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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Aviation
N° prev. doc.:	WK 9/25
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Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air – Comments from Sweden on the Presidency non-paper (questions 11 to 14)

Delegations will find, in Annex, comments from **Sweden** on questions 11 to 14 of the Presidency non-paper.



28 January 2025
Ju2025/

Ministry of Justice

Division for Intellectual Property and Transport Law

**Written comments from SE on questions 11-14 in Presidency
non-paper**

Sweden would like to thank the Polish Presidency for the opportunity to submit written comments. Please find our preliminary comments to questions 11-14 below.

Question 11: Does your delegation consider the levels of compensation proposed under the HR Presidency as appropriate?

Comments: We are still analyzing the levels of compensation and their effect on consumers in relation to the regulation as a whole. Passengers should be covered by strong consumer and compensation protection but at the same time the rules should not lead to unreasonable financial burdens for airlines.

The HR PRES compromise leads to lower compensation for passengers compared to for example the COM's proposal when it comes to paragraph (a). For example, COM's proposal would give a 400 EUR compensation for a journey between Stockholm – Rome while HR PRES proposal would give 250 EUR for the same journey.

Question 12: Does your delegation consider that a reduced compensation for flights up to 1500 km if the delay is between 3-5 hours is appropriate?

Comments: To introduce a new level would create a new layer of complexity and lead to impaired protection for consumers compared to the COM's proposal.

Question 13: Besides the distance or the delay, does your delegation consider it would be appropriate to establish the compensation in relation to the full price of the ticket like this is the case in other transport modes (e.g. rail)?

Comments: There are advantages and disadvantages with this proposal. One advantage with this compensation model, is that it could be fairer compared to today's compensation levels. Today passengers can receive a high compensation for a cheap ticket which can lead to passengers making profit from the compensation in some cases. Another advantage with this model is that it would create consistency between the different modes of transport as such model already exists in the regulation on rail passengers rights. Also, in relation to inflation this model has advantages.

However, from other perspectives, this model could also impose several challenges. For example, today when a passenger buys a round-trip it is often for a lump sum and the cost for each route, is not visible. Therefore, if there is a delay only e.g. for the outward journey, it would be difficult and less

predictable for the passenger to know which exact amount the compensation will be based on. This can be even more complicated when there is a journey with multiple legs/connections or when different airlines are involved or when intermediaries sell the tickets.

Also, for the passenger it could be understood as the compensation being a percentage of the *lump sum* that they have paid. However, the compensation would only include the ticket price as such *excluding for example taxes and other fares* which could create confusion. Thus, this model would require that passengers receive very clear information about which amount the compensation is based on. Otherwise, it could lead to disputes which should be avoided.

Question 14: Does your delegation consider it would be appropriate to build into the regulation a mechanism for updating the compensation amounts in line with inflation?

Comments: This would not be necessary if the compensation is based on the ticket price as it would adjust automatically to the inflation. If however, the compensation is based on fixed amounts like today, the amounts could be reviewed for example every 5th year as in the Montreal Convention article 24.