered by passengers on a flight if arrival is delayed corresponds to the time at which at least one of the aircraft doors opens, since it is considered that, at that time, passengers can leave the aircraft".

(vb) "infant" - means a person below the age of two years;

(zb) 'durable medium' means any instrument which enables the passenger to store information in a way accessible for future reference, for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;

(zc) "accessible format" means a format that gives the person with disabilities or with reduced mobility an access to any relevant information, including allowing such person to have access as feasibly and comfortably as a person without any of the impairments or disabilities, and which meets accessibility requirements defined in accordance with the applicable legislation such as Annex I to Directive (EU) 2019/882;

(zd) "disruption" means denied boarding as defined in point (j), cancellation as defined in point (l), tarmac delay as defined in point (w), delay at departure as defined in point (ad) or delay at arrival as defined in point (ae);

(ze) "initial point of departure" means the departure point of the flight or of the first connecting flight;

~~23.~~ Article 3 is amended as follows:

~~(-ae)~~ Paragraph 1, ~~point (a) is amended~~ **is replaced** by the following:

'1. This Regulation shall apply ~~'(a) to passengers departing or arriving on a flight from an airport located in the territory of a Member State to which the Treaty applies.'~~

Commented [REDACTED]: ES requests the table that was drawn up at the time with the new approach to the scope of application.

~~(-aaa)~~ Paragraph 1, point (b) is amended by the following:

~~'(b) to passengers departing from an airport located in a third country to an airport situated in the territory of a Member State to which the Treaty applies, unless they received benefits or compensation and were given assistance in that third country, if the operating air carrier of the flight concerned is a Union air carrier.'~~

~~(aaa)~~ Paragraphs 1a and 1b are added:

'1a. This Regulation shall apply to the passengers of a flight operated by a third-country operator, departing from an airport located in the territory of a Member State and arriving

at an airport situated in the territory of a third country with a connection in another airport of that third country, where the two connecting flights are the subject of a single air transport contract, and even when the delay arises during the second connecting flight and the flight is fully operated outside the Union.

1b. This Regulation shall not apply to passengers on connecting flights operated by a Union air carrier that were the subject of a single air transport contract if both the airport of departure of the first leg of the journey, and the airport of arrival of the second leg of the journey, are located in a non EU country, and only the airport where the stopover takes place is located in the territory of a Member State.'

(aa) Paragraph 2 is replaced by the following:

'2. Paragraphs 1, 1a and 1b shall apply on the condition that passengers:

(a) have a ~~confirmed reservation~~ **ticket for** on the flight concerned

or

(b) have been transferred by an air carrier or an intermediary from the flight for which they held a **ticket** ~~reservation~~ to another flight, irrespective of the reason.'

(aaa) Paragraph 3 is replaced by the following:

'3. This Regulation shall not apply to passengers travelling free of charge or at a reduced fare not available directly or indirectly to the public. However, it shall apply to passengers having tickets issued under a frequent flyer programme or other commercial programme by an air carrier or intermediary.'

(b) Paragraph 4 is replaced by the following:

'4. Without prejudice to Articles 8(3~~bd~~) and 8(4), this Regulation shall only apply to passengers transported by motorised fixed wing aircraft.

(ba) Paragraph 5 is replaced by the following:

⁷ PCY suggests adding a recital to clarify that passengers travelling under a flight covered by Public Service Obligations (that is available to the public under certain conditions) are subject to the same rights as other passengers.

'5. Unless otherwise specified, the operating air carrier shall be responsible for performing the obligations under this Regulation.'

(c) Paragraph 6 is replaced by the following:

'6. Without prejudice to Article 12 of this Regulation, this Regulation shall also apply to passengers transported according to package travel contracts unless a package travel **contract** is cancelled or its performance is **affected** ~~delayed~~ for reasons other than **a disruption** ~~cancellation or delay~~ of the flight.'

(d) **The following paragraph is added:**

'7. Article 7 of this Regulation on compensation shall not apply, if the disruption occurs on a connecting flight that both departs from and arrives at an airport in Greenland.'

34. Article 4 is amended as follows:

(-aa) Paragraph 0 is added:

'0. This Article shall apply to passengers that present themselves for boarding at the gate, after on-line check-in or check-in at the airport, as stipulated and at the time indicated in advance and in writing (including by electronic means) by the **operating** air carrier, or the intermediary, or, if no boarding time is indicated, not later than 45 minutes before the **scheduled** time of departure ~~indicated in the passenger's reservation~~. This Article shall also apply to passengers who do not present themselves for boarding when they were informed in advance that they will be denied boarding against their will.'

(-aa) Paragraph 1 is replaced by the following:

'1. When an operating air carrier reasonably expects to deny boarding on a flight, it shall **immediately** inform ~~first specify to~~ the passengers concerned. **The operating air carrier shall, at the same time, specify to the passengers concerned their specific rights under this Regulation applicable to the case, in particular as regards rerouting and reimbursement under Article 8.**

~~their rights in such situation under this Regulation and~~

The operating air carrier shall call for volunteers to surrender their ~~seats reservations~~ in exchange for benefits under conditions to be agreed between the volunteer and the operating air carrier. This agreement with the volunteer on the benefits shall replace the passenger's right to compensation as laid down in Article 7(1), only if the volunteer explicitly approves of it by means of a signed document or any digital means on a durable medium. In absence of such **approval** ~~signed document or email~~, the volunteer shall be ~~entitled, on request, to immediately compensated~~ **entitled** by the operating air carrier denying boarding in accordance with Articles 7(1) ~~and 7(3).~~'

(-ab) Paragraph 2 is replaced by the following:

'2. If an insufficient number of volunteers comes forward to allow the remaining passengers with **tickets reservations** to board the flight, the operating air carrier may then deny boarding to passengers against their will. ~~The passengers who are denied boarding against their will shall be entitled to compensation by the air carrier denying boarding in accordance with Article 7(1). Such compensation shall, without request, be granted immediately. The operating air carrier shall also provide the passengers concerned with the information on the process for the handling of complaints under Articles 15a and 16ac.~~'

(a) Paragraph 3 is replaced by the following:

'3. **The operating air carrier denying boarding shall immediately specify to the passengers concerned the information on the handling of complaints under Articles 15a and 16ac.**

The operating air carrier denying boarding shall, without undue delay, offer to the passengers concerned, in a clear manner, the choice between reimbursement and re-routing in accordance with Article 8. By way of derogation from Article 8(1)(a), when the passengers concerned is entitled to reimbursement it shall be granted immediately.

~~Passengers who are denied boarding under paragraphs 1 or 2 of this Article shall be entitled to reimbursement or re-routing, and assistance by the air carrier denying boarding, in accordance with Articles 8 and 9. By way of derogation from Article 8(1)(a) and 9(1) first indent, such reimbursement or re-routing, and assistance shall be granted immediately. Such reimbursement or re-routing, and assistance shall be without prejudice to the benefits referred to in paragraph 1.~~

The operating air carrier denying boarding shall offer to the passengers concerned assistance in accordance with Article 9. By way of derogation from Article 9(1) first indent, refreshments shall be granted immediately.

The operating air carrier denying boarding shall immediately compensate the passengers concerned in accordance with Article 7(1).'

(b) The following paragraphs are added:

'4. Paragraphs 2 and 3 shall also apply to return flights where the passenger is denied boarding on the grounds that the passenger did not take a previous flight of the same air transport contract, ~~and provided that the passenger has paid or offered to pay any agreed fee;~~

5. Where the passenger, or an intermediary, demands the correction of a spelling mistake in the name or given name(s) of one or several passengers ~~included in the same reservation, or in case of administrative change to those names,~~ the operating air carrier shall correct or change this at least once up until 48 hours before departure without any additional charge to the passenger or the intermediary.'

~~45.~~ Article 5 is amended as follows:

(-aa) Paragraph 0 is added:

'0. In case of cancellation of a flight, the operating air carrier of the cancelled flight shall immediately inform the each passengers concerned who has a reservation for this flight. ~~as soon as possible.~~ The operating air carrier shall, at the same time, specify to the passengers concerned ~~the reasons for the cancellation, the applicable flight distance as set out in Article 7 and~~ their specific rights under this Regulation applicable to the case, in particular as regards rerouting and reimbursement under Article 8, as well as the information on the process for requesting compensation ~~or reimbursement~~ defined in Articles ~~7 and 8~~ and on the handling of complaints under Articles 15a and 16a~~c~~.

