



EUROPEAN PARLIAMENT

2009 - 2014

Plenary sitting

A7-0020/2014

22.1.2014

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REPORT

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 (COM(2013)0130 – C7-0066/2013 – 2013/0072(COD))

Committee on Transport and Tourism

Rapporteur: Georges Bach

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT 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 (COM(2013)0130 – C7-0066/2013 – 2013/0072(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0130),
 - having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0066/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 11 July 2013¹,
 - after consulting the Committee of the Regions,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on the Internal Market and Consumer Protection (A7-0020/2014),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ Not yet published in the Official Journal.

Amendment 1

Proposal for a regulation Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) Air transport services are prepaid by the passenger and directly or indirectly subsidised by the taxpayer. Flight tickets should therefore be considered to be "result contracts", whereby the airlines guarantee to fulfil the obligations of the contract with the utmost care.

Amendment 2

Proposal for a regulation Recital 3

Text proposed by the Commission

Amendment

(3) In order to increase legal certainty for air carriers and passengers, a more precise definition of the concept of “extraordinary circumstances” is needed, which takes into account the judgement of the European Court of Justice in the case C-549/07 (Wallentin-Hermann). Such a definition should be further clarified via a ***non-exhaustive*** list of circumstances that are clearly identified as extraordinary ***or not***.

(3) In order to increase legal certainty for air carriers and passengers, a more precise definition of the concept of “extraordinary circumstances” is needed, which takes into account the judgement of the European Court of Justice in the case C-549/07 (Wallentin-Hermann). Such a definition should be further clarified via an ***exhaustive*** list of circumstances that are clearly identified as extraordinary. ***The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to make additions, where necessary, to that list.***

Justification

To guarantee legal certainty regarding the definition of extraordinary circumstances, the list should be exhaustive.

Amendment 3

Proposal for a regulation Recital 5

Text proposed by the Commission

(5) In *the case* C-22/11 (*Finnair*), the **European** Court decided that the concept of ‘denied boarding’ must be interpreted as relating not only to cases where boarding is denied because of overbooking but also to those where boarding is denied on other grounds, such as operational reasons. **Given this confirmation, there is no reason to modify the current** definition of “denied boarding”.

Amendment

(5) In **Case** C-22/11 (*Finnair*), the Court of **Justice** decided that the concept of ‘denied boarding’ must be interpreted as relating not only to cases where boarding is denied because of overbooking but also to those where boarding is denied on other grounds, such as operational reasons. **The** definition of “denied boarding” **should cover cases where the scheduled time of departure has been changed to an earlier departure with the consequence that a passenger misses the flight.**

Justification

The current definition of ‘denied boarding’ needs to be modified in order to include cases where a passenger misses a flight because the departure time has been brought forward.

Amendment 4

Proposal for a regulation Recital 6

Text proposed by the Commission

(6) Regulation (EC) No 261/2004 also applies to passengers that have booked their air transport as part of a package travel. However, it should be clarified that passengers may not cumulate corresponding rights, in particular under both this Regulation and Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours¹⁷. The passengers should be able to choose under which law they introduce their claims, but should not have the right to cumulate compensation for the same problem under both legal acts. **Passengers**

Amendment

(6) Regulation (EC) No 261/2004 also applies to passengers that have booked their air transport as part of a package travel. However, it should be clarified that passengers may not cumulate corresponding rights, in particular under both this Regulation and Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours¹⁷. The passengers should be able to choose under which law they introduce their claims, but should not have the right to cumulate compensation for the same problem under both legal acts. **Air carriers**

should not be concerned about how air carriers and tour operators allocate such claims between them.

¹⁷ OJ L158, 23.6.1990, p.59

and tour operators should give passengers the evidence necessary for them to finalise their claims without delay.

¹⁷ OJ L158, 23.6.1990, p.59

Justification

The deletion of the last sentence clarifies the fact that Regulation 261/2004 and the package travel Directive 90/314/EEC are two distinct legal acts, which means that passengers need to address their claims to the operating airline only. If, however, obligations coincide under Regulation 261 and the package travel directive, passengers can choose the legislation under which to make a claim.

Amendment 5

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) In order to improve levels of protection, passengers **should** not be denied boarding on the return journey of a two-way (return) ticket **because** they have not taken the outward journey.

Amendment

(7) 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.**

Justification

Largely prohibits the ‘no show’ policy. If a booked flight consists of several legs, the passenger should be allowed to use up only one or some of them without being punished by forfeiting the rest of the journey or being obliged to pay a high additional charge.

Amendment 6

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) At present, passengers are sometimes penalised for spelling errors in their names

Amendment

(8) At present, passengers are sometimes penalised for spelling errors in their names

by the application of punitive administrative fees. **Reasonable** corrections of booking errors should be provided free of charge provided they do not imply a change of times, date, itinerary or passenger.

by the application of punitive administrative fees. Corrections of booking errors should be provided free of charge provided they do not imply a change of times, date, itinerary or passenger.

Justification

The notion of 'reasonable' corrections leaves too much space for interpretation.

Amendment 7

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) It should be clarified that in cases of cancellation the choice between receiving reimbursement, continuation of travel by *rerouting* or travel at a later date is the decision of the passenger and not that of the air carrier.

Amendment

(9) It should be clarified that in cases of cancellation the choice between receiving reimbursement, continuation of travel by *re-routing* or travel **later on the same day** **or** at a later date is the decision of the passenger and not that of the air carrier.

Amendment 8

Proposal for a regulation

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) Where a passenger cancels a flight, air carriers should be obliged to refund, free of charge, taxes which have already been paid.

Justification

Some air carriers make service charges - excessive in many instances - in such cases. That is improper. A tax which is not incurred must be refunded in full. Not taking a flight which has been paid for ought to be a sufficient 'penalty' in itself.

Amendment 9

Proposal for a regulation Recital 9 b (new)

Text proposed by the Commission

Amendment

(9b) If the passenger opts, in accordance with an agreement, to travel at a later time, the costs of travelling to and from the airport for the cancelled flight should always be reimbursed in full. Those costs should always include public transport fares, taxi fares and parking charges at the airport.

Amendment 10

Proposal for a regulation Recital 9 c (new)

Text proposed by the Commission

Amendment

(9c) 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 carrier's 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.

Justification

The requirement to provide sufficient evidence of security leaves room for several measures which air carriers can take in order to protect passengers in case of insolvency. Other options could include a fund or insurance.

Amendment 11

Proposal for a regulation Recital 9 d (new)

Text proposed by the Commission

Amendment

(9d) The creation of a guarantee fund or a compulsory insurance scheme will for example enable air carriers to ensure that passengers can be reimbursed or repatriated when their flights are cancelled due to the insolvency of an air carrier or the suspension of its operations as the result of the revocation of its operating licence.

Justification

The creation of a guarantee fund or an insurance scheme would ensure that passengers are protected in the event of carriers going bankrupt or losing their licence.

Amendment 12

Proposal for a regulation Recital 10

Text proposed by the Commission

Amendment

(10) ***Airports*** and airport users such as air carriers ***and*** ground handling companies should ***cooperate*** to minimise the impact of multiple flight disruptions on passengers by ensuring their care and rerouting. To this end, ***they should prepare contingency plans*** for such occurrences and work together in the development of such plans.

(10) ***The airport managing body*** and airport users such as air carriers, ground handling companies, ***navigation service providers and assistance providers for disabled passengers and passengers with reduced mobility*** should ***take adequate measures to enforce coordination and cooperation between airport users in order*** to minimise the impact of multiple flight disruptions on passengers by ensuring their care and rerouting. To this end, ***airport managing bodies should ensure adequate coordination by means of a proper contingency plan*** for such occurrences and work together ***with national, regional or local authorities*** in the development of such plans. ***Such plans***

should be assessed by the National Enforcement Bodies which may require adaptations, where necessary.

Amendment 13

Proposal for a regulation Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) Air carriers should set up procedures and coordinated action in order to provide adequate information to stranded passengers. Those procedures should clearly indicate who is to be responsible at each airport for arranging the care, assistance, re-routing or reimbursement and should set out the processes and conditions for the provision of those services.

Amendment 14

Proposal for a regulation Recital 10 b (new)

Text proposed by the Commission

Amendment

(10b) In order to assist passengers in the case of flight disruptions or delayed, damaged or lost luggage, air carriers should set up contact points at airports where their personnel or third parties commissioned by them should provide passengers with the necessary information regarding their rights, including complaint procedures, and assist them to take immediate action.

Amendment 15

Proposal for a regulation Recital 11

Text proposed by the Commission

(11) Regulation (EC) No 261/2004 should explicitly include the right to compensation for passengers suffering long delays, in line with the judgement of the European Court of Justice in the Joined cases C-402/07 and C-432/07 (*Sturgeon*). ***At the same time, the thresholds above which delays give rise to a right to compensation should be increased to take account of the financial impact on the sector and to avoid any increase in the frequency of cancellations as a consequence. To ensure that citizens travelling within the EU face homogenous conditions for compensation, the threshold should be the same for all travel within the Union, but it should depend upon the journey distance for travel to and from third countries to take into account the operational difficulties encountered by air carriers to deal with delays on remote airports.***

Amendment

(11) Regulation (EC) No 261/2004 should explicitly include the right to compensation for passengers suffering long delays, in line with the judgement of the European Court of Justice in the Joined cases C-402/07 and C-432/07 (*Sturgeon*) ***and with the principle of equal treatment, which requires that comparable situations must not be treated differently. The thresholds above which delays give rise to a right to compensation should be increased, inter alia to take account of the financial impact on the sector. They should have the effect of ensuring that citizens travelling within the EU face homogenous conditions for compensation. At the same time, certain thresholds should be put higher depending on the journey distance for travel to and from third countries to take into account the operational difficulties encountered by air carriers to deal with delay on remote airports. As regards the amount of compensation, the same rate should always be applied to the same distance of the flight involved.***

Justification

This amendment takes account of the rapporteur's position with regard to the thresholds above which delays should give rise to a right to compensation. It is the rapporteur's view that these thresholds should be set in line with the judgement of the ECJ in the Sturgeon case, which grants passengers, in case of long delays, i.e. more than three hours, the same rights as passengers whose flights are cancelled.

