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## **OPINION OF THE COMMISSION**

**pursuant to Article 294(7), point (c), of the Treaty on the Functioning of the European Union,  
on the European Parliament's amendments  
to the Council's position**

### **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**

(Text with EEA relevance)

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#### 1. INTRODUCTION

Article 294(7)(c), of the Treaty on the Functioning of the European Union provides that the Commission is to deliver an opinion on the amendments proposed by the European Parliament at second reading. The Commission sets out its opinion below on the 243 amendments proposed by the Parliament regarding the above-mentioned proposal.

#### 2. BACKGROUND

Date of transmission of the proposal to the European Parliament and to the Council 13 March 2013  
(document COM(2013) 130 final – 2013/0072 COD):

Date of the position of the European Parliament, first reading: 5 February 2014

Date of transmission of the amended proposal to the Council: N/A

Date of adoption of the position of the Council in first reading: 16 September 2025

Date of European Parliament's amendments in second reading: 21 January 2026

#### 3. OBJECTIVE OF THE PROPOSAL FROM THE COMMISSION

The proposal aims to improve enforcement by clarifying key principles and implicit passenger rights that have given rise to many disputes between airlines and passengers in the past and by enhancing and better coordinating the enforcement policies at national level, while accounting for the financial capacities of air carriers. It also aims at ensuring better enforcement of passenger rights with regard to mishandled baggage.

## **4. OPINION OF THE COMMISSION ON THE AMENDMENTS PROPOSED BY THE EUROPEAN PARLIAMENT**

### **4.1. Summary of the Commission's position**

The European Parliament adopted 243 amendments. The Commission can accept 115 amendments as they stand (1 to 8, 12, 14, 15, 17, 18, 19, 21, 24, 26 to 33, 35 to 39, 42, 45, 46, 47, 53, 56, 59, 60, 64, 65, 66, 69, 71, 77, 78, 80, 81, 82, 83, 89, 92, 95, 96, 98, 109, 110, 113, 115, 116, 117, 119 to 123, 125 to 128, 130, 135, 137 to 142, 147, 148, 146, 150, 153, 157, 164 to 167, 169 to 172, 174 to 178, 181, 183, 184, 188, 190, 195 to 198, 200, 201, 203, 206 to 210, 241 to 243).

The Commission can accept 92 amendments in part, subject to rewording or agreement in principle (9, 10, 11, 16, 20, 22, 23, 40, 43, 44, 49, 51, 52, 70, 74, 84, 85, 86, 88, 90, 91, 93, 94, 97, 99, 100 to 107, 111, 114, , 124, 131 to 134, 136, 143, 144, 149 to 152, 154, 155, 156, 158, 159, 160, 161, 162, 163, 173, 179, 180, 185, 187, 189, 192, 193, 194, 199, 205, 211, 212, 215 to 239).

The Commission cannot support 36 amendments (13, 25, 34, 41, 48, 50, 54, 55, 57, 58, 61, 62, 63, 67, 68, 72, 73, 75, 76, 79, 87, 108, 112, 118, 129, 145, 151, 168, 182, 186, 191, 202, 204, 213, 214 and 240).

The Commission welcomes the efforts made by the European Parliament to enhance the provisions that strengthen the level of protection of passengers and improve the enforcement of their rights compared to the initial Council position.

### **4.2. Parliament's amendments at second reading**

The reasons for the position of the Commission are outlined below, focusing on the most significant amendments.

#### **4.2.1. Amendments accepted**

The Commission accepts amendments 1 to 8, 12, 14, 15, 17, 18, 19, 21, 24, 26 to 33, 35 to 39, 42, 45, 46, 47, 53, 54, 56, 59, 60, 64, 65, 66, 69, 71, 77, 78, 80, 81, 82, 83, 89, 92, 95, 96, 98, 109, 110, 113, 115, 116, 117, 119 to 123, 125 to 128, 130, 135, 137 to 142, 147, 148, 146, 150, 153, 157, 164 to 167, 169 to 172, 174 to 178, 181, 183, 184, 188, 190, 195 to 198, 200, 201, 203, 206 to 210, 241 to 243.

