



Procedure file


Basic information			
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation		Awaiting Council 1st reading position / budgetary conciliation convocation	
Air transport: enforcement of passenger rights; air carrier liability limits Amending Regulation (EC) No 2027/97 1995/0359(SYN) Amending Regulation (EC) No 261/2004 2001/0305(COD)			
Subject 2.80 Cooperation between administrations 3.20.01 Air transport and air freight 4.60.06 Consumers' economic and legal interests			
Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	TRAN Transport and Tourism		28/03/2013
		PPE BACH Georges	
		Shadow rapporteur	
		S&D VERGNAUD Bernadette	
		ALDE SAVISAAR-TOOMAST Vilja	
	Verts/ALE TAYLOR Keith		
	ECR FOSTER Jacqueline		
	GUE/NGL KOHLÍČEK Jaromír		
	Committee for opinion	Rapporteur for opinion	Appointed
	ENVI Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
	IMCO Internal Market and Consumer Protection		29/05/2013
		PPE MAYER Hans-Peter	
	JURI Legal Affairs	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	Transport, Telecommunications and Energy	3318	05/06/2014
	Transport, Telecommunications and Energy	3278	05/12/2013
	Transport, Telecommunications and Energy	3261	10/10/2013
	Transport, Telecommunications and Energy	3243	06/06/2013
European Commission	Commission DG	Commissioner	
	Mobility and Transport	KALLAS Siim	
European Economic and Social Committee			
European Committee of the Regions			
Key events			
13/03/2013	Legislative proposal published	COM(2013)0130	Summary

16/04/2013	Committee referral announced in Parliament, 1st reading/single reading		
06/06/2013	Debate in Council	3243	
10/10/2013	Debate in Council	3261	Summary
05/12/2013	Debate in Council	3278	
17/12/2013	Vote in committee, 1st reading/single reading		
22/01/2014	Committee report tabled for plenary, 1st reading/single reading	A7-0020/2014	Summary
05/02/2014	Results of vote in Parliament		
05/02/2014	Debate in Parliament		
05/02/2014	Decision by Parliament, 1st reading/single reading	T7-0092/2014	Summary
05/06/2014	Debate in Council	3318	Summary

Technical information

Procedure reference	2013/0072(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation (EC) No 2027/97 1995/0359(SYN) Amending Regulation (EC) No 261/2004 2001/0305(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 100-p2
Modified legal basis	Rules of Procedure EP 150
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Awaiting Council 1st reading position / budgetary conciliation convocation
Committee dossier	TRAN/7/12209

Documentation gateway

Legislative proposal		COM(2013)0130	13/03/2013	EC	Summary
Document attached to the procedure		SWD(2013)0062	13/03/2013	EC	
Document attached to the procedure		SWD(2013)0063	13/03/2013	EC	
Economic and Social Committee: opinion, report		CES2576/2013	11/07/2013	ESC	
Committee draft report		PE510.868	06/09/2013	EP	
Amendments tabled in committee		PE519.451	08/10/2013	EP	
Amendments tabled in committee		PE521.519	08/10/2013	EP	
Committee opinion		PE516.966	08/11/2013	EP	
Committee report tabled for plenary, 1st		A7-0020/2014	22/01/2014	EP	Summary

reading/single reading					
Text adopted by Parliament, 1st reading/single reading		T7-0092/2014	05/02/2014	EP	Summary
Commission response to text adopted in plenary		SP(2014)446	20/05/2014		

Additional information	
National parliaments	IPEX
European Commission	EUR-Lex

2013/0072(COD) - 13/03/2013 Legislative proposal

PURPOSE: to modify the current legal framework in order to ensure a more effective application of the rights of airline passengers in the Union.

PROPOSED ACT: Regulation of the European Parliament and of the Council (amendment of Regulation (EC) N° 261/2004 and Regulation (EC) N° 2027/97).

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Regulation (EC) No 261/2004 of the European Parliament and of the Council establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and Council Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air have significantly contributed to protecting the rights of air passengers when their travel plans are disrupted by denied boarding, long delays, cancellations or mishandled baggage.