Amendment 16

Proposal for a regulation Recital 12

Text proposed by the Commission

(12) To ensure legal certainty, Regulation 2004/261 (EC) should explicitly confirm that the changing of flight schedules has a similar impact on passengers to long delays and should therefore give rise to similar rights.

Amendment

(12) To ensure legal certainty, Regulation (EC) No 261/2004 should explicitly confirm that the changing of flight schedules has a similar impact on passengers to long delays **or denied boarding** and should therefore give rise to similar rights.

Amendment 17

Proposal for a regulation Recital 13

Text proposed by the Commission

(13) Passengers missing a connecting flight should be properly cared for while waiting for *rerouting*. In line with the principle of equal treatment, such passengers should be able to claim compensation on a similar basis to passengers whose flights are delayed or cancelled in light of the delay upon reaching the final destination of their journey.

Amendment

(13) Passengers missing a connecting flight **due to a change of schedule or delay** should be properly cared for while waiting for *re-routing*. In line with the principle of equal treatment **and the judgement of the European Court of Justice in Case C-11/11 (Air France v. Folkerts)**, such passengers should be able to claim compensation on a similar basis to passengers whose flights are delayed or cancelled in light of the delay upon reaching the final destination of their journey.

Amendment 18

Proposal for a regulation Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) In principle, it should be the air carrier causing the change of schedule or

the delay that is obliged to offer assistance and re-routing. However, in order to reduce the economic burden on the air carrier concerned, the compensation to be paid to the passenger should be in relation to the delay of a preceding connecting flight at the transfer point.

Justification

The rapporteur takes the view that in light of the large number of carriers operating regional short-haul flights within the EU, the financial burden arising from compensation payments should be reduced for those carriers. With this in mind, a twofold condition is added for reasons of proportionality, to apply where the preceding air carrier has caused only a short delay which in the end results in the passenger missing the connecting flight and a much longer delay in reaching the final destination.

Amendment 19

**Proposal for a regulation
Recital 13 b (new)**

Text proposed by the Commission

Amendment

(13b) Disabled passengers or passengers with reduced mobility who miss a connecting flight due to a delay caused by airport assistance services should be adequately cared for while they are waiting for re-routing. Such passengers should be able to claim compensation from the airport managing body on a similar basis to passengers whose flights are delayed or cancelled by the air carrier.

Amendment 20

**Proposal for a regulation
Recital 16**

Text proposed by the Commission

Amendment

(16) Air carriers currently face unlimited liability for the accommodation of their

(16) Air carriers currently face unlimited liability for the accommodation of their

passengers in the case of extraordinary circumstances of long duration. ***This uncertainty linked with the absence of any foreseeable limit in time may risk endangering a carrier's financial stability.*** An air carrier should ***therefore*** be able to limit the provision of care after a certain duration of time. Moreover, contingency planning and speedy *rerouting* should lessen the risk of passengers being stranded for long periods.

passengers in the case of extraordinary circumstances of long duration. An air carrier should, ***however***, be able to limit the provision of care ***as regards the duration of accommodation and, in cases where passengers arrange the accommodation themselves, as regards costs and care*** after a certain duration of time. Moreover, contingency planning and speedy *re-routing* should lessen the risk of passengers being stranded for long periods.

Justification

In case of massive disruptions, it should be up to all parties involved (authorities, airports, airlines, hotels and passengers) to accept shared responsibility in order to resolve the situation. The airline's obligation to provide care may be limited as regards the cost of the accommodation per night and per passenger. An exception to this rule may be introduced where passengers arrange their accommodation themselves. In this case, the airline may limit the cost of the accommodation and care after a certain time.

Amendment 21

Proposal for a regulation

Recital 17

Text proposed by the Commission

Amendment

(17) The implementation of certain passenger rights, in particular the right to accommodation, has been shown to be out of proportion to air carriers' revenues for certain small-scale operations. Flights performed by small aircraft on short distances should therefore be exempted from the obligation to pay for accommodation, although the carrier should still help the passenger to find such accommodation.

deleted

Amendment 22

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) For disabled persons, persons with reduced mobility and other persons with special needs such as unaccompanied children, pregnant women and persons in need of specific medical attention, it may be more difficult to arrange accommodation when flight disruptions occur. Therefore, any limitations on the right for accommodation in cases of extraordinary circumstances **or for regional operations** should **not** apply to these categories of passenger.

Amendment

(18) For disabled persons, persons with reduced mobility and other persons with special needs such as unaccompanied children, pregnant women and persons in need of specific medical attention, it may be more difficult to arrange accommodation when flight disruptions occur. Therefore, any limitations on the right for accommodation in cases of extraordinary circumstances should **on no account** apply to these categories of passenger.

Amendment 23

**Proposal for a regulation
Recital 18 a (new)**

Text proposed by the Commission

Amendment

(18a) Where the Community air carrier requires disabled persons or persons with reduced mobility to be accompanied by a carer, carers should not be subject to the payment of the relevant airport departure tax.

Amendment 24

**Proposal for a regulation
Recital 18 b (new)**

Text proposed by the Commission

Amendment

(18 b) The service providers should ensure that persons with reduced mobility and people with disabilities have the right, at all times, to use safety-approved respiratory devices on aircraft, free of charge. The Commission should draw up a list of approved medical oxygen

equipment in cooperation with the industry and organisations representing people with disabilities and PRMS, taking due account of safety requirements.

Amendment 25

Proposal for a regulation Recital 20

Text proposed by the Commission

(20) Passengers should not only be correctly informed about their rights in cases of flight disruption, but they should also be adequately informed about the cause of the disruption itself, as soon as the information becomes available. This information should also be provided where the passenger has acquired the ticket through an intermediary established in the Union.

Amendment

(20) Passengers should not only be correctly informed about their rights in cases of flight disruption, ***change of schedule and denied boarding***, but they should also be adequately informed about the cause of the disruption itself, as soon as the information becomes available. This information should also be provided ***by the air carrier*** where the passenger has acquired the ticket through an intermediary established in the Union. ***Passengers should also be informed as to the simplest and most rapid procedures for making claims and complaints, in order to enable them to exercise their rights.***

Justification

The air carrier is the only reliable source for information about the causes of flight disruptions.

Amendment 26

Proposal for a regulation Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) To assist National Enforcement Bodies in fulfilling their role regarding the enforcement of this Regulation, air carriers should provide them with relevant

compliance documentation that demonstrates their proper compliance with all relevant Articles of this Regulation.

Amendment 27

Proposal for a regulation Recital 21 b (new)

Text proposed by the Commission

Amendment

(21b) As commercial aviation is an integrated Union market, measures to guarantee enforcement of this Regulation will be more effective at Union level with increased involvement of the European Commission. Specifically, the European Commission should increase awareness among the flying public of compliance by air carriers with passenger rights requirements by publishing a list of carriers that systematically fail to comply with this Regulation.

Amendment 28

Proposal for a regulation Recital 22

Text proposed by the Commission

Amendment

(22) Passengers should be adequately informed about the relevant procedures for submitting claims and complaints to air carriers and should receive a reply within *a reasonable time* period. Passengers should also have the option to complain about air carriers via out-of-court measures. However, since the right to an effective remedy before a tribunal is a fundamental right recognised in Article 47 of the Charter of Fundamental Rights of the European Union, those measures should

(22) Passengers should be adequately informed about the relevant procedures for submitting claims and complaints to air carriers, *should have their attention drawn to the time limits applicable in this connection, particularly those laid down in Article 16a(2)* and should receive a reply within *the shortest period possible*. Passengers should also have the option to complain about air carriers via out-of-court measures. *Member States should provide for well equipped-mediation services,*

neither prevent nor hinder passengers' access to courts.

where it was not possible for a conflict between the passenger and the airline to be solved. However, since the right to an effective remedy before a tribunal is a fundamental right recognised in Article 47 of the Charter of Fundamental Rights of the European Union, those measures should neither prevent nor hinder passengers' access to courts. *For this purpose, they should always be given the addresses and contact details of all bodies responsible for completion of the relevant formalities in each country. In order to enable claims to be processed easily, quickly and cheaply in both judicial and extrajudicial procedures, reference should be made, in particular, to the online and alternative dispute resolution procedures and to the European Small Claims Procedure.*

Amendment 29

Proposal for a regulation Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) Before a claim is submitted, a complaint should always be lodged.

Amendment 30

Proposal for a regulation Recital 23

Text proposed by the Commission

Amendment

(23) In case C-139/11 (*Moré vs KLM*), the European Court of Justice clarified that the time-limits for bringing actions for compensation are determined in accordance with the national rules of each Member State.

(23) In Case C-139/11 *Moré v KLM*, the Court of Justice clarified that the time-limits for bringing actions for compensation are determined in accordance with the national rules of each Member State. *As regards out-of-court settlements, time-limits are determined in*

accordance with Directive 2013/11/EU of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR)^{17a}.

^{17a} OJ L 165, 18.6.2013, p. 65.

