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Subject: ***Preparation of the Council meeting (Transport, Telecommunications and Energy) on 10 October 2013***

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

- *Orientation debate*

I. Introduction

On 13 March 2013, the Commission presented the above proposal in order to revise and improve European legislation on air passenger rights in light of the experience gained in the application of existing rules, and to take into account the implications of the rapidly changing European air transport market.

The proposal's objective is to promote the interest of air passengers by ensuring that air carriers effectively comply with a high level of air passenger protection during travel disruptions. At the same time, the proposal intends to take into account the financial implications that passenger rights create for the air transport sector, and thereby ensure that European air carriers operate under harmonised conditions in a liberalised market.

In particular, it is proposed to couple the clarification of grey areas in existing legislation with the strengthening of the complaint handling mechanisms available to passengers. The Commission also seeks to introduce provisions in order to provide incentives for airlines to quickly reroute passengers, enable them to reach their final destination and minimise the discomfort suffered at airports. The disproportionate financial costs that some of the obligations imposed by the Regulation may create for the airlines in certain exceptional circumstances is also addressed. Furthermore, the Commission proposes to introduce detailed rules on some of the existing rights, such as the right to information, the right to assistance and compensation, as well as proposing new rights, for example on mobility equipment.

II. Work within the Council

Under the Irish Presidency, the Commission presented the air passenger rights proposal to transport ministers at the TTE Council on 10 June 2013. On 19 June 2013 the Working Party on Aviation discussed and evaluated the impact assessments accompanying the proposal. The Lithuanian Presidency launched work on this priority file and dedicated a series of meetings to the first examination of the articles.

Delegations were generally positive on the objectives of the proposal and the need to revise and improve existing rules with a view to reinforced application and changing market conditions. At the same time, it was emphasised that due to the complexity of the file, caution is essential in the examination of the proposal, and the manifold consequences of the regulatory changes should be carefully evaluated in order to find a delicate balance for the benefit of all.

Among others, compatibility with the relevant provisions of the Montreal Convention, the concept of extraordinary circumstances, the examination of the case law of the Court of Justice, the geographical scope of the Regulation, and the impact of the recently proposed revision of the package tour Directive¹ were highlighted by delegations as requiring detailed examination.

In addition, delegations had strong views on the newly proposed rules on connecting flights. While they all recognise the need to help passengers with missed connections, concerns were expressed on the impact of such changes on air carriers with regard to liability. At the same time, delegations also called for the clarification of the provisions for the benefit of passengers. Moreover, including journeys carried out by other modes of transport under the scope of the Regulation raised questions on practical applicability and potential market distortions.

Other core issues to be examined were optimising the choices available to passengers in the event of denied boarding and long delays, and the assistance to be offered by air carriers to stranded passengers. These aspects should be brought in line with the need to provide quick, viable and cost-efficient solutions for airlines, coupled with clear rules on enforcement.

All delegations maintain a general scrutiny reservation and UK indicated a parliamentary scrutiny reservation.

¹ Proposal for a Directive of the European Parliament and of the Council on package travel and assisted travel arrangements, amending Regulation (EC) No 2006/2004, Directive 2011/83/EU and repealing Council Directive 90/314/EEC (COM(213) 512 final, doc. 12257/13).

III. Questions for the orientation debate

In order to enable the Council preparatory bodies to advance their work on the passenger rights proposal, the Presidency has decided to seek the guidance of ministers in the form of an orientation debate and has put forward two questions on the above core issues. The questions were agreed at the meeting of the Working Party on Aviation on 12 September 2013.

As a result, ministers will be invited to consider the following questions for the ministerial orientation debate on 10 October 2013:

The proposed revision of air passenger rights seeks to promote the interests of air passengers by ensuring that air carriers effectively comply with their obligations of assistance, care and compensation arising from travel disruptions. The aim is also to guarantee that all air carriers operate under harmonised conditions in a liberalised air transport market and that the cost of these rights remains proportionate.

- *Against this background, do ministers consider that the new provisions on missed connections ensure adequate protection to consumers while at the same time maintaining market incentives for air carriers and tour organisers to cooperate and offer a wider choice of routes and ticket combinations?*
- *How should compensations for long delays be regulated to result in a fair, proportionate and enforceable system of compensations? More specifically, what combination of journey distance, length of delay and amount of compensations would be deemed appropriate or could ministers envisage linking the amount of compensation to the ticket price?*

IV. Conclusion

The Permanent Representatives Committee is invited to endorse the questions under section III and to invite Ministers to focus their interventions during the TTE Council on 10 October 2013 on these two questions.