A number of shortcomings revealed during the implementation of the rights under the Regulations have, however, prevented their full potential in terms of passenger protection from being realised. In order to ensure a more effective, efficient and consistent application of air passenger rights across the Union, a series of adjustments to the current legal framework is required. This was underlined in the Commissions [2010 EU Citizenship Report on dismantling obstacles to EU citizens' rights](#), which announced measures to ensure a set of common rights, notably for air passengers, and the adequate enforcement of these rights.

In its [resolution of 29 March 2012](#), the European Parliament considered that proper application of the existing rules by Member States and air carriers, enforcement of sufficient means of redress and providing passengers with accurate information concerning their rights should be the cornerstones of regaining passengers trust.

IMPACT ASSESSMENT: the Commission evaluated four options:

Option 1: focus on economic incentives (moderate change of enforcement);

Option 2: balance stronger enforcement policy with economic incentives:

- Variant 2a: increasing the time threshold after which the passenger has a right to compensation in case of delays from the current three hours to at least five;
- Variant 2b: extending the scope of "extraordinary circumstances" to include most technical defaults;

Option 3: focus on stronger enforcement and clarify passenger rights;

Option 4: centralised enforcement.

The impact assessment concludes that option 2 is preferable to the others, as it would most effectively and efficiently enhance passengers' rights while taking into account the financial impact on the air transport sector. Variant 2a is slightly preferred to 2b.

LEGAL BASIS: Article 100 (2) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposal aims to promote the interest of air passengers by ensuring that air carriers comply with a high level of air passenger protection during travel disruptions, while taking into account the financial implications for the air transport sector and ensuring that air carriers operate under harmonised conditions in a liberalised market.

In concrete terms, the proposal:

- clarifies the definition of "extraordinary circumstances" in line with the European Court's decision in the case C-549/07 (Wallentin-Herman) i.e. circumstances which, by their nature or origin, are not inherent in the normal exercise of the activity of the air carrier concerned and are beyond its actual control;
- increases the time threshold after which the right to compensation arises from three to five hours for all journeys within the EU. For journeys to/from third countries, the threshold will be dependent upon the distance of the journey: (i) 5 hours for outside-EU journeys of 3500 km or less; (ii) 9 hours for outsideEU journeys between 3500 and 6000 km, and (iii) 12 hours for outside-EU journeys of 6000 km and more;
- stipulates that if the air carrier cannot reroute the passenger on its own services within 12 hours, it must consider other carriers or other transport modes, subject to seat availability;

- introduces a single time threshold for care of 2 hours for flights of all distances;
- confirms that passengers that miss a flight connection because their previous flight was delayed have a right to care and, under certain circumstances, a right to compensation. However, such right would only apply where the connecting flights are part of a single contract of carriage;
- confirms that passengers of flights rescheduled with a notice of period of less than two weeks in advance of the originally scheduled time have similar rights to delayed passengers;
- clearly sets out the rights of passengers when their aircraft is delayed on the tarmac, in particular a right to disembark after five hours ;
- provides that passengers should have a right to information about the flight disruption as soon as the information is available;
- clarifies the role of the National Enforcement Bodies (NEBs), and extends their role to the monitoring of compliance with the baggage provisions of Regulation (EC) No 2027/97, and also enhances the exchange of information and the coordination between the NEBs, and between the NEBs and the Commission;
- requires air carriers to inform passengers, at the time of reservation, about their claim and complaint handling procedures, and provide electronic means to submit complaints. Airlines will be required to respond to passengers within two months.

Lastly, the proposal ensures better enforcement of passenger rights with regard to mishandled baggage: (i) passengers with reduced mobility should have the same right to free movement, and non-discrimination as other citizens; (ii) increased liability of air carriers with regard to mobility equipment up to the actual value of the equipment; (iii) enhanced transparency with regard to baggage allowances; (iv) measures with regard to musical instruments; (v) require air carriers to issue a claim form at the airport where passengers can complain about delayed, damaged or lost baggage

BUDGETARY IMPLICATIONS: the proposal has no implications for the EU budget.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.