Amendment 31

Proposal for a regulation Recital 26 a (new)

Text proposed by the Commission

Amendment

(26a) In order to increase legal certainty for passengers and air carriers, it should be possible to clarify the concept of ‘extraordinary circumstances’ on the basis of the work of the National Enforcement Bodies and Court Judgments. . It is of particular importance that the Commission carry out appropriate consultations during its preparatory work with the National Enforcement Bodies. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

Amendment 32

Proposal for a regulation Recital 27

Text proposed by the Commission

Amendment

(27) In order to ensure that the damage to or loss of mobility equipment is

(27) In order to ensure that the damage to or loss of mobility equipment is

compensated to its full value, air carriers **should offer free of charge to persons** with reduced mobility the opportunity to make a special declaration of interest, which pursuant to the Montreal Convention, allows them to seek full compensation for loss or damage.

compensated to its full value, air carriers **and airport assistance services shall inform disabled passengers or passengers** with reduced mobility **at the time of booking and again at check-in** of the opportunity to make a special declaration of interest, which pursuant to the Montreal Convention, allows them to seek full compensation for loss or damage. **Air carriers should inform passengers of this declaration and the rights attaching to it whenever they make a ticket booking.**

Amendment 33

Proposal for a regulation Recital 29

Text proposed by the Commission

(29) Musical instruments should **as far as possible** be accepted as baggage within the passenger cabin and, where this is not possible, should **where possible** be carried under the appropriate conditions in the cargo compartment of the aircraft. Regulation (EC) No 2027/97 should be amended accordingly.

Amendment

(29) Musical instruments should be accepted as baggage within the passenger cabin and, where this is not possible, should be carried under the appropriate conditions in the cargo compartment of the aircraft. **In order to allow the passengers concerned to assess whether their instrument can be stored in the cabin, air carriers should inform them about the size of storage facilities.** Regulation (EC) No 2027/97 should be amended accordingly.

Amendment 34

Proposal for a regulation Recital 31

Text proposed by the Commission

(31) Given the short deadlines for the submission of complaints for lost, damaged or delayed baggage, **air carriers should give passengers** the possibility to submit a

Amendment

(31) Given the short deadlines for the submission of complaints for lost, damaged or delayed baggage, **a special baggage claim service should be set up at all**

complaint **by providing** a complaint form **at the airport**. This could also take the form of the common Property Irregularity Report (PIR).

airports where passengers have the possibility to submit a complaint **upon arrival**. **For this purpose, air carriers should provide** a complaint form **in all EU official languages to passengers**. This could also take the form of the common Property Irregularity Report (PIR). **The Commission should lay down the form of the standardised claim form through implementing acts**.

Justification

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.

Amendment 35

Proposal for a regulation Recital 35 a (new)

Text proposed by the Commission

Amendment

(35a) In order to improve passenger protection beyond Union borders, passenger rights should be addressed in bilateral and international agreements.

Amendment 36

Proposal for a regulation Recital 35 b (new)

Text proposed by the Commission

Amendment

(35b) Specific facilities for severely disabled passengers requiring changing and toilet facilities (so-called 'changing places') should be provided at no cost to the passenger at all Union airports with an annual throughput of more than 1 million passengers.

Amendment 37

Proposal for a regulation Recital 35 c (new)

Text proposed by the Commission

Amendment

(35c) The national enforcement bodies set up by the Member States ('NEBs') do not always have sufficient power to ensure the effective protection of passenger rights. Member States should therefore give NEBs sufficient power to sanction infringements and to resolve disputes between passengers and industry, and all NEBs should fully investigate all complaints received.

Amendment 38

Proposal for a regulation Article 1 – paragraph 1 – point -1 (new) Regulation (EC) No 261/2004 Article 1 – paragraph 1 – point c a (new)

Present text

Amendment

***(-1) In Article 1(1) the following point shall be inserted:
(ca) in case of downgrading.***

Justification

The case indicated under (ca) is dealt with under Article 10.2. Therefore should be included in the list.

Amendment 39

Proposal for a regulation Article 1 – paragraph 1 – point -1 (new) Regulation (EC) No 261/2004 Article 1 – paragraph 1 – point c b (new)

Text proposed by the Commission

Amendment

(-1) In Article 1(1) the following point is inserted:

'(cb) they miss a connecting flight.'

Justification

In the light of the new Article 6a on 'missed connecting flights', the subject of the Regulation defined under Article 1(1) needs to be modified accordingly.

Amendment 40

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point b

Regulation (EC) No 261/2004

Article 2 – point d

Text proposed by the Commission

Amendment

'«Organiser» means *a person within the meaning of Article 2(2) of Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours;*

(d) '«Organiser» means *the person who, other than occasionally, organises packages and sells or offers them for sale, whether directly or through a retailer;*

Justification

To make the provision easier to understand and improve user-friendliness, it is preferable to avoid any form of cross-reference and instead to clearly state all the relevant definitions in this Regulation.

Amendment 41

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point b a (new)

Regulation (EC) No 261/2004

Article 2 – point g

Text proposed by the Commission

Amendment

Point (g) is replaced by the following:

'(g) "reservation" means the fact that the passenger has a ticket, or other proof, which indicates that the

reservation has been accepted and registered by the air carrier or organiser;’.

Justification

This amendment is in line with the new definition in Article 2, point d.

Amendment 42

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point c

Regulation (EC) No 261/2004

Article 2 – point i

Text proposed by the Commission

“person with reduced mobility” means any person ***as defined in Article 2(a) of Regulation (EC) No 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air***²².

²² OJ L204, 26.7.2006, p.1

Amendment

(i) "disabled person or “person with reduced mobility” means any person ***whose mobility when using transport is reduced due to any physical disability (sensory or locomotor, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or due to age, and whose situation needs appropriate attention and the adaptation to his or her particular needs of the service made available to all passengers;***

²² OJ L204, 26.7.2006, p.1

Justification

It is important to have a clear and full definition of "disabled person or person with reduced mobility" in the regulation instead of a reference to existing legislation, namely Regulation (EU) No. 1107/2006. It is also important to underline that the expression "disabled person" cannot be used synonymously with "person with reduced mobility" and this should be underlined by the definition used.

Amendment 43

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point c a (new)

Regulation (EC) No 261/2004

Article 2 – point j

Text proposed by the Commission

Amendment

(ca). Point (j) is replaced by the following:

‘(j) “denied boarding” means a refusal to carry passengers on a flight, although they have presented themselves for boarding under the conditions laid down in Article 3(2), except where there are reasonable grounds to deny them boarding, such as reasons of health, safety or security, or inadequate travel documentation. A flight for which the scheduled time of departure has been brought forward with the consequence that the passenger misses that flight shall be considered a flight for which the passenger has been denied boarding.’

Justification

The current definition of ‘denied boarding’ needs to be modified in order to include cases where a passenger misses a flight because the departure time has been brought forward.

Amendment 44

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point d

Regulation (EC) No 261/2004

Article 2 – point l

Text proposed by the Commission

Amendment

*‘A flight where the aircraft took off but, **for whatever reason**, was subsequently forced to land at an airport other than the airport of destination or to return to the airport of departure, shall be considered a cancelled flight.’*

*(l) ‘A flight where the aircraft took off but was subsequently forced to return to the airport of departure **and where the passengers of the aircraft concerned were transferred to departure on other flights**, shall be considered a cancelled flight.’*

Amendment 45

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point e

Regulation (EC) No 261/2004

Article 2 – point m

Text proposed by the Commission

“extraordinary circumstances” means 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**. For the purposes of this Regulation, extraordinary circumstances **shall include** the circumstances set out in **the Annex**;

Amendment

(m) «extraordinary circumstances» means circumstances **beyond the control of the air carrier concerned** in the normal exercise of **its activity and outside the obligations imposed by the relevant safety and security rules to be observed**. For the purposes of this Regulation, extraordinary circumstances **are limited to the circumstances set out in Annex 1**.

Justification

“Inherent” is not a clear term and has different meanings in different languages. An air carrier that has acted in full conformity with the safety and maintenance rules and obligations and thus has done everything in its power to avoid a disruption should not be punished by the obligation to pay compensation. Indeed, compensation payments can only incentivize better behaviour by airlines if the cause is actually within their control. The Annex is not limitative and only gives examples.

Amendment 46

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point e

Regulation (EC) No 261/2004

Article 2 – point o

Text proposed by the Commission

(o) «connecting flight» means a flight which, under a single contract of carriage, is intended to enable the passenger to arrive at a transfer point in order to depart on another flight, or, where appropriate in the context, means that other flight

Amendment

(o) ‘connecting flight’ means a flight which, under a single contract of carriage **or a single booking reference, or both**, is intended to enable the passenger to arrive at a transfer point in order to depart on another flight, or, where appropriate in the

departing from the transfer point;

context *of Article 6a*, means that other flight departing from the transfer point;

Justification

'A single reservation' is added for clarification to avoid problems in cases where separate tickets are bought together in a single transaction. The addition of Article 6a refers to the provisions regarding connecting flights.

Amendment 47

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point e

Regulation (EC) No 261/2004

Article 2 – point r

Text proposed by the Commission

“airport managing body” means a body which, in conjunction with other activities or not as the case may be, has as its objective under national laws, regulations or contracts the administration and management of the airport or airport network infrastructures and the coordination *and control of the activities* of the different operators present in the airports or airport network concerned;

Amendment

(r) “airport managing body” means a body which, in conjunction with other activities or not as the case may be, has as its objective under national laws, regulations or contracts the administration and management of the airport or airport network infrastructures and the coordination of the different operators present in the airports or airport network concerned *in accordance with its powers*;

Justification

The proposal imposes new tasks on airport managing bodies including the control of all stakeholders' activities operating at the airport. This is not workable and not the duty of the airport managing body. This provision should therefore be removed in order to avoid confusion as to the role and responsibility of the airport managing body.