These amendments provide clarifications of definitions, rights of passengers and the obligations of air carriers and intermediaries. They also improve the Council text concerning in particular complaint-handling by air carriers and intermediaries, the designation of national enforcement bodies, the exchange of information and cross-border cooperation between national enforcement bodies, penalties, and cooperation between Member States and the Commission. These elements enhance the quality of the legal text and constitute improvements in the level of passenger protection, and also ensure further alignment with the rules applicable for other modes of transport.

#### **4.2.2. Amendments partly accepted**

##### *Baggage allowances*

Through amendment 144 the EP seeks to introduce provisions on hand baggage in Regulation (EC) No 261/2004, while the Commission 2013 proposal contains rules on carriage of baggage in Article 2 of the proposal, which amends Regulation (EC)

No 2027/97, including the responsibility of the national enforcement bodies to ensure compliance with this Regulation.

Amendment 144 provides for a new Article 11a ('Right to personal item and hand baggage') comprising three paragraphs: paragraph 1 on 'personal items', paragraph 2 establishing a right to one piece of hand baggage included in the ticket price, and paragraph 3 on informing about the procedure for retrieving personal items and hand baggage forgotten in the aircraft cabin.

The Commission rejects the suggestion to regulate the right to bring hand baggage at no extra cost (paragraph 2 of the proposed new article) as requested by the EP in amendment 144 and in amendment 204 either in (EC) No 261/2004 or in Regulation (EC) No 2027/97. Such a measure needs to be the subject of a proper impact assessment to avoid unintended consequences, and this assessment is underway as part of the review of Regulation (EC) No 1008/2008 (see also section 4.2.4 under hand baggage).

Regarding the remaining parts of amendment 144 the Commission considers that paragraph 1 of the new article on the 'personal item' would also be better addressed as part of the ongoing review of the Air Services Regulation (EC) No 1008/2008 where the measures on a personal item can be subject to a full impact assessment.

Alternatively, if this issue (paragraph 1) were to be addressed in Regulation (EC) No 261/2004, the national enforcement bodies would also need to be responsible for enforcing these rules (to note that the European Parliament did not propose an amendment regarding the NEBs' responsibilities under Regulation (EC) No 2027/97 as proposed by the Commission in the 2013 proposal). In such a case, the Commission could show flexibility as to whether this issue is regulated in Regulation (EC) No 261/2004 or in Regulation (EC) No 2027/97.

The Commission can accept paragraph 3 (on informing passengers about procedures if hand baggage is left behind in the aircraft cabin). This should be regulated in Regulation (EC) No 261/2004.

#### *Mobility equipment-declaration of interest*

Amendment 199 concerns the special declaration of interest which persons with disabilities or reduced mobility can make to cover their mobility equipment in case of loss or damage above the standard amount of compensation provided for in the Montreal Convention and Regulation (EC) No 2027/97. The amendment would oblige the Commission to adopt a model form for such a special declaration. The Commission opposes this obligation as it creates an undue administrative burden including for the air carriers, since they would be required to use a different form than the one customarily used. The Commission could support amendment 199 subject to deleting the requirement for the Commission to adopt implementing acts laying down the model form to be used.

#### *Deadlines*

The European Parliament position differs from that of the Council in relation to the various deadlines imposed on air carriers for informing passengers (amendment 88), for reimbursing passengers (amendments 114, 124, 131), for allowing an extension of deadlines in case of an activated contingency plan (amendments 118 – see below under amendments rejected - and 129), and for receiving a complaint from passengers (165 and 180).

Regarding amendment 88, the Commission agrees with the deadline proposed by the European Parliament for passengers to be informed about an event as soon as the information is available and not later than 30 minutes, as this is in line with the Commission's proposal (see Article 14(5) in COM(2013)130 final).