2013/0072(COD) - 10/10/2013 Debate in Council

The Council held a policy debate on a proposed update of the EU rules on air passenger rights.

Clarifying grey areas in existing legislation: Ministers generally agreed about the need to clarify the current rules. Several ministers underlined that the most important goal for passengers is to get to their destination and receive proper care and attention.

Most of them stressed the importance of striking the right balance between the rights of passengers and the need to avoid disproportionate costs for air carriers, thus preserving the competitiveness of EU airlines.

Addressing the disproportionate costs that some obligations may impose on air carriers in the event of delayed or cancelled flights: most ministers expressed their opposition to linking the amount of compensation to the ticket price in the event of a delay, mentioning reasons such as (i) the volatility of ticket prices, (ii) the difficulty of determining the price of tickets which are part of a package and (iii) the principle of non-discrimination. A number of ministers considered instead that the basis for compensation should be the harm caused to the passenger and that compensation should not be an end in itself.

Several ministers were of the view that if the air carrier operating the first part of a combination flight is delayed, it should be the one to pay compensation.

Ministers also cautioned against rules that would encourage companies to limit their offer of combination flights or even to cancel flights.

According to some ministers the provisions as proposed by the Commission still need further clarification. Ministers' contributions will guide further examination of the proposal in the Council preparatory bodies.

2013/0072(COD) - 22/01/2014 Committee report tabled for plenary, 1st reading/single reading

The Committee on Transport and Tourism adopted the report by Georges BACH (EPP, LU) on the 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.

The committee recommended that Parliaments position adopted in first reading, following the ordinary legislative procedure, should amend the Commission proposal as follows:

Right to reimbursement or re-routing: where passengers choose the re-routing option, they shall, subject to availability and provided that comparable alternatives exist, have the right to re-routing, at the earliest opportunity, via another air carrier or another mode of transport where the operating air carrier cannot transport the passenger on its own services and in time to arrive at the final destination within eight hours of the scheduled arrival time. The air carrier shall inform the passenger, within 30 minutes after the scheduled departure time, whether it will transport the passenger on its own services within the time limit.

Right to compensation in case of long delays: the amended text seeks to grants passengers, in case of long delays, i.e. of more than three hours, the same rights as passengers whose flights are cancelled. The trigger point of five hours is therefore replaced by one of three hours.

Where the revised schedule involves too long a delay, passengers shall be offered the possibility to ask for reimbursement or rerouting. In addition, passengers should be offered the possibility to organise rerouting for themselves and claim reimbursement of the associated costs if the operating air carrier fails to offer the choice of rerouting.

With the aim to facilitate further the application of the current system and to create greater clarity for passengers and airlines, the report proposed to streamline the compensation amounts:

- EUR 300 for all journeys of 2 500 kilometres or less;
- EUR 400 for all journeys between 2 500 km and 6 000 km;
- EUR 600 for all journeys of 6 000 km or more.

In determining the distance, the basis shall be the last destination at which the denial of boarding or cancellation will delay the passenger's arrival after the scheduled time.

Rights with regard to connecting flights: a new Article has been introduced by the Commission under which passengers concerned should be offered assistance, care and rerouting by the preceding air carrier responsible for the delay at the transfer point which leads to passengers missing their connecting flight.

Passengers who miss a connecting flight should also be able to claim compensation on a similar basis to those whose flights are delayed or cancelled. Members considered that in light of the large number of carriers operating regional flights of shorter distances within the EU, the financial burden should be reduced for those carriers. With this in mind, they added a minimum threshold of 90 minutes of delay to the preceding flight at the transfer point, which shall entitle the passenger to compensation provided that the delay at the final destination of the journey is more than three or five hours respectively.