Amendment 48

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point e

Regulation (EC) No 261/2004

Article 2 – point s

Text proposed by the Commission

Amendment

(s) « ticket price » means the full price paid for a ticket *and* including the air fare, and all applicable taxes, charges, surcharges and fees paid for all optional and non-optional services included in the ticket;

(s) ‘ticket price’ means the full price paid for a ticket, including the air fare and all applicable taxes, charges, surcharges and fees paid for all optional and non-optional services included in the ticket, ***such as all costs for the check-in, the provision of the tickets and the issuing of the boarding cards and for the carrying a minimum amount of luggage, including an item of hand luggage, an item of checked-in luggage and essential items, as well as all costs related to payment, such as charges for paying by credit card; . the ticket price published in advance always reflects the final ticket price to be paid.***

Justification

For the sake of clarity and comparability, a basic package of services to be included in the ticket price needs to be defined.

Amendment 49

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point e

Regulation (EC) No 261/2004

Article 2 – point t

Text proposed by the Commission

Amendment

(t) “flight price” means the value obtained by multiplying the ticket price by the ratio between the distance of the flight and the total distance of the journey(s) covered by the ticket;

(t) ‘flight price’ means the value obtained by multiplying the ticket price by the ratio between the distance of the flight and the total distance of the journey(s) covered by the ticket; ***where a ticket price is not known, the value of any refund shall be the supplement paid for a premium seat on the flight;***

Justification

The concept of ‘flight price’ as proposed by the Commission does not work where the flight is provided as part of a package holiday, since the ‘flight price’ is not mentioned on the ticket. The proposed amendment aims at remedying this situation. The additional part of the

definition sets the refund level to the value of a premium seat on the flight concerned. This definition should apply in the context of a partial refund following a downgrading.

Amendment 50

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point e

Regulation (EC) No 261/2004

Article 2 – point w

Text proposed by the Commission

(w) «tarmac delay» means, at departure, the time the aircraft remains on the ground between the **start** of boarding of the passengers and the take-off time of the aircraft or, at arrival, the time between the touch-down of the aircraft and the start of disembarkation of the passengers;

Amendment

(w) ‘tarmac delay’ means, at departure, the time the aircraft remains on the ground between the **end** of boarding of the passengers and the take-off time of the aircraft or, at arrival, the time between the touch-down of the aircraft and the start of disembarkation of the passengers;

Justification

Boarding time as such should not include tarmac delay, as it depends on the size of the aircraft. The delay should be calculated in absolute terms and not in relation to each aircraft.

Amendment 51

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point e

Regulation (EC) No 261/2004

Article 2 – point y a (new)

Text proposed by the Commission

Amendment

In Article 2, the following point is inserted:

‘(ya) ‘Delay in arrival’ means the difference between the arrival time for the flight indicated on the passenger’s ticket and the time at which the flight actually arrives. A flight where the aircraft took off but was subsequently forced to return to the airport of departure and took off again at a later time is considered to be a subject to a delay in arrival. Equally, a

flight which is deviated but ultimately reaches its final destination or an airport in the neighbourhood of the final destination is considered to be subject to a delay in arrival.

Amendment 52

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point e

Regulation (EC) No 261/2004

Article 2 – point y b (new)

Text proposed by the Commission

Amendment

In Article 2, the following point is inserted:

‘(yb) ‘rerouting’ means an offer of alternative transport at no additional price that enables the passenger to reach his or her final destination;’

Amendment 53

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point a

Regulation (EC) No 261/2004

Article 3 – paragraph 2 – point a – introductory part

Text proposed by the Commission

Amendment

(a) have a confirmed reservation on the flight concerned and, except in the case of cancellation referred to in Article 5 and in the case of change of schedule referred to in Article 6, present themselves for boarding,

(a) have a confirmed reservation on the flight concerned and, except in the case of cancellation referred to in Article 5 and in the case of change of schedule referred to in Article 6 **or in the case of a connecting flight as referred to in Article 6a**, present themselves for boarding,

Justification

The amendment modifies the text in accordance with the new Article 6a on ‘missed connecting flight’.

Amendment 54

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point a (new)

Regulation (EC) No 261/2004

Article 3 – paragraph 3

Present text

3. This Regulation shall not apply to passengers **travelling** free of charge or at a reduced fare not available directly or indirectly to the public. However, it shall apply to passengers **having** tickets issued under a frequent flyer programme or other commercial programme by an air carrier or tour operator.

Amendment

2(aa) In Paragraph 3, the following point is added:

'3. This Regulation shall not apply to passengers **who travel** free of charge or at a reduced fare **which is** not available directly or indirectly to the public, **including children aged under the age of two for whom no separate seat has been booked.** However, it shall apply to passengers **that have** tickets issued under a frequent flyer programme or other commercial programme by an air carrier or tour operator."

This amendment seeks to amend a provision within the existing act – Article 3(3) – that was not referred to in the Commission proposal.

Amendment 55

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point b

Regulation (EC) No 261/2004

Article 3 – paragraph 4

Text proposed by the Commission

4. Without prejudice to Article 8(6), this Regulation shall only apply to passengers transported by motorised fixed wing aircraft. However, where a part of the journey is carried out, in accordance with a contract of carriage, by another mode of transport or by helicopter, **this Regulation** shall apply **for** the whole journey **and the**

Amendment

4. Without prejudice to Article 8(6), this Regulation shall only apply to passengers transported by motorised fixed wing aircraft. However, where a part of the journey is carried out, in accordance with a **single** contract of carriage **and on the basis of a single reservation**, by another mode of transport or by helicopter, **Article 6a** shall

part of the journey carried out by another mode of transport shall be considered as a connecting flight for the purposes of this Regulation.'

apply to the whole journey provided that that other mode of transport was indicated in the contract of carriage. The air carrier shall be responsible for ensuring that this Regulation applies for the whole journey.'

Amendment 56

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point c

Regulation (EC) No 261/2004

Article 3 – paragraph 6

Text proposed by the Commission

'6. This Regulation shall also apply to passengers transported according to package travel contracts but shall not affect the rights of passengers under Council Directive 90/314/EEC. The passenger shall be entitled to present claims under this Regulation and under Council Directive 90/314/EEC, but may not in relation to the same facts cumulate rights under both legal acts if the rights safeguard the same interest or have the same objective. This Regulation shall not apply in cases where a package tour is cancelled or delayed for reasons other than cancellation or delay of the flight.'

Amendment

'6. This Regulation shall also apply to *air* passengers transported according to package travel contracts but shall not affect the rights of passengers under Council Directive 90/314/EEC. The passenger shall be entitled to present claims under this Regulation *to the air carrier* and under Council Directive 90/314/EEC *to the organiser*, but may not in relation to the same facts cumulate rights under both legal acts if the rights safeguard the same interest or have the same objective. This Regulation shall not apply in cases where a package tour is cancelled or delayed for reasons other than cancellation or delay of the flight.'

Justification

This amendment has been introduced for clarification. Regulation 261/2004 and the package travel Directive 90/314/EEC are two distinct legal acts. It must be clear that passengers cannot accumulate rights under both legal acts.

Amendment 57

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point -a (new)

Regulation (EC) No 261/2004

Article 4 – paragraph 1

Present text

1. When an operating air carrier reasonably expects to deny boarding on a flight, it shall first call for volunteers to surrender their reservations in exchange for benefits under conditions to be agreed between the passenger concerned and the operating air carrier. Volunteers shall be assisted in accordance with Article 8, such assistance being additional to the benefits mentioned in this paragraph."

Amendment

(-a) Article 4(1) is replaced by the following:

1. When an operating air carrier reasonably expects to deny boarding on a flight, it shall first call for volunteers to surrender their reservations in exchange for benefits under conditions to be agreed between the passenger concerned and the operating air carrier. Volunteers shall be ***informed of their rights in accordance with Article 14(2) and*** assisted in accordance with Article 8, ***and, where the agreed departure time is at least two hours after the initial departure time, the operating carrier shall offer the passenger care in accordance with Article 9,*** such assistance ***and care*** being additional to the benefits mentioned in this paragraph."

Justification

To guarantee the volunteers the same level of information and care provided to all other passengers so that before accepting any offer from the operating air carrier their decisions are taken on the basis of a complete set of information.

Amendment 58

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point a

Regulation (EC) No 261/2004

Article 4 – paragraph 3

Text proposed by the Commission

Paragraph 3 is replaced by the following:

‘3. If boarding is denied to passengers against their will, the operating air carrier shall immediately compensate them in accordance with Article 7 and assist them in accordance with Article 8. Where the passenger opts for rerouting at the earliest opportunity pursuant to Article 8(1)(b) and where the departure time is at least

Amendment

deleted

two hours after the initial departure time, the operating carrier shall assist the passenger in accordance with Article 9.'

Justification

The existing regulation provides for the application of Article 9 without any delay. This should remain the case. Passengers who are denied boarding for reasons for which they are not responsible should not have to wait two hours before refreshments are provided as required by Article 9(1)(a) during the pre-boarding period.

Amendment 59

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point b

Regulation (EC) No 261/2004

Article 4 – paragraph 4

Text proposed by the Commission

‘4. Paragraphs 1, 2 and 3 shall also apply to return tickets where the passenger is denied boarding at the return journey on the grounds that he/she did not take the outward journey or did not pay an additional charge for this purpose.

Amendment

‘4. Passengers shall not be denied boarding at the return journey, including one which consists of multiple flights, on the grounds that he/she did not take the outward journey of a return ticket or did not pay an additional charge for this purpose. If boarding is denied to passengers against their will on such grounds, paragraphs 1 and 2 shall apply. In addition, the operating air carrier shall immediately compensate the passengers concerned in accordance with Article 7 and shall assist them in accordance with Articles 8 and 9.