As regards amendments 114 and 124, the Commission agrees to the deadline of seven days for reimbursements or payments only if intermediaries are not involved. If they are involved extended deadlines should apply (see new draft Article 8a of Regulation (EC) No 261/2004 in the proposal COM (2023) 753 final). Concerning amendment 124, the Commission is in favour of extended deadlines in case contingency plans are activated and therefore supports in this regard the Council's position, which proposes an extension to 30 days for reimbursements while the European Parliament proposed in amendment 124 to delete such an extension.

As for amendment 131, the Commission can agree with the European Parliament regarding the deadline of seven days for reimbursement in case of downgrading, because this corresponds to the requirement under the current rules.

#### *Enforcement*

The Commission can support the out-of-court resolution proposed in amendment 40 and 185 only in part, since the Commission opposes making the participation by airlines in the ADR procedures mandatory and the ADR decisions binding without prior assessment. Mandatory ADR with binding decisions imposed on all Member States would involve additional administrative burden and has not been thoroughly assessed. As a reference, the recent agreement on the review of the travel package Directive does not introduce this for package travel either for similar reasons.

#### **4.2.3. Amendments accepted subject to rewording or agreed in principle**

##### *Extraordinary circumstances*

In amendment 99 the European Parliament introduces a new article on 'extraordinary circumstances providing inter alia for an exhaustive list of circumstances in the Annex to be regarded as 'extraordinary', which can be amended by the Commission through a delegated act. The Commission could accept amendment 99 if the exhaustive list were replaced by a non-exhaustive list.

Amendments 86 and 93 provide for the obligation of the air carrier to pay compensation for cancellations and delays if it fails to present proof of the existence of extraordinary circumstances. However, there is no deadline set for the air carrier to provide such proof. In order to ensure legal certainty and a swift resolution of disputes, the Commission could support these amendments if there was a clear deadline added for the submission by the air carrier of proof of the existence of extraordinary circumstances.

Amendments 215 to 239 concern various events which constitute extraordinary circumstances. In substance, the list of circumstances included by the European Parliament largely reflects the existing body of case-law of the Court of Justice of the European Union but deviates in several instances from it. Without prejudice to its position that the list must remain non-exhaustive and subject to future amendment by means of delegated powers, in order to ensure that it remains updated, the Commission could support the specific circumstances included, provided that they are worded in a such a way that they reflect the general approach developed by the caselaw.

### *Compensation amounts and thresholds*

As regards amendments 100, 101 and 102 (amounts of compensation per distance) and amendments 105, 106 and 107 (thresholds triggering compensation) the Commission could, to facilitate an overall compromise, show flexibility regarding the thresholds as well as the amounts for delay compensation provided that the final agreement would most effectively and efficiently enhance passenger rights while taking into account the impact on the financial viability of air carriers.

### *Adjustment of compensation amounts*

With amendment 104 the European Parliament seeks to oblige the Commission to adjust every three years the compensation amounts by delegated act. The Commission can agree in principle to this proposal subject to an extended period of five years for such review in order to limit the administrative burden.

### *Pre-filled forms*

Amendments 88, 91, 97 and 111 introduce the obligation for air carriers to provide passengers with pre-filled forms for requesting compensation and reimbursement. The Commission can accept the principle of requiring air carriers to provide pre-filled forms in order to ensure that passengers can assert their passenger rights more effectively, subject to further drafting improvements regarding i) the content of the form and ii) the circumstances in which it must be provided.

Amendment 156 requires rewording as it refers also to prefilled forms relating to complaints under Article 15a (amendments 164 to 171) which does not mention such forms.

### *Enforcement*

The Commission accepts in principle the amendments related to complaint handling by air carriers and intermediaries, complaint handling by national enforcement bodies, alternative dispute resolution, the designation of national enforcement bodies and enforcement tasks by national enforcement bodies. However, the following amendments require redrafting in order to ensure clarity, coherence and legal certainty: 40, 165, 173, 179 and 180.

### *Delegated powers*

Amendment 187 (exercise of delegation) confers the right to adopt delegated acts on the Commission for a period of five years only, with the possibility of extensions. The Commission could accept amendment 187 provided the delegation of powers was conferred for an unlimited period of time.