Denied boarding: the current definition of denied boarding should be modified in order to include cases where a passenger misses a flight because the departure time has been brought forward. In order to improve levels of protection, it should not be possible for passengers to be denied boarding on a section of the journey of a two-way (return) ticket on the grounds that they have not travelled on every leg of the journey covered by the ticket.

Contingency plans: if an air carrier suddenly ceases operation, such plans are of particular necessity in order to help stranded passengers. The report considered that the threshold of three million passengers per year for airports is too high and should be lowered to 1.5 million. The involvement of national, regional and local authorities in the development of such contingency plans is deemed to be important. The need for coordinated action by all parties concerned, more detailed indication of what contingency plans should include as regards information and assistance to passengers, and a particular obligation for air carriers to put in place procedures in case of flight disruptions are highlighted by relevant amendments.

Extraordinary circumstances: in order to increase legal certainty for passengers and air carriers, the concept of extraordinary circumstances should be clarified. Members have made substantial amendments to the non-exhaustive list of these circumstances annexed to the Commissions proposal (the Commission shall be empowered to adopt delegated acts in order to add to this list).

Right to accommodation: if the operating air carrier can prove that the cancellation, delay or change of schedule is caused by extraordinary circumstances and that the cancellation, delay or change of schedule could not have been avoided even if all reasonable measures had been taken correctly, it may limit the total duration of accommodation to a maximum of five nights. If the passenger decides to arrange his own accommodation, it may further limit the cost of accommodation to EUR 125 per night, per passenger (compared to EUR 100 as proposed by the Commission).

Spelling mistakes: where the passenger, or an intermediary acting on behalf of the passenger, reports spelling mistakes in the name of one or several passengers included in the same contract of carriage that may lead to a denial of boarding, the air carrier shall correct those mistakes at least once up until 48 hours before departure without any additional charge to the passenger or the intermediary, except where it is prevented from doing so by national or international law.

Information on passenger rights: the report called for the presence of a local point of contact representing the air carrier at the airport, with the ability to take immediate action on behalf of the carrier in case of necessity. The operating air carrier shall provide the passengers with clearly legible and transparent information about passenger rights and contacts for help and assistance on electronic tickets and electronic and printed versions of a boarding card.

In the event of denied boarding, flight cancellation, delay or change of schedule of at least two hours, the operating air carrier shall as soon as possible fully inform the passenger affected and provide him with a written notice or a notice in electronic form setting out the rules for compensation and assistance, and shall inform him of possible alternative transport modes. The air carrier shall have documents available at the check-in counter and the boarding gate containing the European Air Passengers Charter, which its staff shall give to air passengers on request. The European Commission shall update such documents Charter every time there is a substantial change to air passengers' rights.

The provision of information to passengers about their rights and possibilities for complaints and claims needs to be improved

Price transparency: Members proposed adding to the Commissions definition a number of basic services which should always be included in the ticket price, such as the issue of a boarding card, minimum luggage allowances and payment-related costs such as credit card fees.

Insolvency: the financial protection of passengers in the event of airline failure is a key component of an effective passenger rights regime. In order to strengthen air passengers protection in the event of cancellations of flights due to the insolvency of an air carrier or the suspension of an air carriers operations due to the revocation of its operating licence, air carriers should be obliged to provide sufficient evidence of security for the reimbursement of passengers or their repatriation.

Complaint procedure: the amended text introduced several amendments on claims and complaint procedures, in order to align the text with the new [Directive 2013/11/EU](#) on Alternative Dispute Resolution (ADR) which obliges Member States to create national bodies to deal with out-of-court resolution. These will be the future handling bodies of passenger complaints. The refusal of airlines to participate in ADR systems and procedures constitutes a particular problem, and the regulation should therefore provide for the obligation of airlines to adhere to an ADR system. The complaint procedure with the air carrier does not prejudice the passengers right of access to the judicial system and to out-of-court resolution.

Lost and damaged or delayed baggage: for practical reasons a special baggage claim service should be available at all airports, in order to speed up and facilitate the procedure. A standardised EU-wide claim form should be made available alongside the revised regulation.