The first subparagraph of this paragraph shall not apply where the ticket includes multiple coupon flights and passengers are denied boarding on the grounds that carriage per journey is not used on all individual flights or not used in the agreed sequence as indicated in the ticket.

Justification

The practice adopted by airlines is contrary to the interests of consumers and ought in future

to be prohibited by a clear legal basis. With regard to the application of Article 9, reference is made to the previous amendment.

Amendment 60

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point b

Regulation (EC) No 261/2004

Article 4 – paragraph 5

Text proposed by the Commission

5. Where the passenger, or an intermediary acting on behalf of the passenger, reports *a* spelling *mistake* 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 *this* 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.’

Amendment

5. 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.’

Justification

Since mistakes can have a number of causes, the amendment shall ensure that more than one spelling mistake can be corrected.

Amendment 61

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point b a (new)

Regulation (EC) No 261/2004

Article 4 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(ba) The following paragraph is added:

‘5a. Paragraphs 1, 2 and 4 shall also apply where the passenger misses the flight because:

(a) the flight took off before the scheduled departure time, the passenger having

arrived on time at the airport in accordance with Article 3(2); or

(b) the scheduled time of departure of the flight was brought forward and the passenger was not informed of this at least 24 hours in advance; the burden of proving that the passenger was informed in due time of the change of the scheduled time of departure shall rest with the operating air carrier.'

In addition, the operating air carrier shall immediately compensate the passenger concerned in accordance with Article 7 and shall assist him in accordance with Article 8 and 9.

Justification

The revised AM 35 is in line with the Rapporteur's position regarding the passengers' rights in case of denied boarding and in particular with AM 1 on Recital 5, AM 11 on Recital 12, AM 32 on Article 4 (3) and AM 33 on Article 4(4). In AM 35, paragraph 3 should therefore be deleted and completed by the reference of Articles 7, 8 and 9, as stipulated in Article 4 (4).

Amendment 62

Proposal for a regulation

Article 1 – paragraph 1 – point 3 a (new)

Regulation (EC) No 261/2004

Article 4 a (new)

Text proposed by the Commission

Amendment

The following Article 4a shall be inserted:

"Multiple-leg tickets

1. Where a multiple-leg ticket may be used for successive flights, the air carrier or ticket seller within the meaning of Regulation (EC) No 2111/2005 shall ensure that the passenger was fully aware of the specific conditions on which the fare being offered depends, and shall ask the passenger to contact the carrier, using the contact details provided, in the event that he/she is unable to take one of the

flights.

2. Where a passenger has not undertaken his/her outward flight or journey or his/her feeder flight, the carrier shall not cancel the booking for the return flight or journey or subsequent flight.

3. Where the passenger has contacted the carrier before his/her return flight or journey or subsequent flight, he/she may take the flight without any additional charge.

4. In cases other than those covered under paragraph 3, and where the carrier is able to prove that the provisions of paragraph 1 have been met, the carrier may apply a fare supplement of no more than the difference between the price paid for the flight as specified on the ticket and the price of the flight alone on the date the booking was made.

Amendment 63

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point a

Regulation (EC) No 261/2004

Article 5 – paragraph 1 – point a

Text proposed by the Commission

‘(a) be offered by the operating air carrier the choice between reimbursement, continuation of their travel by *rerouting* or travel at a later date, in accordance with Article 8; and

Amendment

‘(a) be offered by the operating air carrier the choice between reimbursement, continuation of their travel by *re-routing* or travel ***later on the same day or*** at a later date, in accordance with Article 8; and

Amendment 64

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point a (new)

Regulation (EC) No 261/2004

Article 5 – paragraph 2

Present text

Amendment

2. When passengers are informed of the cancellation, ***an explanation*** shall be ***given concerning*** possible alternative transport.

(aa) Paragraph 2 is replaced by the following:

‘2. When passengers are informed of the cancellation ***of the flight, they*** shall be ***fully informed by the operating air carrier or organiser of their rights in accordance with Article 5(1) and of*** possible alternative ***modes of*** transport.’

Justification

This amendment aims at strengthening the right to information of passengers in case of cancellation.

Amendment 65

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point b

Regulation (EC) No 261/2004

Article 5 – paragraph 3

Text proposed by the Commission

Amendment

3. An operating air carrier shall not be obliged to pay compensation in accordance with Article 7 if it can prove that the cancellation is caused by extraordinary circumstances ***and that the cancellation could not have been avoided even if all reasonable measures had been taken.*** Such extraordinary circumstances can only be invoked insofar they affect the flight concerned or the ***previous*** flight operated by the same aircraft.

3. An operating air carrier shall not be obliged to pay compensation in accordance with Article 7 if it can prove that the cancellation is caused by extraordinary circumstances. Such extraordinary circumstances can only be invoked insofar ***as*** they affect the flight concerned or the flight ***preceding it*** operated by the same aircraft. ***Where no proof of the existence of extraordinary circumstances is provided by the air carrier in a written form, the compensation referred to in Article 7 shall be paid by the air carrier.***

The first subparagraph does not exempt air carriers from the requirement to provide passengers with assistance, in accordance with Article 5(1)(b) of this Regulation.

Amendment 66

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point c

Regulation (EC) No 261/2004

Article 5 – paragraph 5

Text proposed by the Commission

‘5. At airports whose annual traffic has been not less than three million passengers for at least three consecutive years, the airport managing body shall ensure that the operations of the airport and of airport users, in particular the air carriers and the suppliers of ground handling services, are coordinated through a proper contingency plan in view of possible situations of multiple cancellations and/or delays of flights leading to a considerable number of passengers stranded at the airport, including in cases of airline insolvency or revocation of the operating licence. The contingency plan shall be set up to ensure adequate information and assistance to the stranded passengers. The managing body of the airport shall communicate the contingency plan and any amendments to it to the National Enforcement Body designated pursuant to Article 16. At airports below the above-mentioned threshold, the airport management body shall make all reasonable efforts to coordinate airport users and to assist and inform stranded passengers in such situations.

Amendment

‘5. In view of possible situations of multiple cancellations and/or delays of flights leading to a considerable number of passengers being stranded at the airport, including in cases of airline insolvency or revocation of operating licences, airport management bodies should ensure adequate coordination of airport users by means of a proper contingency plan, at Union airports whose annual traffic has been not less than one and a half million passengers for at least three consecutive years.

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.

The airport managing body shall communicate the contingency plan and any amendments to it to the National Enforcement Body designated pursuant to Article 16. Member States shall ensure that the National Enforcement Body have both the capability and resources to act effectively in connection with the contingency plans and to adapt them, if necessary.

At airports below the above-mentioned threshold, the airport management body shall make all reasonable efforts to coordinate airport users and to assist and inform stranded passengers in such situations.

Justification

In the interests of passengers, the threshold of three million passengers per year for airports is deemed to be too high and should be reduced to 1.5 million. For the creation of contingency plans, the involvement of all airport users and of national, regional or local authorities needs to be clearly stated. The main objective to be reached by creating contingency plans is to ensure adequate coordination by all parties concerned.

Amendment 67

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point c a (new)

Regulation (EC) No 261/2004

Article 5 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(ca) The following paragraph 5a is added:

‘5a. While air carriers may not reduce their obligations as defined under this Regulation, the contingency plan provided for by paragraph 5 shall be set up to define coordinated action where this is necessary in order to ensure the provision of adequate information and assistance to

stranded passengers and in particular to disabled persons and persons with reduced mobility, notably with regard to:

– the provision of information to passengers stranded at or heading towards the airport to begin their air journey;

– the provision of on-the-spot accommodation where large numbers of stranded passengers exceed the availability of hotel accommodation;

– the provision of information and assistance to passengers affected by the limitations laid down in Article 9(4) and (5);

– re-routing of stranded passengers by alternative carriers and transport modes, at limited or no cost for passengers, where the operating carrier has ceased operations.

Justification

This amendment is closely linked to the previous amendment to Article 5(5). It aims at indicating in a more detailed way what exactly contingency plans should include as regards information and assistance. The needs of disabled persons and persons with reduced mobility require particular attention.

Amendment 68

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point c b (new)

Regulation (EC) No 261/2004

Article 5 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

(cb) The following paragraph 5b is added:

"5b. Air carriers shall develop and put in place detailed procedures which allow them to comply in an effective and consistent way with this Regulation, especially in cases of delays, cancellations, denied boarding, mass

disruptions and insolvency. Those procedures shall clearly indicate the contact person of the airline at each airport who is responsible for providing reliable information concerning care, assistance, re-routing or reimbursement and for taking the necessary immediate measures. The air carrier shall define the processes and conditions for the provision of those services in such a way that this representative is able to fulfil this obligation without delay. The air carrier shall communicate those procedures and any changes thereto to the National Enforcement Body designated pursuant to Article 16.

Justification

The amendment replaces the Rapporteur's amendment 41.

Amendment 69

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point c c (new)

Regulation (EC) No 261/2004

Article 5 – paragraph 5 c (new)

Text proposed by the Commission

Amendment

(cc) The following paragraph 5c is added:
"5c. In the event of cancellation of a flight owing to insolvency, bankruptcy, or the suspension or cessation of the activities of an air carrier, passengers who are stranded shall be entitled to a reimbursement, the return flight to the point of departure or re-routing, and to care, as provided for in Articles 8 and 9 of this Regulation. Equally, air passengers who have not yet started their journey shall be entitled to reimbursement. Air carriers shall prove that they have taken all necessary measures, such as taking out an insurance policy or creating guarantee funds, to provide for the care,

reimbursement or re-routing of stranded passengers where applicable. These rights shall apply to all passengers concerned irrespective of their place of residence, point of departure or where they bought their ticket.

