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| 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 Lithuania on the Presidency non-paper (questions 11 to 14) |

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

Questions:

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

One of the main purposes of the Regulation is that compensations in Article 7 would discourage the airlines from taking commercial actions that would inconvenience passengers. Reducing the compensation size / distance / time of delay goes against the main objective of the Regulation, and would allow airlines to interpret the passenger rights more casually, as the damage would be significantly smaller, while the passengers would still experience major inconveniences.

Additionally, what is the purpose of giving only 250EUR compensation for all intra-EU journeys when they are clearly not the same? If a flight from Helsinki to Madeira (which would be over 3500KM) is cancelled and a flight from Vilnius to Riga (which is less than 1500KM) is cancelled – these are two very different situations with very different consequences and levels inconveniences, as:

- 1) one flight is long; has little to no availability to be changed to another same-day flight; from airline operations point of view, the flight Helsinki-Madeira-Helsinki would have the aircraft operating this rotation for the whole day, and probably with 2 crews; which means the airline would rather take the easy route and have the passengers wait for a day or two in order to re-route them with another flight. This potentially makes a delay of arrival of over 24h, lost reservations and etc – huge inconvenience.
- 2) another flight is a short flight, with many other flight options for same day departure – including by other means of transportation (rail, bus, etc). Additionally, as this flight is short, from the airline's perspective it is a lot easier to find a "gap" in other aircrafts' schedule to operate a short Vilnius-Riga-Vilnius turnaround with 1 crew on the same day, which would result in the passengers arriving to the final destination with a delay of less than 12h – comparably smaller inconvenience, than having to wait for a long flight.

Furthermore, what is the exact difference in inconveniences between flights which have the distance of over 3500KM of an Intra-EU and an extra-EU flight? If both flights are delayed by 5 hours, would the passenger of an Intra-EU flight experience less inconveniences, than an Extra-EU flight passenger? This is not logical.

Taking this into account, **we do not consider these changes as appropriate**, because it would defeat the purpose of dissuading the airlines making operational decisions benefitting the airlines themselves and ignoring the inconveniences passengers experience because of these decisions.

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

Reduced compensations defeat the purpose of the Regulation (which is to discourage the airlines to inconvenience the passengers for the airlines' own financial or other benefit), therefore we consider it inappropriate.

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)?

The price of the ticket does not correlate with the inconvenience the passenger experiences. All tickets are purchased with the same idea in mind – to travel from point A to point B.

Specifics of the ticket (for example someone purchased a ticket in advance and paid less, than someone who purchased a ticket last minute, and had to pay a lot more) do not matter in terms of getting from point A to point B, and when an airline delays or cancels a flight (or denied boarding for some passengers), all passengers, regardless of their ticket price, experience the same problem – they cannot arrive to point B when they were supposed to.

Taking this into account, in our opinion compensation size tied to the ticket price is not fair.

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?

The idea in it of itself sounds reasonable, however it is hard to imagine how could this mechanism be summarized in the new legislation, and how it would be practically applied in real life. Furthermore, this would probably introduce a lot of confusion for passengers, and they may struggle to know what exact sum is rightfully theirs to receive as compensation.

The implementation of this point would be quite complex, and it is unclear which country's inflation (arrival / departure / passenger ticket purchase / carrier) should be considered. This could create a substantial and complicated administrative burden for the NEBs and raise additional issues / questions for passengers.