The European Parliament adopted by 580 votes to 41, with 48 abstentions, a legislative resolution on the 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.

Parliament position adopted at first reading following the ordinary legislative procedure amended the Commission proposal as follows:

Right to reimbursement or re-routing: where passengers choose the re-routing option, they shall, subject to availability and provided that comparable alternatives exist, have the right to re-routing, at the earliest opportunity, via another air carrier or another mode of transport where the operating air carrier cannot transport the passenger on its own services and in time to arrive at the final destination within eight hours of the scheduled arrival time. The air carrier shall inform the passenger, within 30 minutes after the scheduled departure time, whether it will transport the passenger on its own services within the time limit.

Right to compensation in case of long delays: the amended text seeks to grant passengers, in case of long delays, i.e. of more than three hours, the same rights as passengers whose flights are cancelled. The trigger point of five hours is therefore replaced by one of three hours.

Where the revised schedule involves too long a delay, passengers shall be offered the possibility to ask for reimbursement or rerouting. In addition, passengers should be offered the possibility to organise rerouting for themselves and claim reimbursement of the associated costs if the operating air carrier fails to offer the choice of rerouting.

With the aim to facilitate further the application of the current system and to create greater clarity for passengers and airlines, the resolution proposed to streamline the compensation amounts:

- EUR 300 for all journeys of 2 500 kilometres or less;
- EUR 400 for all journeys between 2 500 km and 6 000 km;
- EUR 600 for all journeys of 6 000 km or more.

A new Article stipulated that the air carrier may reach a voluntary agreement with the passenger that replaces the compensation with other, non-monetary, benefits of at least equivalent value (for example: air travel vouchers without expiration date to the value of 100% of the entitlement to compensation), provided that this agreement is confirmed by a document signed by the passenger which unambiguously informs the passenger of his rights to compensation under this Regulation.

Rights with regard to connecting flights: the amended text stated passengers concerned should be offered assistance, care and rerouting by the preceding air carrier responsible for the delay at the transfer point which leads to passengers missing their connecting flight. Passengers who miss a connecting flight should also be able to claim compensation on a similar basis to those whose flights are delayed or cancelled. Members added a minimum threshold of 90 minutes of delay to the preceding flight at the transfer point, which shall entitle the passenger to compensation provided that the delay at the final destination of the journey is more than three or five hours respectively.

Denied boarding: the current definition of denied boarding should be modified in order to include cases where a passenger misses a flight because the departure time has been brought forward. In order to improve levels of protection, it should not be possible for passengers to be denied boarding on a section of the journey of a two-way (return) ticket on the grounds that they have not travelled on every leg of the journey covered by the ticket.

An airline may not refuse boarding to a passenger with a disability or reduced mobility on the grounds that he/she is unaccompanied and may not insist on another person systematically accompanying him/her.

Information on passenger rights: the resolution called for the presence of a local point of contact representing the air carrier at the airport, with the ability to take immediate action on behalf of the carrier in case of necessity. The operating air carrier shall provide the passengers with clearly legible and transparent information about passenger rights and contacts for help and assistance on electronic tickets and electronic and printed versions of a boarding card.

In the event of denied boarding, flight cancellation, delay or change of schedule of at least two hours, the operating air carrier shall as soon as possible fully inform the passenger affected and provide him with a written notice or a notice in electronic form setting out the rules for compensation and assistance, and shall inform him of possible alternative transport modes. The air carrier shall have documents available at the check-in counter and the boarding gate containing the European Air Passengers Charter, which its staff shall give to air passengers on request. The European Commission shall update such documents Charter every time there is a substantial change to air passengers' rights.

Luggage: passengers would have to be informed early in the booking process about baggage allowances. A new Article has been included stipulating that passengers should be permitted to carry on board into the cabin, free of charge, essential personal items or belongings such as coats and handbags, including at least one standardised bag of airport shopping, in addition to the prescribed maximum cabin baggage allowance.