### *Complaints concerning baggage*

With amendment 194 the European Parliament introduces specific provisions for passengers' complaints regarding damaged or delayed baggage providing for specific ways in which airports shall make available the complaint forms. While the Commission agrees in principle with this amendment it calls for a more technologically neutral way for the provision of the complaint form.

### *Reporting by the Commission*

Amendment 211 provides for the obligation of the Commission to report on the operation of the amended Regulation. The Commission could support amendment

211 if the deadline of three years was extended to five years from the entry into force of the amended Regulation, in order to permit a full analysis of its impact.

#### *Persons with specific needs*

With amendment 143 the EP seeks to make air carriers liable, in addition to providing re-routing and assistance, also for compensation to persons with disabilities and reduced mobility (PRMs) as well as unaccompanied children if they miss a flight due to insufficient assistance at the airport by the airport managing body. The amendment mandates the Commission to detail the modalities of such a scheme and of the mechanisms of redress for the air carriers towards the airport managing bodies through an implementing act.

The Commission's proposal did not contain such a provision, hence the Commission did not carry out an impact assessment on this aspect. The Commission notes that the Member States reported very few such cases during Council deliberations.

The Commission also notes that the obligation to assist a passenger with disabilities or reduced mobility at an airport falls on the managing body of an airport pursuant to Regulation (EC) No 1107/2006. A potential obligation for the air carrier to pay compensation to a passenger with disabilities or reduced mobility who was not effectively assisted by the managing body of an airport would need to be coupled with an explicit right of the air carrier to claim that compensation back from the managing body of an airport.

The Commission can accordingly accept the principle of amendment 143 subject to the inclusion of these important legal safeguards.

Regarding unaccompanied children, the amendment provides that the responsibility lies with the air carrier which accepted to transport the child. In such cases the Commission can agree to a right to compensation.

The Commission also underlines that an implementing act could only cover genuine modalities. The right to compensation as such, as well as further rights of redress should therefore form part of the essential elements of the right itself included in the basic act.

#### **4.2.4. Amendments rejected by the Commission**

##### *Recitals*

Amendment 54 calls for the inclusion of passenger rights protection in international agreements. The Commission rejects this amendment since it does not correspond to any substantive provision in the text of the Regulation.

In amendment 55 the European Parliament calls for specific facilities at airports for "severely disabled passengers". The Commission rejects this amendment because the matter should be discussed in the framework of Regulation (EC) No 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air.

##### *Definitions*

The European Parliament includes a new definition of "cost of the air ticket" in amendment 57. The Commission rejects this amendment because the matter is dealt with in the enforcement proposal.

With amendment 58 the European Parliament adds a definition of “reservation”. This term is not used elsewhere in the Regulation and the definition is thus superfluous. The Commission therefore rejects amendment 58.

With amendments 62 and 63 the European Parliament deleted several lines of the definition of cancellation. Since these elements were derived from case-law their deletion leaves the definition incomplete and ambiguous. These deletions are therefore rejected.

With amendment 68 the European Parliament added text to the definition of “connecting flights” referring to a single contract of carriage. Such a cross-reference is not necessary and potentially misleading. This addition is therefore rejected.

#### *Extraordinary circumstances*

With amendment 67 the European Parliament deleted the definition of the term “extraordinary circumstances” and moved it to Article 6c. For the sake of consistency and in line with the legislative drafting guidelines<sup>1</sup> – all definitions should be in a single article (Article 2). This deletion is accordingly rejected.

The Commission rejects amendment 213 and 214 (characterisation of extraordinary circumstances as “*capable of being considered*” as extraordinary), since the Commission believes that such a characterisation of extraordinary circumstances is unclear and may therefore lead to legal uncertainty and confusion for passengers.

The Commission rejects amendment 213 also because it seeks to change the list’s status from ‘non-exhaustive’ to ‘exhaustive’. While this may have advantages for legal certainty, it is important to avoid the risk that a circumstance which should be extraordinary is overlooked and not contained in the list.