The operating air carrier shall, without undue delay, specify to the passengers concerned the reasons for the cancellation. The passengers are entitled, upon ~~written~~ request, to receive in writing the reasons for the cancellation. The operating air carrier

Commented [REDACTED]: ES agrees with the content of the paragraph and simply points out that it is not clear where it is located: why is this paragraph in the article on denied boarding? We think it would be better to move it to another article, although we understand that the problem would arise in the case of denied boarding because the documentation is not in order.

~~operating the cancelled flight~~ shall provide such information in a ~~precise~~ **clear** manner within ~~seven~~ **14** calendar days of the submission of the request.’

- (a) Paragraph 1 is replaced by the following:

‘The operating air carrier of the cancelled flight shall ~~offer to the passengers concerned~~ **without undue delay, offer to the passengers concerned, in a clear manner, the choice between reimbursement and re-routing in accordance with Article 8.**

(a) ~~in a clear manner, the choice between rerouting and reimbursement in accordance with Article 8;~~ and

(b) ~~the assistance in accordance with Article 9.’~~

- (ab) Paragraphs 1a and 1b are added:

‘1a. **The operating air carrier shall offer to the passengers concerned assistance in accordance with Article (9).**⁸

~~When the operating air carrier informs the passengers of the cancellation of a flight less than 24 hours before the time of departure of the cancelled flight indicated in the passengers’ reservation and the passengers concerned choose a return flight in accordance with Article 8(1)(a) or rerouting in accordance with Article 8(1)(b), the operating air carrier of the cancelled flight shall provide assistance for the passengers concerned in accordance with Article 9, while waiting for the departure of the new flight or alternative transportation.~~

1b. Passengers shall have the right to receive, ~~on written~~ **upon** request, compensation by the operating air carrier of the cancelled flight in accordance with Articles 7(1) and 7(3) **when they choose a reimbursement and a return flight in accordance with Article 8(1)(a) or rerouting in accordance with Article 8(1)(c), or, when they choose rerouting in accordance with Article 8(1)(b) and they.** ~~This right is also applicable when passengers are rerouted and reach their final destination with a delay at arrival exceeding the thresholds defined in Article 7(1a).~~

⁸ **The presidency suggests adding a recital to explain that assistance is offered from the scheduled time of departure until the departure of the flight or alternative transportation.**

(ac) Paragraph 2 is deleted.

(b) Paragraphs ~~2~~-3 and 4 are replaced by the following:

~~32.~~ An operating air carrier shall not be obliged to pay compensation in accordance with Article 7, if it can prove that the cancellation was caused by extraordinary circumstances and the cancellation could not have been avoided even if the air carrier had taken all reasonable measures. Such extraordinary circumstances may only be invoked in so far as they affect the flight concerned or the preceding flight or flights in the rotation sequence operated by the same aircraft, and provided that there is a direct causal link between the occurrence of that circumstance and the cancellation of the flight. **The burden of proof regarding the existence of that direct causal link shall rest with the operating air carrier.**

~~43.~~ The right to receive **assistance under paragraph 1a and** compensation under paragraph 1b shall not apply if the passengers have been informed of the cancellation at least 14 calendar days before the **scheduled date** time of departure ~~indicated on their reservation~~. The burden of proof concerning the questions as to whether and when the passenger has been informed of the cancellation of the flight shall rest with the operating air carrier.’

(c) [...]

~~56.~~ Article 6 is replaced by the following:

‘Article 6

Delay

0. When an operating air carrier expects a flight to be delayed at departure **or at arrival**, it shall **immediately** inform the passengers concerned ~~as soon as possible~~ and, at the latest, on the **scheduled** time of departure indicated in the ~~reservation~~ **air transport contract**. To the extent possible, passengers shall receive regular updates in real-time. The operating air carrier shall, **at the same time**, specify to the passengers concerned ~~the reasons for the delay, the applicable flight distance as set out in Article 7 and their specific rights under this Regulation~~ **applicable to the case, in particular as regards** as well as the information on the process for requesting compensation defined in Article 7(3) ~~and on~~ as well as the handling of complaints under Articles 15a and 16a.

The operating air carrier shall, without undue delay, specify to the passengers concerned the reasons for the delays. The passengers are entitled, upon request, to receive in writing the reasons for the delay **at arrival**. The **operating** air carrier **operating of the delayed flight** shall provide such information in a **precise clear** manner within **714** calendar days of the submission of the request.

1. The operating air carrier shall offer to the passengers concerned ~~the~~ assistance in accordance with Article 9 ~~while waiting for the departure of the delayed flight.~~⁸

1a ~~In addition, w~~When the delay **at departure** is of at least **three five** hours, the operating air carrier shall, **without undue delay**, offer to the passengers concerned **the choice between re-routing and** reimbursement **in accordance with** ~~specified in Article 8(1)(a).~~

Commented [REDACTED]: We oppose the change from 3 hours to 5 hours because it is detrimental to the passenger. 5 hours seems to us to be excessive. They leave the passenger no reasonable choice during these first 5 hours.

2. Passengers shall have the right to receive, ~~on~~**upon** request, compensation from the operating air carrier of the delayed flight in accordance with Articles 7(1) and 7(3) when they reach their final destination with a delay at arrival exceeding the thresholds defined in Article 7(1a).

3. [...]

3a4. This article shall also apply if the **scheduled** time of departure ~~as indicated in the reservation~~ was postponed by the air carrier.

~~However, t~~The right to receive assistance under paragraph 1 and compensation under paragraph 2 shall not apply if the passenger has been informed of such a change at least 14 calendar days before the **scheduled** date of ~~the flight departure~~. The burden of proof concerning the questions as to whether and when the passenger has been informed of the change in time shall rest with the operating air carrier.

5. — This article shall also apply where the aircraft takes off and lands at an airport other than the airport for which the reservation was made, but subsequently takes off to reach the airport of destination. For the purposes of determining the extent of the delay at arrival incurred by a passenger on a diverted flight, it is necessary to take as a reference the time at which the passenger actually reaches either the airport for which the reservation was made or another close by destination agreed upon between the passenger and the operating air carrier in a signed document or any other digital means on a durable medium.

4. An operating air carrier shall not be obliged to pay compensation in accordance with Article 7, if it can prove that the delay **at arrival** was caused by extraordinary circumstances and the delay could not have been avoided even if the air carrier had taken all reasonable measures. Such extraordinary circumstances can only be invoked in so far as they affect the flight concerned or the preceding flight or flights in the rotation sequence operated by the same aircraft and provided that there is a direct causal link between the occurrence of that circumstance and the ~~long~~ delay **at departure** of the subsequent flight. **The burden of proof regarding the existence of that direct causal link shall rest with the operating air carrier.**

5. [...]

67. The following Articles ~~is~~**are** inserted:

Article 6-2a

Tarmac delay

0. In the event of tarmac delay, the operating air carrier shall, to the extent possible, provide passengers with regular and real-time updates.

1. ~~In the event of tarmac delay, the operating air carrier shall inform passengers of the delay as soon as possible.~~ Subject to safety **or security** constraints, where a tarmac delay occurs, the operating air carrier shall ensure adequate heating or cooling of the passenger cabin, free of charge access to toilet facilities **and that persons mentioned in Article 11(1) receive the required attention**~~adequate medical attention is available if needed. If the tarmac delay is longer than 30 minutes, unless the cabin crew is ready for take-off or those services~~ **would extend the tarmac delay or** cannot be reconciled with air safety or air security requirements, the operating air carrier shall provide free of charge drinking water on board.

2. Where a tarmac delay reaches a maximum of **three hours** in an airport situated in a territory of a Member State to which the Treaty applies, the aircraft shall proceed to the gate or another suitable disembarkation point where passengers shall be allowed to disembark. Beyond ~~that~~**is** deadline, a tarmac delay can only be prolonged if there are safety, immigration, air traffic control or security-related reasons why the aircraft cannot leave its position on the tarmac. ~~In such cases, the operating air carrier shall provide assistance in any possible and reasonable manner to passengers mentioned in Article 11(1).~~

Commented [REDACTED]: The time reference should be set with the opening and closing of doors.

See comment on Article 2 definition (W) on 'tarmac delay'.

Commented [REDACTED]: ES would prefer 2 hours instead of the proposed 3 hours.