Contingency plans: the amended text stated that to ensure that passengers are not stranded when an air carrier goes bankrupt, Parliament inserted requirements for carriers to have in place appropriate guarantee mechanisms, such as guarantee funds, or to take out insurance policies. The contingency plan shall be set up by the airport management body in cooperation with the airport users, in particular the air carriers, the suppliers of ground handling services, the air navigation service providers, the airport retail outlets, and special assistance providers for disabled passengers or passengers with reduced mobility, and with the participation of the relevant national, regional or local authorities and organisations when appropriate.

Complaints procedure: the amended text introduced several amendments on claims and complaint procedures, in order to align the text with the new [Directive 2013/11/EU](#) on Alternative Dispute Resolution (ADR) which obliges Member States to create national bodies to deal with out-of-court resolution. These will be the future handling bodies of passenger complaints.

Air carriers which fail to reply to a complaint within 2 months would be deemed to have accepted the passengers claims. Those citing extraordinary circumstances in which they need not pay compensation would have to give the passenger a full written explanation. The draft rules include an exhaustive list of such circumstances, which include bird strikes, political unrest and unforeseen labour disputes.

However, in long-lasting extraordinary circumstances, air carriers liability to pay for passenger accommodation would be limited to 5 nights. If the passenger decides to arrange his own accommodation, it may further limit the cost of accommodation to EUR 125 per night, per passenger. If the operating air carrier chooses to apply this limitation, it shall nevertheless provide the passengers with information about

available accommodation after the five nights, in addition to the continued obligations for information.

Lost and damaged or delayed baggage: for practical reasons a special baggage claim service should be available at all airports, in order to speed up and facilitate the procedure. A standardised EU-wide claim form should be made available alongside the revised regulation.

2013/0072(COD) - 05/06/2014 Debate in Council

The Council took note of progress achieved regarding a proposed update of the EU rules on air passenger rights on the basis of a progress report prepared by the Presidency.

Solid progress has been made on the dossier since the policy debate held by the Council in October 2013. In particular, i) provisions giving rise to the application of air passenger rights in other transport modes have been deleted; ii) those on tarmac delay have been fine-tuned; iii) the monetary limit on accommodation in the event of major travel disruption has been deleted; and iv) the rules on informing passengers of their rights have been considerably improved.

Rules allowing airlines to claim exemptions from the requirement to pay compensation: delegations generally agree that technical defects should not be used by airlines as a pretext for refusing to pay compensation. Efforts have therefore been made to define under what conditions airlines may invoke technical defects to seek exemption from paying compensation.

Complaints and dispute resolution: a compromise has been reached on a simple procedure for passengers to submit complaints to airlines and, subsequently, to out-of-court dispute resolution bodies.

The major outstanding questions include the following:

- thresholds for compensation: the modified distance bands and temporal thresholds proposed by the Presidency giving rise to compensation in cases of cancellation and delay - the proposed 5-9-12 time thresholds- do not meet the satisfaction of a number of delegations which have diverging positions on this key issue.

- compensation for missed connecting flights: the Presidency compromise provides a partial exemption to airlines from paying compensation, if the connecting time was relatively short (90 minutes in the current text), and the passenger who purchased the connecting ticket was aware that a short delay of the feeder flight could result in missing the connection. If, however, the originally planned transfer time was more than 90 minutes, the passenger shall receive compensation if his connecting flight is missed due to a delay of the feeder flight. This compromise proposal cannot be accepted by a number of delegations that propose the deletion of compensation for connecting flights, and consider that such amounts should be paid on the basis of each individual leg of the flight, and the corresponding delay suffered.

- extraordinary circumstances: discussions should continue on the status of any list that is, exhaustive or non-exhaustive, binding or non-binding - establishing exemptions from the obligation of compensation payment.

- hand baggage: the only major outstanding issue relates to cabin baggage. It still needs to be decided whether clear provisions are needed on the so-called 'one bag rule', including purchases made at the airport which would enable all passengers at Union airports to take items on board under the same conditions, or whether this should be regarded as part of the air carrier's commercial freedom.