



## Background note: air passenger rights

[03-02-2014 - 19:33]

**Parliament voted on a draft report on Wednesday (5 February) in which it set out its first-reading position on revised air passenger rights.**

The European Commission has proposed a revision of the existing rules on air passenger rights, as set out in Regulation 261/2004, in force since 2005. As compensation is currently paid to only a small share of those entitled to it, the Commission proposes improving information to passengers in the event of delays and clarifying rules compensation, as well as updating rules to give air carriers more certainty as to the law.

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# Background

## What is new compared to the existing rules (261/2004)?

The Commission has proposed several new rules, which the Transport Committee amended in a vote on the draft legislative report. The draft report was put to a vote on Wednesday, 5 February by Parliament as a whole.

These proposed new rules provide for:

- better information at check-in about passenger rights and information to passengers about the time of a rescheduled flight as soon as possible and not later than after 30 minutes after the originally scheduled flight is delayed,
- a right for passengers with return tickets to board the aircraft for the inbound flight even if they did not take the outbound flight,
- in the event of aircraft being delayed on the tarmac, time limits after which the passengers have the right to disembark ( MEPs have proposed 2 hours), and
- a limit on the number of nights of hotel costs an air carrier has to pay for the passenger in the event of extraordinary circumstances such as political unrest, so as to protect air carriers from excessive costs (MEPs have proposed 5 nights).

# Background

## What additional changes are MEPs proposing?

MEPs added additional provisions in a vote in February 2014. These include:

- a provision requiring air carriers to ensure that a contact person is present at the airport to give passengers information about rights and complaint procedures, and to take action in the event of delayed or cancelled flights, damaged or lost baggage. This provision also clarifies where and how information should be provided,
- further cabin luggage allowances: personal items (handbag, coat), one airport shopping bag, on top of allowed cabin luggage,
- higher amounts and lower time trigger points than the Commission proposes for compensation in the event of delay
- an exhaustive list of extraordinary circumstances in which compensation does not have to be paid, and
- air carriers should have in place mechanisms (e.g. guarantee fund, insurance policy), to guarantee that passengers are returned home in case of air carrier insolvency.

# Background

## **Proposed new rules on information for passengers**

Air carriers would have to set up, at each airport where they operate, contact points where they ensure the presence of contact staff (or a third party commissioned by the air carrier) to give passengers information (during the operating hours of the airport and until the passengers have disembarked from the last plane) regarding rights, complaint procedures. These staff would also have to assist passengers and take immediate action in the event of cancelled or delayed flights, denied boarding and lost or delayed baggage. They should also provide information on assistance, reimbursement, re-routing, rebooking and with whom complaints can be lodged.

Complaint forms for damaged/delayed baggage should be handed out at the passenger's request at check-in desks and/or at airport service desks and should also be available on the air carrier's website.

# Background

## Proposed rules on delays, compensation and reimbursement

### *Compensation amounts in the event of delays or cancellation*

Proposed new rules give greater legal certainty for passengers to claim compensation in case of delays. The parliament vote stipulated shorter time trigger periods and higher amounts.

In case of 3 hours delay for a journey up to 3.500 km:

- journeys up to 2.500 km: 300 € compensation
- journeys between 2.500km and 3.500km: 400 € compensation

In case of 5 hours delay between 3500km and 6000km:

- journeys between 3.500km and 6.000km: 400 € compensation

In case of 7 hours delay for journeys of more than 6000km

- journeys of more than 6.000km: 600 € compensation

### *Extraordinary circumstances*

Airlines would not need to pay compensation, e.g. in the event of a bird strike, political unrest, or unforeseen labour disputes. An exhaustive list was proposed by MEPs. Air carriers would also have to provide proof of existence extraordinary circumstances in written form to passengers.

Rules seeking to clarify and limit air carrier responsibility in extraordinary circumstances would limit the provision of accommodation for passengers to 5 days when delays are due to real extraordinary circumstances.

### *Assistance, reimbursement and rerouting*

After three hours' delay, passengers would have a right to reimbursement or re-rerouting at the earliest opportunity. Care should be provided after two hours' delay for all distances, as in the Commission proposal, simplifying existing rules. When flights are delayed, air carriers should inform passengers of the rescheduled flight time within 30 minutes of the scheduled departure time. Passengers could refuse re-routing by other modes of transport.

### *Denied boarding*

Passengers who have not used their outward flight should not be denied boarding on the return flight.

If boarding is denied, including due to reasons of overbooking, compensation (according to Article 7) has to be paid and assistance offered according to Article 8 (reimbursement and re-routing) and Article 9 (right of care).

### *Delays on tarmac*

Access to water and toilet facilities, adequate heating and cooling should be ensured in the aircraft cabin. After a maximum of two hours, passengers would have to be allowed to disembark (unless there are security reasons why not). After a delay of more than three hours, passengers would have the option of reimbursement, return flight and re-routing.

### *Rights in the event of air carrier insolvency*

In the event of cancellation of a flight due to insolvency, bankruptcy, or the suspension or cessation of the activities of an air carrier, stranded passengers would be entitled to reimbursement, the return flight to the point of departure or re-routing, and to care. Passengers who have not started the journey would be entitled to reimbursement. Air carriers would have to take measures such as taking out insurance policies or setting up guarantee funds for this purpose.

# Background

## **New rules for handling complaints**

Complaints to the air carrier could be lodged by passengers within three months of flights. Air carriers would have to confirm receipt of a complaint within 7 working days and respond within two months. MEPs added a clause stating that if the carrier does not provide a full answer within two months, it will be deemed to have accepted the claims. Proposed rules also seek to enhance the preventive role and enforcement powers of the responsible authorities.

Service points should be set up by air carriers to provide passengers with a complaint form, which allows them to lodge a complaint about damaged or delayed baggage immediately upon arrival at all EU airports where they operate. National authorities would be responsible for enforcing compensation rules for mishandled baggage.

# Background

## Proposed new rules on baggage

### ***Cabin baggage***

Passengers would be permitted to carry into the cabin, free of charge, essential personal items or belongings such as coats and handbags, and including at least one standardised bag of airport shopping, in addition to the prescribed maximum cabin baggage allowance. Information about cabin and hold luggage allowances would have to be clearly stated at an early stage in the booking process and at check-in.

### ***Damaged, delayed baggage***

Community air carriers (and ground handlers acting on their behalf) should set up a service to provide passengers with a complaint form which allows them to lodge a complaint about damaged or delayed baggage immediately upon arrival at all EU airports where they operate. The complaint forms should at the passenger's request be handed out at the check-in desks and/or at their airport service desks and should be available on the carrier's website.

Proposals also include new provisions which would make national authorities responsible for enforcing compensation rules for mishandled baggage.