3. Passengers disembarked in accordance with paragraph 2 shall be entitled to the rights assistance in accordance with provided for under Article 69(1), taking into account the tarmac delay and the scheduled time of departure.'

8. — The following Article is inserted:

~~Article 6a~~

Missed connecting flight during journeys performed under a single air transport contract

1. Where a passenger misses a connecting flight as a result of a disruption on a previous flight, the operating air carrier ~~operating of~~ the preceding disrupted flight shall be responsible for providing to the passenger ~~reimbursement or~~ re-routing in accordance with Article 8(1)(b), and assistance in accordance with Article 9.

1a. When the operating air carrier cannot re-route the passenger within five hours of the scheduled time of departure of the missed connecting flight, the operating air carrier shall, without undue delay, offer to the passengers concerned, in a clear manner, the choice between reimbursement and re-routing in accordance with Article 8.

2. Upon request, a passenger shall also have a right to compensation by the air carrier operating the disrupted flight in accordance with Articles 7(1) and 7(3), if the passenger reaches its final destination with a delay at arrival exceeding the thresholds defined in Article 7(1a). ~~For the purpose of determining the delay, reference shall be made to the scheduled time of arrival at the final destination as indicated on the passenger's reservation.⁹~~

2a3. Where, as indicated in the reservation, a passenger plans and makes a stopover, interrupts its journey with a gap of at least 24 hours between two flights, that stop over the airport where the stopover is made shall be regarded as interrupting the passenger's journey, and as the final destination of the passenger's journey.

3. [...]

Commented [REDACTED]: What if the connection is outside the EU? Someone might say that this flight is outside the scope of the Regulation and therefore does not apply. Example: Madrid-London-New York. ES would like to ask for explanations of how it would apply to this specific case.

It would be good to update the table that was made with the casuistry to better understand this article with the scope of application of the Regulation.

⁹ A recital will explain the rights of passengers with separate tickets.

4. This Article shall also apply to third country air carriers operating a connecting flight to an airport located in the territory of a Member State to which the Treaty applies.'

79. Article 7 is amended as follows:

(a) Paragraph 1 is replaced by the following:

‘1. In case of disruption, the following compensation amounts shall apply under the conditions defined in Articles 4, 5, 6 or 6a and in this Article:

- (a) 300 EUR for ~~journeys~~ **flights** of 3500 kilometres or less;
- (b) 500 EUR for ~~all flights~~ **journeys of above** 3500 kilometres ~~or more.~~’

(aa) Paragraph 1a is added:

‘1a. In case of a delay **at arrival** after rerouting following a cancellation under Article 5, a delay **at arrival** under Article 6 or a delay **at arrival** after a missed connecting flight under Article 6a, the right to compensation shall arise for delays **at arrival** of more than:

- (a) ~~five hours~~ for ~~flights~~ **journeys** of 3500 kilometres or less;
- (b) nine hours for ~~all flights~~ **journeys of above** 3500 kilometres ~~or more.~~

(ab) Paragraph 1b is added:

‘1b. In determining the distances for the purpose of this Regulation, the basis shall be the distance between the initial point of departure and the final destination ~~of the journey~~. In case of a connecting flight, only the ~~first~~ **initial point airport** of departure and the airport of the final destination shall be taken into consideration. Those distances shall be measured by the great circle route method.’

(b) Paragraphs 2 and 3 are replaced by the following:

2. Where the passenger has opted for the continuation of his travel pursuant to Article 8(1)(b), and another ~~disruption~~ **cancellation or missed connecting flight** occurs during re-routing, the passenger's right to compensation can arise only once during his travel to the final destination.

Commented [REDACTED]: ES is not in favour of changing the current threshold (3 hours) because this 5 hour proposal would leave out most of the delays of usual flights in Europe. However, if two segments are finally introduced, we would be in favour of establishing 3 and 5 hours in each segment.

3. Requests for compensation under this Article shall be submitted, ~~in accordance with Article 16aa,~~ by the passenger within six 6 months from the actual or scheduled date of ~~on which the flight was performed or was to be performed according to the reservation.~~ Within 30 calendar days of the submission of the request, the operating air carrier shall either pay the compensation or provide the passenger with a justification for not paying the compensation, including, if applicable, an explanation according to Article 5(3) or to Article 6(4) on extraordinary circumstances. In case the operating air carrier does not pay the requested ~~at~~ compensation or ~~does not provide any justification within 30 calendar days,~~ the passenger may submit a complaint in accordance with Article 16ac.

3a. The compensation shall be paid in cash or by other means agreed upon between the passenger and the operating air carrier in a signed document or any other digital means on a durable medium ~~and following appropriate information of the rights under this Regulation.~~

4. [...]

5. [...]

(ba) Paragraph 4 is deleted.

8+0. Article 8 is replaced by the following:

'Article 8

Right to reimbursement or re-routing

1. In case of disruption, passengers shall ~~immediately and free of charge~~ be offered, free of charge, the choice between the following options under the conditions defined in Articles 4, 5, ~~or 6,~~ or 6a and in this Article:

- (a) reimbursement within ~~seven~~ 30 calendar days from the date of the passenger's request, in cash, or by other means as agreed upon between the passenger and the operating air carrier in a signed document or any other digital means on a durable medium, of the full cost of the tickets, for the flight or connecting flights part or parts of the journey not made, and for the flight or connecting flights part or parts already made if the flight or connecting flights are is no longer serving any purpose in relation to the passenger's original travel plan, together with, when relevant, a return flight to the ~~first point~~ initial point of

departure, at the earliest opportunity after the **scheduled** time of departure ~~or, in agreement with the passenger, before that time~~ indicated on the reservation;

- (b) continuation of the passengers' travel plans by re-routing them to their final destination at the earliest opportunity after the **scheduled** time of departure ~~or, in agreement with the passenger, before that time~~ indicated on the reservation; or
- (c) re-routing to their final destination at a later date at the passenger's convenience, subject to availability of seats.

2. [...]

~~2. When the passenger exercises his or her right to re-routing in accordance with paragraph 1(b), the air carrier may offer an alternative flight departing earlier than the time of departure indicated in the reservation. Where the passenger refuses such earlier rerouting, he or she shall still be entitled to the option of rerouting at the earliest opportunity after the time of departure indicated in the reservation.~~

3. In order for the passenger to reach his or her destination as determined under paragraphs 1(a), ~~or 1(b) or 1(e)~~ at the earliest opportunity, the operating air carrier shall, subject to availability and provided that they are under comparable transport conditions **as set out in the air transport contract**, ~~propose~~ **offer at least one of** the following alternative options to the passenger for agreement in a signed document or any other digital means on a durable medium:¹⁰

- (a) a flight **or connecting flights, following the same route** as set out in the air transport contract, ~~to or from an alternative airport compared to the airport stated in the reservation. In such a case, the operating air carrier shall bear the cost of transferring the passenger from the alternative airport to the airport stated in the reservation;~~
- ~~(b) the use of services operated by another air carrier;~~

¹⁰ A Recital will explain what comparable conditions are in line with point 4.2 of the Commission interpretative guidelines.

(eb) a different routing, including to or from alternative airports compared to the airports stated in the air transport contract. In such case, the operating air carrier shall bear the cost of transferring the passenger to or from the alternative airports compared to the airports stated in the air transport contract ~~or,~~

(c) the use of services operated by another air carrier or,

(d) where appropriate for the distance to be travelled, the use of another mode of transport, ~~as set out in the air transport contract.~~; in such case, this Regulation shall apply to the transport carried out by that other mode of transport.

4. [...]

5. Where a passenger chooses the continuation of ~~the journey~~ his or her travel plans in accordance with paragraphs 1(b) and 7, and if the operating air carrier has not offered a re-routing in accordance with paragraph 3 and the waiting time is prolonged by at least three hours, ~~the operating air carrier cannot foreseeably arrange rerouting of the passenger in time to arrive at the final destination within 8 hours of the time of arrival indicated on the reservation,~~ the passenger may arrange its own rerouting, ~~at comparable transport conditions as set out in the reservation and in accordance with paragraph 3(b).~~

In case of a cancellation, the first subparagraph shall apply from the scheduled time of departure of the flight.

When doing so the passengers shall limit the expenses to the extent those are necessary, reasonable and appropriate. The operating air carrier ~~operating the flight subject to the disruption~~ shall reimburse the expenses not exceeding 400% of the full cost of the ticket or tickets incurred by the passenger within ~~seven~~ 30 calendar days of the submission of the request.