Justification

Bankruptcy, insolvency, or the suspension or cessation of the activities of an air carrier may lead to violations of passenger rights: flight cancellation and the cost of re-routing borne by the passenger. It is therefore the responsibility of airlines to protect passengers against these eventualities. This is not something that passengers should have to opt into and pay for themselves.

Amendment 70

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 261/2004

Article 6 – paragraph 1 – introductory wording

Text proposed by the Commission

1. When an operating air carrier reasonably expects a flight to be delayed, or an operating carrier postpones the scheduled time of departure, beyond its originally scheduled time of departure, passengers shall be offered by the operating air carrier:

Amendment

1. When an operating air carrier reasonably expects a flight to be delayed, or an operating **air** carrier postpones the scheduled time of departure beyond its originally scheduled time of departure, passengers shall be offered by the operating air carrier:

Justification

The amendment clarifies that the provisions under this article remain in the sphere of the aviation sector.

Amendment 71

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 261/2004

Article 6 – paragraph 1 – point ii

Text proposed by the Commission

Amendment

(ii) when the delay is of at least **five** hours and includes **one or several nights**, the assistance specified in *Article 9(1)(b) and 9(1)(c)*; and

(ii) when the delay is of at least **three** hours and includes **night-time hours**, the assistance specified in *points (b) and (c) of Article 9(1)*; and

Justification

The amendment is in accordance with the ECJ judgement in Joined Cases C-402/07 and C-432/07, Sturgeon vs Condor and Böck & Lepuschitz vs Air France, which 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.

Amendment 72

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 261/2004

Article 6 – paragraph 1 – point iii

Text proposed by the Commission

Amendment

(iii) when the delay is of at least **five** hours, the assistance specified in *Article 8(1)(a)*.

(iii) when the delay is of at least **three** hours, the assistance specified in *Article 8(1)*.

Justification

The amendment is in accordance with the ECJ judgement in Joined Cases C-402/07 and C-432/07, Sturgeon vs Condor and Böck & Lepuschitz vs Air France, which 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. See also the amendment to Article 6(1), point (ii).

Amendment 73

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 261/2004

Article 6 – paragraph 1 a (new)

'1a. Where an operating air carrier brings forward the scheduled time of departure by more than three hours, it shall offer passengers the reimbursement specified in point (a) of Article 8(1) or the re-routing specified in point (b) of Article 8(1). The passenger may organise his or her own re-routing and may claim reimbursement of the corresponding costs if the operating air carrier fails to offer the choice of re-routing under point (b) of Article 8(1).'

Justification

Where the revised schedule involves too long a delay, passengers shall be offered the possibility to ask for reimbursement or rerouting. In addition, in accordance with the new provision under Article 8(6a), 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.

Amendment 74

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 261/2004

Article 6 – paragraph 2

Text proposed by the Commission

Amendment

- (a) ***five*** hours or more after the scheduled time of arrival for all ***intra-Community*** journeys ***and for journeys to/from third countries*** of ***3500*** kilometres or less;
- (b) ***nine*** hours or more after the scheduled time of arrival for journeys to/from third countries between 3500 and ***6000*** kilometres;
- (c) ***twelve*** hours or more after the scheduled time of arrival for journeys to/from third countries of 6000 kilometres or more.

- (a) ***three*** hours or more after the scheduled time of arrival for all journeys of ***2 500*** kilometres or less;
- (b) ***five*** hours or more after the scheduled time of arrival for ***intra-Community journeys of more than 2500 km*** or for journeys to/or from third-countries between ***2500*** and ***6000 km***;
- (c) ***seven*** hours or more after the scheduled time of arrival for journeys to/from third countries of ***more than*** 6000 kilometres.

Amendment 75

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 261/2004

Article 6 – paragraph 4

Text proposed by the Commission

4. An operating air carrier shall not be obliged to pay compensation in accordance with Article 7, if it can prove that the delay **or change of schedule** is caused by extraordinary circumstances **and that the delay or change of schedule could not have been avoided even if all reasonable measures had been taken**. Such extraordinary circumstances can only be invoked insofar they affect the flight concerned or the **previous** flight operated by the same aircraft.

Amendment

4. An operating air carrier shall not be obliged to pay compensation in accordance with Article 7, if it can prove that the delay is caused by extraordinary circumstances.

Such extraordinary circumstances can only be invoked insofar **as** they affect the flight concerned or the flight **preceding it** operated by the same aircraft. **Where no proof of the existence of extraordinary circumstances is provided by the air carrier in a written form, the compensation referred to in Article 7 shall be paid by the air carrier. The above does not exempt air carriers from the requirement to provide passengers with assistance in accordance with Article 5(1)(b).**

Justification

The amendment replaces the Rapporteur's amendment 50.

Amendment 76

Proposal for a regulation

Article 1 – paragraph 1 – point 5

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Text proposed by the Commission

5. Subject to safety constraints, where a tarmac delay exceeds one hour, the operating air carrier shall provide free of charge access to toilet facilities and drinking water, shall ensure adequate heating or cooling of the passenger cabin, and shall ensure that adequate medical attention is available if needed. Where a tarmac delay reaches a maximum of **five** hours, the aircraft shall return to the gate or another suitable disembarkation point where passengers shall be allowed to disembark **and to benefit from the same assistance as specified in paragraph 1, unless there are safety-related or security-related reasons why the aircraft cannot leave its position on the tarmac.**

Amendment

5. Subject to safety constraints, where a tarmac delay exceeds one hour, the operating air carrier shall provide free of charge access to toilet facilities and drinking water, shall ensure adequate heating or cooling of the passenger cabin, and shall ensure that adequate medical attention is available if needed. Where a tarmac delay reaches a maximum of **two** hours, the aircraft shall return to the gate or another suitable disembarkation point where passengers shall be allowed to disembark, **unless there are safety-related or security-related reasons why the aircraft cannot leave its position on the tarmac. After a total delay of more than three hours from the initial departing time, passengers benefit from the same assistance as specified in paragraph 1, including the option of reimbursement, return flight and rerouting, as specified in Article 8(1) and they shall be informed accordingly.**

Justification

The amendment replaces the Rapporteur's amendment 51 with the additional reference to the right to reimbursement or return or rerouting.

Amendment 77

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 261/2004

Article 6 a – paragraph 1 – introductory part

Text proposed by the Commission

Where a passenger misses a connecting flight as a result of a delay or change of schedule to a preceding flight, the

Amendment

Where a passenger misses a connecting flight **for which he has a reservation, including when he has been booked on an**

Community air carrier operating *the onward connecting* flight shall offer the passenger:

alternative flight in case of a re-routing, as a result of a delay or change of schedule to a preceding flight, the *Union* air carrier operating *that preceding flight which is responsible for that delay or that change of schedule* shall offer the passenger:

Amendment 78

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 261/2004

Article 6 a – paragraph 1 – point iii

Text proposed by the Commission

(iii) when the scheduled time of departure of the alternative flight or other transport offered under Article 8 is at least 5 hours after the scheduled time of departure of the flight missed and the delay includes *one or several nights*, the assistance specified in Article 9(1)(b) and 9(1)(c).

Amendment

(iii) when the scheduled time of departure of the alternative flight or other transport offered under Article 8 is at least 3 hours after the scheduled time of departure of the flight missed and the delay includes *night-time hours*, the assistance specified in points (b) and (c) of Article 9(1).

Justification

The amendment is in line with the previous amendments regarding the trigger points in Article 6. In addition, clarification is needed, as the current wording may be misunderstood in the sense that accommodation would only be offered in compensation if a whole night is included in the delay.

Amendment 79

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 261/2004

Article 6 a – paragraph 2

Text proposed by the Commission

Where a passenger misses a connecting flight as a result of a delay to a preceding connecting flight, the passenger shall have a right to compensation by the *Community* air carrier operating that preceding flight in

Amendment

2. Where a passenger misses a connecting flight as a result of a *change of schedule or a* delay to a preceding connecting flight *of 90 minutes or more calculated by reference to the time of arrival at the*

accordance with Article 6(2). For these purposes, the delay shall be calculated by reference to the scheduled time of arrival at the final destination.

transfer point, the passenger shall have a right to compensation by the **Union** air carrier operating that preceding flight in accordance with Article 6(2). For these purposes, the **overall** delay shall be calculated by reference to the scheduled time of arrival at the final destination.

Justification

The amendment replaces the Rapporteur's amendment 54. The text specifies that the 90 minutes of delay are calculated by reference of the time of arrival of the aircraft.

Amendment 80

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 261/2004

Article 6 a – paragraph 4

Text proposed by the Commission

4. Paragraphs 1 and 2 apply *also* to third country air carriers operating a connecting flight **to or** from an *EU* airport.’

Amendment

4. Paragraphs 1 and 2 *also* apply to third-country air carriers operating a connecting flight from an airport *within the Union to another airport within the Union, or from an airport within the Union to an airport outside the Union.*’

Justification

The modification is necessary to ensure consistency with Article 3(1) on the scope of the Regulation and to avoid problems of extraterritoriality in relation to third-country carriers.

Amendment 81

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point a

Regulation (EC) No 261/2004

Article 7 – paragraph 1

Present text

Amendment

(a) Paragraph 1 is replaced by the following:

1. Where reference is made to this Article, passengers shall receive compensation amounting to:

- (a) EUR 250 for all **flights** of 1 500 kilometres or less;
- (b) EUR 400 for all **intra-Community flights of more than 1 500 kilometres, and for all other flights** between 1 500 and 3 500 kilometres;
- (c) EUR 600 for all flights not falling under (a) or (b).