The Commission rejects amendment 240 (deletion of the list of circumstances not considered as extraordinary). Such list included in Annex 1 contributes to legal clarity as it was originally proposed by the Commission in 2013.

#### *Scope*

The European Parliament proposes to extend the scope of the Regulation to flights arriving in the Union from those operated by EU carriers to all carriers by deleting the limitation ‘if the operating air carrier of the flight concerned is a Union air carrier’ (amendment 72). This would mean that passengers flying with non-EU carriers operating flights to EU airports would fall under the Regulation for the first time, substantially broadening passenger rights coverage across European airspace.

The Commission did not propose to amend the scope of the Regulation and has not assessed the impact of such a scope extension in its impact assessment.

While the Commission remains open to review the scope of the Regulation by assessing in future the risks of conflict of jurisdictions and the difficulties in enforcement – as proposed in the Council’s first reading position deleted by amendment 191 – the Commission cannot support the immediate extension of scope without prior assessment. Therefore, the Commission rejects amendments 48, 72 and 191.

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<sup>1</sup> Joint Practical Guide of the European Parliament, the Council and the Commission for persons involved in the drafting of European Union legislation, 2015; guideline 14

Amendments 75 and 76 delete the provisions in the Council's first reading position on the application of the Regulation to Gibraltar airport. Since these provisions reflect the state of the current discussions on an EU-UK Agreement, the Commission opposes these deletions and thus rejects amendments 75 and 76.

#### *Personal scope*

Article 3(3) of Regulation (EC) 261/2004 exempts certain passengers from its scope, notably passengers travelling free of charge or at a reduced rate not directly or indirectly available to the public. By amendment 73 the European Parliament deletes this exemption. The Commission opposes this deletion since the provision provided a justified (and limited) exemption. The Commission accordingly rejects amendment 73.

#### *Denied boarding*

The Council's First reading position maintains in the definition of 'denied boarding' the reasonable grounds listed in the Council position (health, safety, security or inadequate travel documentation) to justify a denied boarding since those exceptions are defined already in Regulation (EC) 261/2004 (Article 2 j). This is in line with the current Regulation and the Commission did not propose to amend this definition.

With amendment 61 the European Parliament seeks to delete the reasonable grounds. This would mean that air carriers would have to treat cases where passengers are refused carriage for legitimate reasons as denied boarding. In the Commission's view, this would place an unreasonable burden on air carriers and cannot be justified. Therefore the Commission rejects amendment 61.

In case passengers are denied boarding against their will they can opt for a reimbursement of the ticket price. Under the current rules the reimbursement has to be made within the time limit for reimbursements, i.e. seven days. The EP requests that the reimbursements in case of denied boarding be made immediately (amendment 79). The Commission considers this an undue burden on the operating air carrier, since the ticket price corresponding to the unused portions of the ticket (flight legs not used) cannot always be established immediately, notably in cases of connecting flights. Therefore, the Commission rejects amendment 79.

#### *Insurance policy/guarantee fund*

Amendments 50 and 87 introduce the obligation for airlines to provide for insurance policies and a guarantee fund. The Commission did not propose such rules, nor did the Council. The Commission cannot support the immediate introduction of such rules without prior assessment. The Commission thus rejects amendments 50 and 87, since it is assessing the need for such rules already in the context of the ongoing review of the Air Services Regulation (EC) No 1008/2008.

#### *Double compensation*

The Commission proposed in 2013 that the right to compensation can only arise once when passengers are rerouted at the earliest opportunity to their final destination. The Council retained this provision in its first reading position. With amendment 108 the EP requires that passengers remain eligible for additional compensation in case they experience further travel disruptions when continuing their journey. Since compensation should be due only once during a journey the Commission seeks to retain the balance of its original proposal and accordingly rejects this amendment.