Commented [REDACTED]: Nowhere in the Regulation is it being linked to the price of the ticket. It makes sense to limit the refund to the passenger as long as the conditions and class are similar to the one they had, but not the price.

6. [...]

7. A passenger may at any time choose between reimbursement and a return flight in accordance with Article 8(1)(a), rerouting at a later date in accordance with Article 8(1)(c), until when the operating air carrier has offered a re-routing at the earliest

opportunity in accordance with Article 8(1)(b) or when a passenger has decided to self-reroute in accordance with Article 8(5).'

241. Article 9 is amended as follows:

(-a) The title of the Article is replaced by the following:

‘Article 9

Right to assistance

(a) Paragraph 1 is replaced by the following:

‘1. In case of disruption and subject to the conditions defined in Articles 4, 5, 6, 6a and 6-2a and in this Article, and when the waiting time for their flight or alternative transportation is prolonged by at least two hours, passengers shall be offered ~~promptly and~~ free of charge:

- (a) refreshments every two hours of waiting time;
- (b) a meal **after three hours and then** every 5 hours of waiting time with a maximum of three meals per day;
- (c) two telephone calls, text messages and internet access, ~~including access to recharging stations.~~

The operating air carrier may limit or decline the assistance provided under the previous subparagraph if its application would further delay the passengers.~~If an operating air carrier is about to provide assistance under this paragraph but this would extend the waiting time for the departure, it shall be allowed to decline to provide this assistance.'~~

(aa) Paragraph 2 is replaced by the following:

‘2. In addition, where a stay of one or more nights becomes necessary while waiting for the flight or alternative transportation, passengers shall be offered free of charge:

- (a) ~~hotel~~ accommodation;
- (b) transport ~~between~~ from the airport **and to the** place of accommodation (~~hotel, place of residence of the passenger or other~~) and return.’

(ab) Paragraphs 2a, 2b and 2c are added:

'2a. The operating air carrier may use vouchers to fulfil its obligations under paragraphs 1(a), 1(~~baa~~) and 2. ~~In such case, such vouchers shall be provided in an accessible format.~~ The vouchers provided ~~under~~ **in accordance to** paragraph 1 shall be usable in all shops providing food and refreshments at the airport where the passengers concerned are stranded, **on board their flight**, and, as appropriate, at the ~~hotel~~ accommodation provided under paragraph 2, **point** (a).

2b. Where the operating air carrier does not fulfil its obligations under paragraphs 1, 2 and 2a, the passengers concerned may make their own arrangements to the extent those expenses are necessary, reasonable and proportionate to the duration of the waiting and the costs of refreshments and meals at the place of the airport where the passengers are stranded. The air carrier operating the **disrupted** flight ~~subject to the disruption~~ shall reimburse the expenses incurred by the passengers within ~~seven~~ **30** calendar days of the submission of the request for reimbursement.

2c. At all Union airports, ~~with more than 700 000 passengers per year~~, the airport managing body shall put in place arrangements to ensure that ~~adequate refreshments~~ **drinking water and recharging stations for electronic devices** can be made available regardless of the time of day, flight, terminal.'

(ac) Paragraph 3 is deleted.

(b) The following paragraphs are added:

~~'43.~~ If the disruption is caused by extraordinary circumstances and the disruption could not have been avoided even if all reasonable measures had been taken, the air carrier may limit the accommodation provided according to paragraph 2(a) to a maximum of ~~three~~ **three** nights. ~~If the operating air carrier chooses to apply this limitation, it shall nevertheless provide the passengers with information about available accommodation after the three nights, in addition to the continued obligations for information.~~

5. [...]

~~64.~~ Where a passenger opts for reimbursement pursuant to Article 8(1)(a) while being at the ~~first~~ **initial** point of departure, or opts for rerouting at a later date pursuant to Article

8(1)(c), the passenger shall have no further rights with regard to assistance under Article 9(1) and 9(2) in relation to the relevant flight.'

~~102.~~ Article 10 is replaced by the following:

'Article 10

Upgrading and downgrading

1. If an operating air carrier places a passenger in a class higher than that for which the ticket was purchased, it shall not request any supplementary payment.

2. If an operating air carrier places a passenger in a class of transport lower than that for which the ticket was purchased, it shall, **without request**, within 30 calendar days of the downgrading, by the means provided for in Article 7(3), provide the passenger with a compensation **at least** equivalent to:

(a) 40% of the flight price for ~~all~~ flights of 3500 kilometres or less, or

(b) 75% of the flight price for ~~all~~ flights ~~of above~~ 3500 kilometres ~~or more~~.

3. Where, ~~in the case of a series of flights~~, the price of the ~~concerned~~ flight is not indicated on the ticket, the compensation mentioned in paragraph 2 shall be calculated in proportion of the flight to the total distance covered by the **air transport contract, calculated in accordance with Article 7(1b)**~~ticket~~.

4. The flight price excludes taxes and charges indicated on the tickets, as long as neither the requirement to pay those taxes and charges nor their amount depends on the class for which that tickets ~~has~~**ve** been purchased.

5. This Article shall not apply to advantages offered through a higher fare within the same class of transport such as specific seating or catering.'

~~10a3.~~ The following Article is inserted:

'Article 10a

Airport contingency plans

1. At Union airports whose annual traffic ~~is not less than 5 million passengers~~ ~~has been over five million passengers for at least three consecutive years~~, the airport managing body shall ensure that the operations of the airport ~~managing body~~ and of ~~airport users~~ airport essential service providers, in particular the air carriers, and the suppliers of groundhandling services, are coordinated through a proper contingency plan in view of possible situations of multiple cancellations and/or delays of flights leading to a considerable number of passengers stranded at the airport. The contingency plan shall be set up to ensure that adequate information is given to stranded passengers and shall contain arrangements in order to minimise their waiting time and discomfort.

1a. Airport contingency plans shall take into account the particular and individual needs of special categories of passengers as defined under Article 11.

2. The contingency plan shall be set up in particular with the participation of the Airport Users Committee referred to in Council Directive 96/67/EC on access to the groundhandling market at Union airports as well as the providers of third parties providing groundhandling services and other airport essential service providers. The contingency plan shall also contain the contact data of the person(s) designated by ~~each~~ the air carriers participating in the Airport Users Committee in order to represent ~~them~~ it on the spot ~~in relation with the authorities, airport managing body and passengers~~ in the case of multiple cancellations and/or delays of flights. The air carrier shall ensure that the designated person(s) has the necessary means to assist passengers in accordance with the obligations arising from this Regulation in case of disruption ~~cancellation, delay, or denied boarding~~.

3. ~~The airport authority or the airport managing body shall communicate the contingency plan and any amendments to it to the Airport Users Committee referred to in Council Directive 96/67/EC~~ and, upon request, to the National Enforcement Body entrusted with the enforcement of this Regulation under Article 16(1).

~~3a.~~ A Member State may decide that an airport not covered by paragraph 1, located on its territory, is to fulfil the obligations laid down in paragraphs 1 to 3.

4. At airports below the threshold set in paragraph 1 or not covered by paragraph ~~3a~~4, with more than 700 000 passengers per year, the airport managing body shall make all reasonable efforts to coordinate airport users and to make arrangements with airport users

to inform stranded passengers in situations of multiple cancellations and/or delays of flights leading to a considerable number of passengers stranded at the airport.

114. Article 11 is replaced by the following:

'Article 11

Special categories of passengers

0. All information provided to passengers under this Regulation shall be provided in accessible format.

1. ~~At boarding,~~ Operating air carriers shall give priority to ~~carrying~~ persons with disabilities, persons with reduced mobility and any persons or recognised assistance dogs accompanying them, as well as **infants, and unaccompanied children**, ~~minors, pregnant women and persons in need of specific medical assistance.~~

2. In applying the rerouting and assistance in accordance with Articles 8 and 9, the operating air carrier shall pay particular attention to the needs of the persons mentioned in paragraph 1. Air carriers shall provide this rerouting and assistance as soon as possible to those persons, including to any persons or recognised assistance dogs accompanying them.