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.

"1. Where reference is made to this Article, passengers shall receive compensation amounting to:

- a) EUR 300 for all **journeys of 2 500 kilometres or less;**
- b) EUR 400 for all **journeys** between 2 500 km and 6 000 km;
- c) 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."

This amendment seeks to replace a provision within the existing act – Article 7(1) – that was not set out in full in the Commission proposal.

Justification

The current regulation defines a compensation for “flights” and this notion should remain in the revision.

Amendment 82

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point b
Regulation (EC) No 261/2004
Article 7 – paragraph 3

Text proposed by the Commission

3. The compensation referred to in paragraph 1 shall be paid **in cash**, by electronic bank transfer, bank **orders or bank cheques**.

Amendment

3. **In agreement with the passenger**, the compensation referred to in paragraph 1 shall be paid by electronic bank transfer, **credit card refund** or bank **order to the account indicated by the authorised passenger. The Commission shall increase the compensation amounts after consulting the Committee established under Article 16.**

Justification

Problems occur with carriers that pay out compensation by bank cheques.

Amendment 83

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point b

Regulation (EC) No 261/2004

Article 7 – paragraph 5

Text proposed by the Commission

5. The air carrier may reach a voluntary agreement with the passenger that replaces the compensation **provisions** set out in paragraph 1, provided that this agreement is confirmed by a document signed by the passenger which **reminds** the passenger of his rights to compensation under this Regulation.“

Amendment

5. The air carrier may reach a voluntary agreement with the passenger that replaces the compensation **provided for** in paragraph 1 **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. **Such an agreement may only be concluded after the events giving rise to the entitlement have occurred.**

Justification

This amendment replaces the amendment 61 of the rapporteur. Otherwise it would be possible to expect passengers to sign such a document in advance, when booking their flight.

Amendment 84

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point b

Regulation (EC) No 261/2004

Article 7 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(5a) The burden of proof of when and how the passenger accepted the form of payment of compensation or of reimbursement of ticket costs set out in Article 7(3), as well as if and when the passenger accepted the agreement referred to in paragraph 5, shall rest with the operating air carrier.

Justification

This provision clearly establishes where the burden of proof lies.

Amendment 85

Proposal for a regulation

Article 1 – paragraph 1 – point 8

Regulation (EC) No 261/2004

Article 8 – paragraph 1 – point a

Text proposed by the Commission

Amendment

– reimbursement within seven days of the passenger's request, by the means provided for in Article 7(3), of the ***flight*** price, for the part or parts of the journey not made, and for the part or parts already made if the flight is no longer serving any purpose in relation to the passenger's original travel plan, together with, when relevant,

– reimbursement within seven ***working*** days of the passenger's request, by the means provided for in Article 7(3), of the ***ticket*** price, for the part or parts of the journey not made, and for the part or parts already made if the flight is no longer serving any purpose in relation to the passenger's original travel plan, together with, when relevant,

Justification

Provides clarification that it relates to working and not calendar days. In addition, the reimbursement should relate to ticket price, as defined in Article 2 (s), and not flight price.

Amendment 86

Proposal for a regulation

Article 1 – paragraph 1 – point 8

Regulation (EC) No 261/2004

Article 8 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) Paragraph 1(b) shall also apply in cases where the aircraft took off but was subsequently forced to land at an airport other than the airport of destination. Pursuant to paragraph 3, the air carrier shall bear the costs of transferring the passenger from that alternative airport to the airport in respect of which the reservation was made.

Amendment 87

Proposal for a regulation

Article 1 – paragraph 1 – point 8

Regulation (EC) No 261/2004

Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3 If an operating air carrier offers a passenger a flight to or from an airport alternative to that for which the reservation was made, the operating air carrier shall bear the cost of transferring the passenger from that alternative airport to that for which the reservation was made, ***or, with regard to the destination airport, to another neighbouring destination agreed with the passenger.***

3. If an operating air carrier offers a passenger a flight to or from an airport alternative to that for which the reservation was made, the operating air carrier shall bear the cost of transferring the passenger from that alternative airport to that for which the reservation was made.

Amendment 88

Proposal for a regulation

Article 1 – paragraph 1 – point 8

Regulation (EC) No 261/2004

Article 8 – paragraph 5

5. Where passengers choose the option referred to in *paragraph 1(b)*, they shall, subject to availability, have the right to re-routing 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 **12** hours of the scheduled arrival time. ***Notwithstanding Article 22(1) of Regulation (EC) No 1008/2008²³, the other air carrier or other transport operator shall not charge the contracting carrier a price that goes beyond the average price paid by its own passengers for equivalent services in the last three months.***

5. Where passengers choose the option referred to in *point (b) of paragraph 1*, 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. The passenger shall have the right to refuse the re-routing via another mode of transport, and, in such case, shall maintain his rights to care as specified in Article 9 while waiting for the re-routing.***

²³ *OJ L293, 31.10.2008, p.3*

Justification

There should be no price limitations or conditions that oblige the use of a mode of transport because of the shortcomings of another mode. Furthermore, it is unclear how the notion of 'a price that goes beyond the average price paid by its own passengers for equivalent services in the last three months' could be enforced in practice. In addition, the amendment specifies that the obligation to organise the transport of a passenger remains with the operating air carrier whose services are disrupted.

Amendment 89

Proposal for a regulation

Article 1 – paragraph 1 – point 8

Regulation (EC) No 261/2004

Article 8 – paragraph 6

Text proposed by the Commission

Amendment

6. Whenever passengers are offered, pursuant to paragraph 1, a total or partial *rerouting* by another mode of transport, **this Regulation** shall apply to the transport carried out by that other mode of transport **as if it were carried out by fixed wing aircraft.**

6. Whenever passengers are offered, pursuant to paragraph 1, a total or partial *re-routing* by another mode of transport, **Article 6a** shall apply to the transport carried out by that other mode of transport **in accordance with the re-routing agreements in place between the operating airline and the other mode of transport. The air carrier shall continue to be responsible for application of this Regulation for the whole of the journey.**

Justification

It should be noted that rerouting agreements exist between different modes of transport which detail the conditions of such rerouting and would be applicable in these particular cases.

Amendment 90

Proposal for a regulation

Article 1 – paragraph 1 – point 8 a (new)

Regulation (EC) No 261/2004

Article 8 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

(8a) In Article 8 the following paragraph is added:

‘6a. The passenger may himself organise his own re-routing and claim reimbursement of the corresponding costs if the operating air carrier fails to offer the choice of re-routing under point (b) of paragraph 1.’

Justification

The passenger should also have the option of organising rerouting himself without losing the right to claim reimbursement of the costs that arise..

Amendment 91

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point -a (new)

Regulation (EC) No 261/2004

Article 9 – paragraph 1 – point a

Present text

Amendment

(a) meals and refreshments *in a reasonable relation to the waiting time*;

(-a) In Paragraph 1, point (a) is replaced by the following:

"(a) meals and refreshments. The air carrier shall automatically provide drinking water to accompany meals, as well as whenever passengers so request."

This amendment seeks to amend a provision within the existing act – Article 9(1(a) – that was not referred to in the Commission proposal.

Amendment 92

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point a

Regulation (EC) No 261/2004

Article 9 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) transport *between* the airport and place of accommodation (hotel, place of residence of the passenger or other)

(c) transport *from* the airport *to the* place of accommodation (hotel, place of residence of the passenger or other) *and back*.

Amendment 93

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point a a (new)

Regulation (EC) No 261/2004

Article 9 – paragraph 2

Text proposed by the Commission

Amendment

(aa) Paragraph 2 is replaced by the following:

'2. In addition, passengers shall be offered free of charge two telephone calls and fax messages or e-mails.'

Justification

Telex outdated.

Amendment 94

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point a b (new)

Regulation (EC) No 261/2004

Article 9 – paragraph 3

Present text

Amendment

3. ***In*** applying this Article, the operating air carrier shall pay particular attention to the needs of persons with reduced mobility and ***any*** persons accompanying them, as well as to the needs of ***unaccompanied*** children.

(ab) Paragraph 3 is replaced by the following:

'3. *When* applying this Article, the operating air carrier shall pay particular attention to the needs of ***disabled persons***, persons with reduced mobility and ***all*** persons accompanying them, as well as to the needs of ***mothers or fathers travelling with small children and of children travelling without adult guardians.***';

This amendment seeks to amend a provision within the existing act – Article 9(3) – that was not referred to in the Commission proposal.

Amendment 95

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point a c (new)

Regulation (EC) No 261/2004

Article 9 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(ac) The following paragraph is inserted:

"3a. Airport management bodies shall provide specific facilities for severely disabled passengers requiring changing and toilet facilities at no cost to the

passenger, at all Union airports with an annual throughput of more than one million passengers.

Amendment 96

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point b

Regulation (EC) No 261/2004

Article 9 – paragraph 4

Text proposed by the Commission

4. 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, it may limit the **total cost** of accommodation provided **according to** paragraph 1(b) to **EUR 100 per night and per passenger and to a maximum of 3 nights**. If the operating air carrier chooses to apply this limitation, it shall nevertheless provide the passengers with information about available accommodation after the **three** nights, in addition to the continued obligations for information specified in Article 14.

Amendment

4. 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 provided **in accordance with** paragraph 1(b) 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**. 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 specified in Article 14.

This limitation shall in any events be without prejudice to the obligation of operating air carriers to provide accommodation, and the carrier shall comply with this obligation as a priority. This limitation shall not apply where the air carrier has failed to provide the accommodation.