### *Form of payment*

The Commission rejects amendment 112 which eliminates the explicit possibility for air carriers to agree with the passenger to pay out compensation in other forms than cash, such as in form of a voucher. The Commission underlines that this is a useful option for certain passengers and should therefore be retained whilst remaining subject to express consent from the passenger.

### *Deadlines*

The European Parliament's position requires in amendment 84 that air carriers inform passengers by electronic means of the reasons for the cancellation no later than 30 minutes after the scheduled departure time. Given the potential complexity of the reasons for such cancellations, this timeframe is too short.

The European Parliament proposes in amendment 118 to delete an extension of the deadline to 30 days for reimbursements in case contingency plans are activated. The Commission is in favour of an extended deadline for reimbursements in case of activated contingency plans and therefore cannot accept amendment 118.

The Commission rejects amendment 129, because the three-hour deadline for the air carrier to fulfil its obligation to provide assistance to the passengers may not be proportionate in all cases (it could also be less time e.g. if the disruption occurs after midnight), the establishment of an index on prices for accommodation in Member States causes high administrative burden, the index would be needed also for third countries, and because an extension of the deadline in case contingency plans are activated has been (probably erroneously) left open.

### *Transfer of tickets*

The Commission rejects amendment 145 (right to transfer the ticket in case of death of the passenger or a close family member), as the Commission considers that a transfer of a ticket to another person would risk creating a black market for second-hand tickets and as such must be avoided.

### *Information requirement in case of combined tickets*

The Council's First Reading Position included the obligation for air carriers and intermediaries to clearly inform passengers in case they sell a ticket covered by a combination of air transport contracts. The deleted text sought to clarify to passengers that if they were not sold tickets under one single contract they would not enjoy the right relating to compensation, reimbursement, rerouting or assistance in the case of a missed subsequent flight.

The Commission rejects amendment 151 which deletes this obligation.

### *Enforcement*

The Commission rejects amendment 41 (publication of a list of carriers failing to comply with the regulation by the Commission), as the proposed recital does not correspond to any substantive provision in the text of the Regulation. In addition, the proposed obligation on the Commission would constitute an excessive administrative burden.

The Commission rejects amendment 168 (deadlines/reaction to complaints), as the proposed approach of considering the lack of reply from the air carrier or intermediary to a complaint as acceptance of the passenger's claims could be far-reaching and create legal uncertainty. It would also not fit into the legal architecture

of complaint handling under this regulation, nor be consistent with complaint handling mechanisms under existing passenger rights legislation across all modes of transport.

The Commission rejects amendment 182 (inspections of national enforcement bodies by the Commission), as the proposed obligation could be inconsistent with the principle of subsidiarity and would also have significant administrative and financial implications for the Commission.

The Commission rejects amendment 186 (compliance documents) due to the added administrative burden.

#### *Transparency baggage allowances*

The Commission rejects amendment 202 (transparency/purchase of core travel services/additional charges), as the rules on how these services and charges can be purchased and have to be displayed for transparency purposes fall within the scope of the Air Services Regulation (EC) No 1008/2008.

#### *Hand baggage*

In amendment 204 the EP requests that hand baggage with a maximum dimension of 100 cm (sum of width, length and height) and a maximum weight 7kg, be transported by the air carrier at no extra cost to the passenger. In particular, it should be taken into account that an impact assessment has already been launched on these two issues in the context of the review of the Air Services Regulation, where the Open Public Consultation closed in December 2025. Stakeholder views are divided on these two issues. In particular, the Commission is concerned about possible unintended consequences of adopting a standard which is not currently widely used. This could raise the risk that airlines may reduce hand baggage allowances from their current levels, which are approximated to the IATA recommended maximum (56 x 45 x 25 = 126cm). The Commission therefore rejects amendment 204 and the corresponding provision in amendment 144.

## **5. CONCLUSION**

The Commission will continue to support the legislative process with a view to facilitating a balanced and legally robust outcome that ensures effective passenger protection while maintaining a proportionate and workable framework for the aviation sector.

The Commission remains committed to constructive engagement with both co-legislators in the next stages of the procedure.