3. Article 9(3) shall not apply to a passenger mentioned in paragraph 1, **as well as to any persons or recognised assistance dogs accompanying them**, provided that the passenger has notified the operating air carrier of their particular needs for assistance at the latest at the time when the disruption is announced. Such notification shall be deemed to cover **the flight and connecting flights under an air transport contract** ~~the entire journey.~~

11a5. ~~In Article 12, the title is amended as follows:~~

(a) The title is replaced by the following:

'Article 12

Further rights'

(b) ~~In Article 12, the p~~Paragraph 1 is **replaced by the following** ~~amended as follows:~~

'1. This Regulation shall not affect rights and claims of the passenger granted under other legal acts, ~~including under Directive (EU) 2015/2302.~~ **The compensation granted under**

Articles 7 or 10(2) of this Regulation and the compensation granted under other legal acts, shall be deducted from each other, if those rights safeguard the same interest or have the same objective.

In particular, unless provided for in this paragraph, this Regulation shall not affect rights and claims under Directive (EU) 2015/2302. Compensation or price reduction granted under Directive (EU) 2015/2302 and compensation granted under Articles 7 or 10(2) of this Regulation shall be deducted from each other in order to avoid overcompensation, if these rights safeguard the same interest or have the same objective.

Without prejudice to Article 13 of this Regulation, and by way of derogation from Article 8(1)(a), if the flight is part of a package travel contract under Directive (EU) 2015/2302, passengers shall have no claim for reimbursement under this Regulation.

In accordance with Articles 13 and 16 of Directive (EU) 2015/2302 and without prejudice to Article 22 of that Directive, the organiser shall be responsible for the performance of the travel services included in the package travel contract, irrespective of whether those services are to be performed by the organiser or by other travel service providers, and for providing assistance to the passengers transported according to package travel contracts. The organiser may entrust the operating carrier with the provision of assistance, provided that the passenger is informed about this transfer of tasks.

However, if these rights safeguard the same interest or have the same objective, the compensation granted under Articles 7 or 10(2) of this Regulation and the compensation granted under the other legal acts, shall be deducted from each other. Passengers shall be entitled to present claims for a price reduction or compensation under Directive (EU) 2015/2302 and requests for compensation under this Regulation. Compensation or price reduction granted under Directive (EU) 2015/2302 and compensation granted under Articles 7 or 10(2) of this Regulation shall be deducted from each other in order to avoid overcompensation.

When a compensation or a reimbursement has already been paid to the passenger under the legislation of a third country, the amount of such compensation or a reimbursement shall be deducted from the amount of the compensation or a reimbursement granted under this Regulation.’

126. Article 13 is replaced by the following:

'Article 13

Right of redress

In cases where an operating air carrier pays compensation or meets the other obligations incumbent on it under this Regulation, no provision of this Regulation may be interpreted as restricting its right to seek compensation from any person, including third parties, in accordance with the law applicable.'

137. Article 14 is replaced by the following:

'Article 14

Obligations to inform passengers

10. The operating air carrier shall include on its website and mobile application an information notice specifying rights under this Regulation, including complaint handling process.

0a2. When offering tickets for a **flight or connecting flights journey** and prior to the purchase, air carriers and intermediaries shall inform the passenger on the following:

(a) the type of ticket or tickets being offered, in particular whether the ticket or the tickets are covered by a single air transport contract or a combination of separate air transport contracts;

(b) ~~the general conditions applicable to the ticket; and~~

(c) the rights and obligations of the passenger, the operating air carrier and the intermediary under this Regulation, **as defined in** ~~attached to~~ the air transport contract, including information on the reimbursement process; **and**

(d) the deadline and the procedure by which passenger can request **a change in name** ~~the correction of a spelling mistake~~ as specified in Article 4(45), without any additional charge; ~~and~~

(e) the terms and conditions, including the amount of any additional fee, that may apply on a particular flight on the grounds that the passenger does **not** take a previous flight of the same ticket;

Commented [REDACTED]: How would this clause fit in with the 'no show' issue? It should be explained. We consider that it should not be a "fee". It should be taken into account that there would be a problem with flight search engines webs (visibility of flights).

In order to comply with the information requirement set out in point (c) of the first subparagraph, the air carrier and the intermediary may use a summary of the provisions of this Regulation prepared by the Commission in all official languages of the Union and made available to the public.

~~0b3.~~ An intermediary or an air carrier which sells tickets **covered by** ~~that are~~ a combination of air transport contracts shall inform the passenger prior to the purchase, that the tickets are covered by separate air transport contracts with no rights under Articles 7, 8 and 9 to reimbursement, re-routing or assistance in the case of a missed connecting flight. Such information shall be provided in a clear ~~and accessible~~ manner when selling the tickets.

Air carriers and intermediaries shall provide the information pursuant to this paragraph in the language of the ~~ticket reservation~~ and a language that is internationally used on a durable medium.²

~~18. In Article 14 a new paragraph is added:~~

~~1.~~ The airport managing body shall ensure that at the check-in desks (including at self-service check-in machines) and at the boarding gate, the following text is displayed in a clearly legible form ~~and in a manner clearly visible to passengers~~: «If you are denied boarding or if your flight is cancelled or delayed for at least two hours, ask at the check-in counter or boarding gate for the information notice stating your rights, particularly with regard to reimbursement or re-routing, assistance and possible compensation». That text shall be displayed at least in the language(s) of the place of the airport and in a language that is internationally used. **To that end, airport managing bodies shall cooperate with operating air carriers.**

2. [...]

3. [...]

4. [...]

5. [...]

6. [...]

7.1...1

13a9. The following Article is inserted:

‘Article 15a

Complaint to the air carrier or the intermediary

1. Each air carrier and each intermediary shall set up a complaint-handling mechanism for the rights and obligations covered by this Regulation in their respective fields of responsibility. They shall make their contact details available **in the language of the air transport contract and a language that is internationally used**, ~~and in a language that is internationally used and working language, or languages, widely known to passengers, including in accessible format.~~ Details of the complaint-handling procedure shall be accessible to the public, including to persons with reduced mobility. They shall also inform passengers in a clear ~~and accessible~~ manner of the contact details of the body or bodies designated by Member States pursuant to Article 16 and Article 16a~~c~~ and, where relevant, their respective responsibilities. That information shall be available in the official language or languages of the Member States in which the air carrier and the intermediary are operating.

2. When passengers submit a complaint using the mechanism referred to in paragraph 1, such a complaint shall be submitted within six months of the ~~occurrence~~ **disruption** that it concerns. Within 30 calendar days **of the submission** ~~of receiving~~ the complaint, the air carrier, or the intermediary, to which the complaint is addressed shall either provide a reasoned reply or, in duly justified exceptional cases, inform the passenger that the passenger will receive a final reply within a period of less than **two months** ~~30 calendar days~~ from the date of submission of the complaint. The answer shall also contain the relevant contact details of bodies designated under Articles 16 or 16a~~c~~, including postal address, ~~phone number~~, website and e-mail address.

3. The submission of complaints by passengers using the mechanism referred to in paragraph 1 shall be without prejudice to their right to submit disputes for out-of-Court resolution in accordance with Article 16a~~c~~, or to seek redress through court proceedings, subject to periods of limitation in accordance with national law.’

1420. Article 16 is replaced by the following:

Article 16

Enforcement

1. Each Member State shall designate a National Enforcement Body responsible for the enforcement of this Regulation as regards ~~journeys~~ **flights and connecting flights to and from airports situated on its territory and journeys from a third country to such airports.** The Member States shall inform the Commission of the body that has been designated in accordance with this paragraph.

Commented [REDACTED]: ES prefers "journeys" to "flights".

2. The National Enforcement Body shall closely monitor the compliance of with the requirements of this Regulation and take the measures necessary to ensure that the rights of passengers are respected.

2a. **Passengers may submit complaints to the National Enforcement Body.** The National Enforcement Body may also ~~investigate~~ and decide on enforcement actions based on information contained in those individual complaints ~~submitted by passengers.~~

Commented [REDACTED]: We miss the obligations on airlines to provide the information required by the NEBs.

3. The sanctions laid down by Member States for infringements of this Regulation shall be effective, proportionate and dissuasive. In particular, such sanctions shall be sufficient to provide carriers with a financial incentive to comply consistently with the Regulation.

4. [...]

5. Four years after the date of application of this Regulation and then ~~every five years,~~ the National Enforcement Bodies shall publish on their websites a report on their activity, on the enforcement action and its outcome, including on sanctions applied ~~on their websites.~~ These reports shall also be submitted to the Commission.

Commented [REDACTED]: We consider that every 5 years is too long. We suggest that the Commission could determine the minimum content of this report.

