

Flight Compensation Regulation (EC) 261/2004

[Regulation \(EC\) No 261/2004](#) of the European Parliament and of the Council of 11 February 2004, establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights (the Flight Compensation Regulation) sets a minimum level of quality standards for passenger protection in air transport. It sets minimum rights for passengers in the event of denied boarding, flight cancellation or long delay. The regulation is applicable to passengers departing from an airport located in the territory of an EU Member State and passengers departing from an airport located in a third country if the operating air carrier of the flight concerned is a Union carrier. The regulation sets conditions for instance for the right to compensation, the right to reimbursement or re-routing, the right to care, the right of redress and passengers' right to be informed about their rights.

Regulation (EC) 261/2004

The Commission's proposal	21 December 2001 (COM(2001) 784 final)
Adoption in plenary	18 December 2003 (T5-0591/2003) (third reading)
Adoption by the Council	26 January 2004 (third reading)
Date of effect	17 February 2005 (Article 19, Regulation)
Guidelines	In 2016, the Commission prepared interpretative guidelines on Regulation (EC) 261/2004 (2016/C 214/04).
Amendments	A legislative amendment was proposed in 2013 (COM(2013) 130). It is awaiting Council's first reading position / budgetary conciliation convocation.

European Commission report

In April 2007, the Commission submitted a **report on the operation and the results of the regulation** ([COM\(2007\) 168 final](#)) to Parliament and Council. The Commission noted that there had been practical difficulties implementing the regulation. The main reasons were the somewhat 'imprecise text of the regulation' and 'ineffective enforcement in some Member States'. The Commission noted a need to: clarify the interpretation of some of the terms (e.g. exceptional circumstances), intensify cooperation with national enforcement bodies and enhance their role, improve enforcement of the regulation by national enforcement bodies, improve information on air passengers' rights, establish guidelines on the application of the regulation, and consider potential legislative amendments to the regulation. The Commission also publishes and regularly updates the [list of national enforcement bodies](#) under the regulation (July 2018).

European Parliament position

In its **resolution of 16 February 2017 on an [Aviation Strategy for Europe](#)**, Parliament noted that an EU regulatory framework would provide for clarification and legal certainty as regarded passenger rights, liability, delays and cancellations, security clearance, open data and data-sharing standards. It called on the Commission to act in this respect (point 23). Parliament also pointed out that the rights of passengers regarding re-routing and claiming refunds needed to be strengthened (point 37). The need to protect these rights was also underlined in Parliament's **resolution of 23 October 2012 on [passenger rights in all transport modes](#)**. Here Parliament recommended that the Commission include in its list of passenger rights the right to a minimum standard of service quality on the part of carriers and that it provide a clear definition of such a standard (point 5). The Commission was also called upon to review and oversee the implementation of the respective transport regulations in order to avoid ambiguities and

misunderstandings relating to passenger rights. Parliament also noted a need for a holistic approach to passenger rights. The Commission was asked to prepare a common frame of reference for passenger law (point 11). In its **resolution of 29 March 2012 on the functioning and application of established rights of people travelling by air**, Parliament called on the Commission to clarify various notions included in the regulation, such as 'cancellation' or 'extraordinary circumstances'. Parliament also held several debates on the enforcement of Regulation (EC) 261/2004, for instance on [3 October 2017](#).

Members' questions

Members have addressed several questions to the European Commission, for written or oral answer, concerning the regulation and implementation of its provisions. These questions have covered various aspects of the regulation, such as delays (e.g. [E-015415-15](#), [E-015345-15](#) and [E-003879-17](#)), compensation (e.g. [E-002186-15](#), [E-008246-15](#) and [E-006627-15](#)), compliance with the regulation (e.g. [E-007082-15](#), [E-008247-15](#), [E-001085-17](#) and [E-006969-16](#)), or passenger rights and their enforcement (e.g. [E-000344-16](#), [P-003577-17](#), [E-000074-15](#) and [E-006452-17](#)). The Commission provided answers to all these questions.

Petitions

Many petitions submitted to Parliament on this subject deal with implementation and application of the regulation. For example, in [Petition 1032/2017](#) the petitioner complained that her valid claim for compensation had been rejected. [Petition 487/2017](#) called for compensation for delay on a flight between outermost regions. [Petition 649/2017](#) called for the establishment of uniform rules on compensation for passengers on delayed flights. [Petition 400/2015](#), meanwhile, pointed to the need to improve the enforcement of the regulation by national enforcement bodies and [Petition 1046/2013](#) argued that only a small percentage of passengers received remedies stemming from the regulation and called for EU action.

Council position

Despite adoption by Parliament in 2014 of the Commission's legislative proposal for amendment of the regulation ([COM\(2013\) 130 final](#)), Council expressed its views that, despite developments, there were still areas where further work was needed. The latest Council General Secretariat progress report on the air passenger rights proposal ([June 2015](#)) noted that these areas included mainly thresholds for compensation and compensation for missed connecting flights. [Council's Working Party on Aviation](#) intends to continue its work so that a general approach for negotiations with the Parliament can be reached as soon as possible.

Selection of relevant case law

The Court has reacted to preliminary questions from national judiciaries on many occasions and provided interpretation for several of the regulation's provisions. For instance, in [Case C-83/10 *Sousa Rodríguez and Others*](#), the Court explained that the term 'cancellation' did not refer only to the situation in which the aeroplane in question failed to take off at all, but also covered cases in which that aeroplane took off but, for whatever reason, was subsequently forced to return to the airport of departure where the passengers of the said aeroplane were transferred to other flights (point 47). In [Case C-452/13 *Germanwings*](#) the Court explained that the concept of 'arrival time' referred to the time at which at least one of the doors of the aircraft was opened, the assumption being that, at that moment, the passengers were permitted to leave the aircraft (point 28). In [Case C-255/15 *Mennens*](#) the Court ruled that the price of the ticket to be taken into consideration for the purposes of determining reimbursement was solely the price of the flight, without taxes and charges indicated on that ticket, as long as neither the requirement to pay those taxes and charges nor their amount depended on the class for which that ticket had been purchased (point 44). In [Case C-195/17 *Krüsemann and Others*](#) the Court explained that the absence of a significant portion of the flight crew staff (owing to wildcat strikes) was not covered by the concept of 'extraordinary circumstances' within the meaning of the regulation (point 50).

This document has been prepared for the interparliamentary committee meeting of 27 November 2018: Empowering parliaments and enforcing citizens' rights in the implementation and application of Union law.