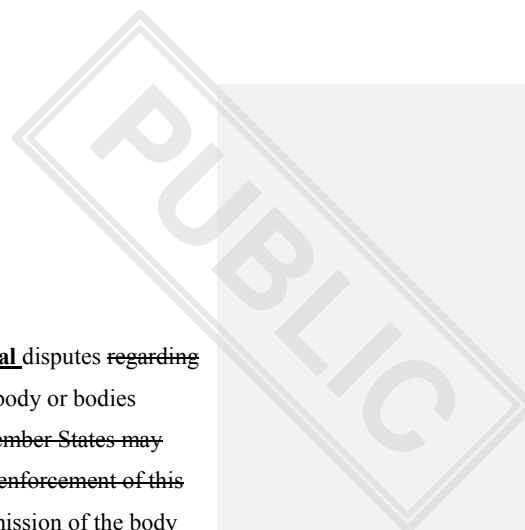
65. Operating Air carriers and intermediaries shall communicate the **required** contact data of the person(s) or of a body designated to act on their behalf on a permanent basis, in the Member State where they operate, for matters covered by this Regulation, to the National Enforcement Bodies. **National Enforcement Bodies may exchange this information with each other for the purpose of enforcing this Regulation.**

Commented [REDACTED]: What is the purpose of asking intermediaries for this information if they are not going to be asked for anything under the NEB on the basis of the Regulation? The contact is needed for accountability purposes, and in the case of intermediaries nothing is required of them by the NEB on the basis of the Regulation.

~~215.~~ The following Articles ~~are~~ **is** inserted:

Article 16a

[...]



Article 16a

Out-of-court resolution of disputes

~~1. Member States shall ensure that air passengers can submit **individual** disputes regarding **following** complaints **or requests** under this Regulation to a national body or bodies responsible for the out-of-court resolution of disputes. To that end, Member States may designate the National enforcement body or bodies entrusted with the enforcement of this Regulation under Article 16(1). Member States shall inform the Commission of the body or bodies **responsible for the handling of disputes under this Article**, that has been designated in accordance with this paragraph. Member States may decide to apply this paragraph to disputes between air carriers **or intermediaries**, and consumers only.~~

~~2. Member States shall ensure that the out of court dispute resolution is available free of charge or at a nominal fee to passengers, and the designated body or bodies under paragraph 1 shall meet minimum requirements in terms of transparency regarding their contact details, the language(s) of proceedings, any preliminary requirements the parties may have to meet before an out of court procedure can be instituted and the costs to be borne by the parties.~~

~~3. Where the body or bodies designated under paragraph 1 are different from those entrusted with the enforcement of this Regulation under Article 16(1), they shall cooperate and exchange information.~~

~~4. The passenger's participation to out of court dispute resolution procedures shall be without prejudice to his or her right to seek redress through court proceedings, subject to periods of limitation in accordance with national law.~~

Article 16b

[...]

Article 16c

[...]

1622. Article 17 is replaced by the following:

Article 17

Review and Report

1. Every ~~two~~ **three** years from the date of application of this Regulation, the Commission shall report to the European Parliament and the Council on the list of extraordinary circumstances set out in the Annex, in the light of the events affecting the timely and effective operation of flights having occurred during the ~~five~~ **two** preceding years.

The report shall be accompanied where necessary by a legislative proposal.

2. Every five years from the date of application of this Regulation, the Commission shall report to the European Parliament and the Council on the operation, **enforcement**, and the results of this Regulation.

The Commission shall also include information on the enhanced protection of air passengers on flights from third countries operated by non-EU carriers, ~~in the context of international air transport agreements.~~

The report shall also include a review of the amounts set out in Article 7(1) and the percentages set out in Article 10(2), taking into consideration inter alia the evolution of air fares, the inflation rate and statistics on denied boarding, cancellations, delays and missed connecting flights imputable to air carriers as well as statistics on downgrading, during the five preceding years.

The report shall be accompanied where necessary by legislative proposals.’

Brussels, 2 May 2025
(OR. en)

Interinstitutional File:
2013/0072 (COD)

7503/25
ADD 2

LIMITE

AVIATION 36
CONSOM 53
CODEC 344

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a regulation 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

- Compromise proposed by the Polish Presidency regarding amendments to Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air

In view of the Working Party on Aviation of 8 May 2025, delegations will find, in Annex, a revised compromise proposed by the Presidency for amendments to Regulation 2027/97.

Changes compared to the previous version are highlighted in **bold underlined** and ~~striketrough~~.

Delegations are requested to send their comments, if any, in writing to avia-mar@consilium.europa.eu by 9 May 2025.

Article 2

Regulation (EC) No 2027/97 is amended as follows:

-1. Paragraph 1 of Article 2 is amended as follows:

(a) Point (b) is replaced by the following:

“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;¹

(b) Point (h) is added:

“(h) ‘mobility equipment’ shall mean any equipment that is intended to assist persons with disabilities and persons with reduced mobility with their mobility **as defined in Article 2(a) of Regulation (EC) No 1107/2006**.”

(c) Point (i) is added:

“(i) ‘recognised assistance dog’ means a dog specifically trained to increase independence and self-determination of persons with disabilities, officially recognised in accordance with applicable national rules, where such rules exist.”

(d) Point (j) is added:

“(j) ‘accessible format’ means a format that gives the person with disabilities or with reduced mobility² an access to any relevant information, including allowing such person to have access as feasibly and comfortably as a person without any of the impairments or disabilities, and which meets accessibility requirements defined in accordance with the applicable legislation such as Annex I to Directive (EU) 2019/882.”

Commented [REDACTED]: ES suggests clarifying what is meant by “officially recognised”. With a certificate? Otherwise? The wording as it stands is ambiguous and may lead to controversy in its interpretation.

¹ **Alignment of definition and terminology throughout the text will be part of the legal-linguistic revision.**

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.

(e) Point (k) is added:

‘(k) ‘intermediary’ means any natural or legal person, other than a carrier, who is acting, for purposes relating to their trade, business or profession, on behalf of a carrier or a passenger for the conclusion of a transport contract;’

1a. The following sentence is added to Article 3(1):

‘This includes the liability of a Union air carrier concerning passenger or baggage delay.’

1. Paragraph 2 of Article 3 is deleted.

1a. Article 3a is ~~replaced by~~ inserted:

‘Article 3a

‘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 ~~reflects~~ **is related to** the additional costs ~~involved in~~ **of** transporting and insuring the baggage concerned over and above those for baggage valued ~~above or below~~ the liability limit. The tariff shall be made available to passengers on request.’

1b. Paragraph 1 of Article 5 is replaced by the following:

‘1. 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. Paragraph 2 of Article 5 is replaced by the following:

‘2. Without prejudice to paragraph 1, an advance payment in case of death of passengers, shall not be less than 16% per passenger, of the minimum **amount of** liability requirements set under Article 21(1) of the Montreal Convention and by the ~~decisions by the~~ International Civil Aviation Organization ~~to review the limit of liability~~ pursuant to Article 24(2) of the Montreal Convention.

3. [...]

3a. The following indent is added at the end of Article 6(2):

- an information to disabled person or person with reduced mobility on their right to make, free of charge, a special declaration of interest on the value of their mobility equipments.

3b. The following paragraphs ~~4~~ are added to Article 6:

'4. All air carriers **and intermediaries** shall provide ~~at Union airports open to commercial traffic, where they operate, and at all their points of sale situated on the territory of a Member State to which the Treaty applies,~~ on their mobile applications and on their websites a form which allows the passenger to immediately file **an online or an on-paper** complaint about damaged, delayed or lost baggage. The date of submission of **the form** ~~such a complaint~~ shall be considered by the air carrier **or the intermediary** as the filing date of the complaint pursuant to Article 31(2) and 31(3) of the Montreal Convention, even if the air carrier **or the intermediary** requests further information at a later date. This **paragraph** ~~possibility~~ shall not affect the right of the passenger to submit a complaint via other means within the deadlines given by the Montreal Convention.

5. All information provided pursuant to this Article shall be in accessible format.

6. All information obligations pursuant to this Article shall also apply to intermediaries, when selling carriage by air **to, from of within** ~~in~~ the Union.'

4. The following Articles are inserted:

'Article 6a

1. Whenever carrying checked in mobility equipment or recognised assistance dogs, 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 1107/2006~~ is offered the option to make, **in accessible format**, a special declaration of interest pursuant to Article 22(2) of the Montreal Convention, at booking, at the same time as the notification pursuant to Article 6 of Regulation (EC) No 1107/2006, and at the latest when the equipment is handed over to the air carrier and, in the case of recognised assistance dog, at boarding. **In such case, the Union air carrier shall not request the passengers concerned an additionnal fee.** ~~The special declaration shall be offered free of charge and in accessible format.~~ **When the**

equipment is destroyed, lost, damaged or delayed, or in case of death or injury of a recognised assistance dog tThe Union air carrier may ~~only~~ require from the disabled person or person with reduced mobility to support the **amount of the interest in the** declaration with a proof of the cost of replacement, including temporary replacement, of the mobility equipment or the recognised assistance dog ~~when the equipment is destroyed, lost, damaged or delayed, or in case of death or injury of a recognised assistance dog.~~

When selling carriage by air on behalf of an Union air carrier, intermediaries shall offer the passengers concerned the option to make, in accessible format, a special declaration of interest pursuant to Article 22(2) of the Montreal Convention, at booking and at the same time as the notification pursuant to Article 6 of Regulation (EC) No 1107/2006. This special declaration of interest shall be given under the same conditions as set out in the previous paragraph. They shall transmit the declaration to the Union air carrier as soon as possible.

2. [...]

3. In case of destruction, loss, damage or delay in the carriage of checked mobility equipment or in case of death or injury of a recognised assistance dog, 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.

4. Where paragraph 3 applies, **and without prejudice to Articles 7, 8 and Annex I fourth subparagraph of Regulation 1107/2006,** the Union air carriers shall rapidly make all reasonable efforts to provide immediately needed temporary replacements for checked mobility equipment and **temporary solutions in replacement** of recognised assistance dogs. The disabled person or the person with reduced mobility shall be permitted to keep that temporary replacement **free of charge** until the compensation referred to in paragraph 3 has been paid or until the Union air carriers have compensated the legal or natural persons for the costs of ~~the other~~ temporary replacement of mobility equipment or of a recognised assistance dogs.

5. Compliance with paragraph 4 shall not constitute a recognition of liability of the Union air carrier. However, all sums paid shall not be **recoverable** ~~recoverable~~, except in the cases

prescribed in Article 20 of the Montreal Convention or where the legal or natural person was not ~~the one~~ entitled to compensation.

Article 6b

[...]

Article 6c

[...]

Article 6d

1. Without prejudice to Regulation (EC) No 1008/2008, when selling carriage by air to, from of within the Union, all air carriers and intermediaries, ~~departing from or arriving to the territories of Member States to which the Treaties apply,~~ shall clearly indicate, in accessible format, at booking, as well as on their mobile applications and on their website, and also, for air carriers, 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 within the cabin, and in the hold of the aircraft for 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,
- without prejudice to paragraph 1a, potential additional charges applied for the carriage of checked and unchecked baggage, including musical instruments referred in Article 6d.
- the specific reasons which may preclude the carriage in the cabin of unchecked baggage pursuant to paragraph 2.

Commented [REDACTED]: See comment on musical instruments in Article 6e.

Erratum: not 'Article 6d' but 'Article 6e'.

1a. Without prejudice to Regulation (EC) No 1107/2006, passengers shall be permitted to carry, as unchecked baggage, in the cabin, at no extra cost, personal items constituting a necessary aspect of the carriage of passengers, on condition that those items meet requirements in terms of ~~its~~ weight and dimensions set out by the air carrier and, comply with applicable security and safety requirements. The requirements set out by the air carrier shall be reasonable.³

2. Where specific reasons, such as safety reasons, capacity reasons or a change of the aircraft type since the reservation was made, preclude the carriage in the cabin of a personal item referred in paragraph 1a ~~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

3. This Article does not affect the restrictions on unchecked ~~carry-on~~ baggage established by EU and international security and safety rules such as Regulations (EC) No 300/2008 and Commission Implementing Regulation (EU) 2015/1998.

Article 6a

1. A Union air carrier shall permit a passenger to carry a musical instrument in the passenger cabin of an aircraft subject to applicable security and safety rules and the technical specifications and constraints of the aircraft concerned. Musical instruments shall be accepted for carriage within an aircraft cabin provided such instruments can be stowed safely in a suitable baggage compartment within the cabin or under an appropriate passenger seat. An air carrier may determine that a musical instrument shall form part of a passenger's unchecked baggage allowance and not be carried in addition to that allowance.⁵

Commented [REDACTED]: ES is not against applying to musical instruments but it should also be applied to other disciplines (e.g. sports equipment or sports teams). The scope should be extended and be generic because we consider that covering the whole casuistry in the Regulation is very complicated given that it would be very varied and difficult to regulate specifically. Therefore, we consider that it would be better to leave a general provision addressing this in the Regulation rather than this specific case of musical instruments.

In any case, it is necessary to make it clear what can be carried in the cabin or not and that the passenger knows it. In other words, the important thing is that the information provided by the air carrier is clear.

³ The Presidency suggests complementing Recital (28) with the following text:
“An air carrier should not prevent passengers from carrying in the cabin personal items constituting a necessary aspect of the carriage of passengers, provided those personal items fit under their front seat or in the overhead bin.”

⁴ The Presidency suggests adding an amendment to Regulation 261/2004 to specify that, where a passenger has paid an additional charge to carry in the cabin a piece of baggage, and the air carrier carries it in the hold due to specific reasons, such as safety reasons, capacity reasons or a change of the aircraft type since the reservation was made, the passenger shall be entitled to reimbursement of the additional fee incurred.

2. **Subject to applicable security and safety rules,** ~~Where~~ where a musical instrument is too large to be stowed safely in a suitable baggage compartment within the cabin or under an appropriate passenger seat, an air carrier may request the payment a second fare where such musical instruments are carried as unchecked baggage on a second seat.

Furthermore, passengers may be required to select and purchase adjacent seats for both the passenger and the musical instrument, one always being a window seat for the musical instrument. ~~Where a second seat is purchased an air carrier should make~~

~~reasonable efforts to seat the passenger and the musical instrument concerned together.~~

Where available and if requested, musical instruments shall be carried in a heated part of an aircraft cargo hold subject to applicable safety rules, space constraints and the technical specifications of the aircraft concerned. ~~An air carrier shall clearly indicate in its terms and conditions the basis on upon which musical instruments will be transported and the applicable charges.'~~

5. Article 7 is replaced by the following:

'Article 7

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.'

6. The Annex to Regulation (EC) No 2027/97 is replaced by Annex 2 to the present Regulation.

Brussels, 2 May 2025
(OR. en)

Interinstitutional File:
2013/0072 (COD)

7503/25
ADD 3

LIMITE

AVIATION 36
CONSOM 53
CODEC 344

NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	6102/2/25 REV 2
Subject:	Proposal for a regulation 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

- Compromise proposed by the Polish Presidency for Annex I
-

In view of the Working Party on Aviation of 8 May 2025, delegations will find, in Annex, a revised compromise proposed by the Presidency on Annex I.

Changes compared to the previous version are highlighted in **bold underlined** and ~~strikethrough~~.

Delegations are requested to send their comments, if any, in writing to avia-mar@consilium.europa.eu by 9 May 2025.

Annex 1

'Annex: non-exhaustive list of circumstances considered as extraordinary circumstances for the purposes of this Regulation

1. The following circumstances shall be considered as extraordinary:
 - (a) ~~extraordinary~~ circumstances not connected with the operation of the aircraft, such as:
 - i. ~~major~~ natural and/or environmental disasters which are deemed to affect the safe operation of the flight;
 - ii. ~~extreme~~ meteorological conditions **and damage to the aircraft linked to meteorological events incompatible with which are deemed to affect** the safe operation of the flight ~~or resulting in capacity restrictions at the airport of departure or of arrival~~ **(such as: lightning strikes, hailstones, thunderstorms, severe turbulence, strong wind, etc.)**;
 - iii. war or insurrection **which are deemed to affect the safe operation of the flight**;
 - iv. ~~serious~~ cross-border threats to health falling within the scope of Articles 2(1) or 2(4) of Regulation (EU) 2022/2371 which are deemed to affect the safe operation of the flight;
 - v. bird strikes or obstacle collision **which are deemed to affect the safe operation of the flight** ~~with the aircraft during a flight which may cause damage that requires immediate compulsory checks and possible repair~~;
 - (b) fault on the part of a passenger, including:
 - i. disruptive passenger behaviour ~~endangering~~ **which are deemed to affect** the safe operation of the flight **or delaying the flight departure**;
 - ii. health risks or medical emergencies (such as serious illness) discovered at short notice before flight departure, or necessitating the interruption or

deviation of the flight;

- (c) the behaviour of a third party ~~which the operating air carrier, in spite of having taken the care required in the particular circumstances of the case, was unable to avoid and the consequences of which it was unable to prevent~~, such as:

- i. security risks, damages caused by acts of sabotage or terrorism, or unlawful acts, ~~incompatible with~~ **which are deemed to affect** the safe operation of the flight;
- ii. ~~a~~ hidden manufacturing **or design** defect revealed, by the manufacturer or a competent authority and which **are deemed to affect the safe operation of the** ~~impinges on flight safety~~;
- iii. air traffic management restrictions or closure of airspace;
- iv. partial or full unscheduled closure of an airport, including a general airport system failure, or the activation of the contingency plan by the airport managing authority;
- v. labour disputes at essential service providers such as airport managing body, Air Navigation Service Providers, groundhandling service providers, or, ~~in relation to demands which only the public authorities can satisfy~~, at the operating air carrier;
- vi. ~~the~~ unexpected **staff** absence ~~of a pilot~~ due to illness or death, **at essential service providers such as airport managing body, Air Navigation Service Providers, groundhandling service providers, or,** when it occurs outside the air ~~carrier's base~~, of a **crew member essential to the operation of the flight**;
- vii. damage to the aircraft caused by third parties, for whom the air carrier, ~~in the absence of contractual relations~~, is not responsible, on the ground prior to departure of the flight and **and which is deemed to affect the safe operation of the flight** ~~requiring immediate assessment or repair~~.
- viii. ~~damage to the aircraft which is deemed to could affect the safety operation of the flight or the integrity of the aircraft and requires immediate~~

Commented [1]: We believe that without defining what a "base" is, another problem of interpretation will arise.

It is suggested that it be put in the plural: "air carrier's bases", in order to avoid possible misinterpretations related to the main base of an air carrier.

~~assessment and/or repair and is caused by meteorological events (for example: lightning strikes, hailstones, thunderstorms, severe turbulence, strong wind, etc.).~~

~~ix. a collision between the elevator of an aircraft in a parking position and the winglet of an aircraft of another airline;~~

~~xviii. damage to an aircraft tyre caused by a foreign object and which is deemed to affect the safe operation of the flight, provided that the air carrier deployed all its resources in terms of staff or equipment and the financial means at its disposal to avoid the damage;~~

~~ixi. contaminated petrol on the a runway of an airport which is deemed to affect the safe operation of the flight:-~~

~~xii. unexpected flight safety shortcomings that could not have been identified in the context of preventive maintenance in line with EU rules and procedures for the continuing airworthiness management of aircraft; and~~

~~xi after departure, health risks or medical emergencies (such as serious illness) of a crew member necessitating the interruption or deviation of the flight.~~

Commented [REDACTED]: We do not understand what this is. We consider that it could be a way to include any technical failure. In such cases, will NEBs need airworthiness and maintenance experts to determine this? We think that for practical purposes, if this issue is admitted, there would be little compensation for passengers, so we think it is a very relevant issue.

2. The following non exhaustive list of circumstances shall not be considered as extraordinary:

i. technical problems that could have been identified in the context of preventive maintenance in line with EU rules and procedures for the continuing airworthiness management of aircraft;

ii. ~~de-icing delays, aircraft change,~~ operational decisions, late crew / check-in / boarding procedures; and

iii. unavailability of flight crew or cabin crew (unless caused by labour disputes covered under 1(c)v or unexpected absences due to illness or death covered under 1(c)vi). '

Commented [REDACTED]: With this wording, there will be more confusion than clarification. Please provide some examples of the two cases, especially the one that would not be an extraordinary circumstance.

Please find below possible examples to indicate whether they are considered extraordinary circumstances:

Example 1:

During the pre-flight check carried out by the crew, a hydraulic fluid leak is detected that is out of tolerance, requiring a repair that ultimately results in the flight being cancelled or delayed for more than 5 hours (the aircraft has made flights previously that day without the failure having occurred).

Example 2:

With the passengers on board, when starting an engine, an engine failure occurs in the flight systems that makes the aircraft unable to depart (real case), the flight is disembarked and the flight is cancelled or delayed for more than 5 hours (the aircraft has made flights earlier that day without the failure having occurred).

If technical failures are not to be considered extraordinary circumstances, this should be explicitly stated.

Brussels, 2 May 2025
(OR. en)

Interinstitutional File:
2013/0072 (COD)

7503/25
ADD 4

LIMITE

AVIATION 36
CONSOM 53
CODEC 344

NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	6102/2/25 REV 2 ADD 1
Subject:	Proposal for a regulation 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

-
- Compromise proposed by the Polish Presidency for Annex II
-

In view of the Working Party on Aviation of 8 May 2025, delegations will find, in Annex, a revised compromise proposed by the Presidency for Annex II.

Changes compared to the previous version are highlighted in **bold underlined** and ~~striketrough~~.

Delegations are requested to send their comments, if any, in writing to avia-mar@consilium.europa.eu by 9 May 2025.

Annex 2

'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 the ~~rounded-revised~~ limit under Article 21 of the Montreal Convention as last updated by the ~~decisions by the~~ International Civil Aviation Organization ~~to review the limit of liability~~ pursuant to Article 24(2) of the Montreal Convention (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 acrier 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 16% of the ~~rounded-revised~~ limit under Article 21 of the Montreal Convention by the ~~decisions by the~~ International Civil Aviation Organization ~~to review the limit of liability~~ pursuant to Article 24(2) of the Montreal Convention (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 the ~~rounded revised~~ limit under Article 22(1) of the Montreal Convention by the ~~decisions~~ ~~by the~~ International Civil Aviation Organization ~~to review the limit of liability~~ pursuant to Article 24(2) of the Montreal Convention (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 the ~~rounded revised~~ limit under Article 22(2) of the Montreal Convention by the ~~decisions by the~~ International Civil Aviation Organization ~~to review the limit of liability~~ pursuant to Article 24(2) of the Montreal Convention (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 the ~~rounded revised~~ limit under Article 22(2) of the Montreal Convention by the ~~decisions by the~~ International Civil Aviation Organization ~~to review the limit of liability~~ pursuant to Article 24(2) of the Montreal Convention (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 the ~~rounded revised~~ limit under Article 22(2) of the Montreal Convention by the ~~decisions by the~~ International Civil Aviation Organization ~~to review the limit of liability~~ pursuant to Article 24(2) of the Montreal Convention (the air carrier shall indicate between brackets the approximate amount in local currency). The tariff shall be made available to passengers upon request.

Disabled passengers and passengers with reduced mobility shall systematically be offered **at booking, at the same time as the notification pursuant to Article 6 of Regulation (EC) No 1107/2006, and at the latest when the equipment is handed over to the air carrier and, in the case of recognised assistance dog, at boarding,** the option of making a special declaration of interest in accessible format for the transportation, at no additional cost, of their mobility equipment **or of their recognised assistance dog.**

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. **To that extend, passengers may find a dedicated form on the websites and on the online applications or air carriers which can either be submitted on paper or online.** ~~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.~~

MOBILITY EQUIPMENT DESTRUCTION, LOSS, DAMAGE OR DELAY

The air carrier is liable for destruction, loss, damage or delay of mobility equipment up to the ~~rounded revised~~ limit under Article 22(2) of the Montreal Convention by the ~~decisions by the~~ International Civil Aviation Organization ~~to review the limit of liability~~ pursuant to Article 24(2) of the Montreal Convention (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.

A passenger can benefit, at no additionnal cost, from a higher liability limit by making a special declaration specifying the cost of replacement of its mobility equipment, at the latest at check-in.

In case of destruction, loss, damage or ~~delay~~ of mobility equipment, the the air carrier shall pay a compensation not exceeding equivalent to the sum declared in the special declaration.

Commented [REDACTED]: We consider it unreasonable that it should apply in the case of delay, and that the company should have to pay the full price of the equipment, as long as it is clear that the passenger will get it back and some measure (e.g. replacement equipment) will be guaranteed until then.

Before the payment of this compensation, the air carrier shall make all reasonable efforts to provide immediately needed temporary replacements for mobility equipment beyond the termination of the journey of the passengers concerned.'

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.