Justification

The amendment replaces the Rapporteur's amendment 69. The obligation of air carriers to

provide accommodation shall remain unlimited except for cases in which the passenger chooses to arrange himself his accommodation. The limit here should however be raised from 100 EUR to 125 EUR. The limitation should not touch upon the air carrier's obligation to provide accommodation as a matter of priority and should not apply in case the carrier fails to do so.

Amendment 97

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point b

Regulation (EC) No 261/2004

Article 9 – paragraph 5

Text proposed by the Commission

Amendment

5. The obligation to offer accommodation under paragraph 1(b) shall not apply where the flight concerned is of 250 km or less and scheduled to be operated by an aircraft with a maximum capacity of 80 seats or less, except where the flight is a connecting flight. If the operating air carrier chooses to apply this exemption, it shall nevertheless provide the passengers with information about available accommodation. *deleted*

Amendment 98

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point b

Regulation (EC) No 261/2004

Article 9 – paragraph 6

Text proposed by the Commission

Amendment

6. Where a passenger opts for reimbursement pursuant to Article 8(1)(a) **while being at the departure airport of his journey**, or opts for rerouting at a later date pursuant to Article 8(1)(c), the passenger shall have no further rights with regard to care under Article 9(1) in relation to the relevant flight.

6. Where a passenger opts for reimbursement pursuant to Article 8(1)(a), or opts for rerouting at a later date pursuant to Article 8(1)(c), the passenger shall have no further rights with regard to care under Article 9(1) in relation to the relevant flight. **Where the passenger demonstrably incurs costs as a result of this decision in**

travelling to and from the airport, the passenger shall receive a full reimbursement thereof in the case of such travel to the airport in relation to the journey not taken.

Justification

These include costs of journeys to and from the airport by bus, rail or taxi and parking charges at the airport, as these can be demonstrated.

Amendment 99

Proposal for a regulation

Article 1 – paragraph 1 – point -10 (new)

Regulation (EC) No 261/2004

Article 10 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

(-10) The introductory wording of Article 10(2) is replaced by the following:

‘2. If an operating air carrier places a passenger in a class lower than that for which the ticket was purchased, it shall within seven working days, by the means provided for in Article 7(3), reimburse’

Amendment 100

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 261/2004

Article 11 – paragraph 3

Text proposed by the Commission

Amendment

The following paragraph is added to Article 11:

"3. The operating air carrier shall not apply the limitations set out in Articles 9(4) and 9(5) if the passenger is a person with reduced mobility or any person accompanying him/her, an unaccompanied

In Article 11, the following paragraphs are added:

"3. The operating air carrier shall not apply the limitations set out in Article 9(4) and (5) if the passenger is a person with a disability or reduced mobility or any person accompanying him/her, an

child, a pregnant woman or a person in need of specific medical assistance, on condition the air carrier or its agent or the organiser has been notified of their particular needs for assistance at least 48 hours before the scheduled time of departure of the flight. Such notification shall be deemed to cover the entire journey and the return journey if both journeys *have been contracted with the same air carrier.*"

unaccompanied child, a pregnant woman or a person in need of specific medical assistance, on condition the *operating* air carrier or its agent or the organiser has been notified of their particular needs for assistance at least 48 hours before the scheduled time of departure of the flight. Such notification shall be deemed to cover the entire journey and the return journey if both journeys *are shown on the same ticket.*

Air carriers shall also endeavour to ensure good care is taken of guide dogs and assistance dogs. Information about assistance and the arrangements available shall be made known through various accessible means of communication.

Amendment 101

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 261/2004

Article 11 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

"3a. Flight crews shall be trained to help passengers who are disabled or who have reduced mobility, so as to make it easier for them to board and disembark from aircraft;"

Amendment 102

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 261/2004

Article 11 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

"3b. 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;"

Amendment 103

Proposal for a regulation

Article 1 – paragraph 1 – point 11 a (new)

Regulation (EC) No 261/2004

Article 12 – paragraph 2

Present text

Amendment

"2. Without prejudice to relevant principles and rules of national law, including case-law, paragraph 1 shall not apply to passengers who have voluntarily surrendered a reservation under Article 4(1)."

In Article 12, paragraph 2 is replaced by the following:

'2. This Regulation shall apply irrespective of any further claim to compensation by the passenger. The compensation provided pursuant to this Regulation must not be offset against such a compensation claim.'

This amendment seeks to amend a provision within the existing act – Article 12(2) – that was not referred to in the Commission proposal.

Justification

There was scope for various interpretations of the original provisions, and this state of affairs should be remedied. A case relating to this subject is currently pending before the Court of Justice (ref. X ZR/111/12).

Amendment 104

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 261/2004

Article 13

Text proposed by the Commission

Amendment

In cases where an operating air carrier pays compensation or meets the other obligations incumbent on it under this Regulation, no provision of this Regulation

In cases where an operating air carrier pays compensation or meets the other obligations incumbent on it under this Regulation, *and without prejudice to*

or of national law may be interpreted as restricting its right to seek compensation for the costs incurred under this Regulation from any third parties which contributed to the event triggering compensation or other obligations.

contracts of disclaimer with third parties in force at the time of the dispute, no provision of this Regulation may be interpreted as restricting its right to seek compensation for, *or to recover in their entirety*, the costs incurred under this Regulation from any *person, including any* third parties, which contributed to the event triggering compensation or other obligations, *in accordance with the applicable law*. *In particular, this Regulation shall in no way restrict the right of the operating air carrier to seek compensation or to recover its costs from an airport or other third party with whom the operating air carrier has a contract.*

Justification

Existing contracts for disclaimer (e.g. between airports and airlines) should remain unaffected by this provision. It must be clear that passengers are not concerned.

Amendment 105

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 261/2004

Article 14 – paragraph 1

Text proposed by the Commission

1. The airport managing body and the operating air carrier shall ensure that at the check-in desks (including at self-service check-in machines) and at the boarding gate, a clearly legible notice containing the following text is displayed in a manner clearly visible to passengers: “If you are denied boarding or if your flight is cancelled or delayed for at least two hours, ask at the check-in counter or boarding gate for the notice stating your rights, particularly with regard to assistance and possible compensation”.

Amendment

1. The airport managing body and the operating air carrier shall ensure that at the check-in desks (including at self-service check-in machines) and at the boarding gate, a clearly legible notice containing the following text is displayed in a manner clearly visible to passengers: “If you are denied boarding or if your flight is cancelled or delayed for at least two hours *or if the schedule time of departure of your flight has been put forward by at least two hours in relation to the initial schedule time indicated on your ticket*, ask at the check-in counter or boarding gate for the notice stating your rights, particularly

with regard to assistance and possible compensation”.

Justification

Also accounts for bringing forward the departure time of a flight.

Amendment 106

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 261/2004

Article 14 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

‘1a. air carriers shall set up, at each airport where they operate, contact points at which they shall ensure the presence of contact personnel or a third parties commissioned by the air carrier concerned, to provide passengers with the necessary information regarding their rights, including complaint procedures, to assist them and to take immediate action in the event of cancelled or delayed flights, denied boarding and lost or delayed baggage. During the air carriers operating hours and until the last passengers disembark from the last plane, those contact points shall be available for the purpose of assisting passengers inter alia concerning reimbursement, re-routing, rebooking and of accepting the lodging of their complaints.’

Justification

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 would help to ensure that passengers enjoy the rights to which they are entitled. Only airlines have all available information in case of flight disruptions and baggage that is lost or returned late. The provision of information to passengers about their rights and possibilities for complaints and claims needs to be improved.

Amendment 107

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 261/2004

Article 14 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

"1b. 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."

Amendment 108

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 261/2004

Article 14 – paragraph 2

Text proposed by the Commission

Amendment

2. ***An operating air carrier denying boarding or cancelling a flight shall provide each*** passenger affected with a written notice setting out the rules for compensation and assistance in line with this Regulation, including information on possible limitations pursuant to Articles 9(4) and 9(5). ***It shall also provide each passenger affected by a delay or a change of schedule of at least two hours with an equivalent notice.*** The contact details of the competent complaint handling bodies designated under Article 16a shall also be given to the passenger in written form.

2. ***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 in line with this Regulation, including information on possible limitations pursuant to Articles 9(4) and 9(5), ***and shall inform him of possible alternative transport modes.*** The ***address of the carrier to which complaints may be submitted and the*** contact details of the competent complaint handling bodies designated under Article 16a shall also be given to the passenger in written form.

Justification

This amendment replaces the Rapporteur's amendment 37, specifies the modalities of the information - orally and in a written form - and extends the obligation to inform passengers to organisers

Amendment 109

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 261/2004

Article 14 – paragraph 3

Text proposed by the Commission

3. In respect of blind and visually impaired persons, the provisions of this Article shall be applied using appropriate **alternative** means.

Amendment

3. In respect of **disabled persons or persons with reduced mobility, in particular** blind and visually impaired persons, the provisions of this Article shall be applied using appropriate means **and in the appropriate formats**.

Justification

The amendment is in line with previous amendments regarding the full definition of a 'disabled person or person with reduced mobility' and enlarges the group of persons to all disabled persons and persons with reduced mobility.

Amendment 110

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 261/2004

Article 14 – paragraph 4

Text proposed by the Commission

4. The airport managing body shall ensure that general information on passenger rights is clearly and visibly displayed within the passenger areas of the airport. It shall also ensure that passengers present at the airport are informed about the cancellation of their flight and about their rights in *case* the airline unexpectedly ceases operations *as in the case of* insolvency or revocation of its operating

Amendment

4. The airport managing body shall ensure that general information on passenger rights is clearly and visibly displayed within the passenger areas of the airport. **On the basis of the information received,** it shall also ensure that passengers present at the airport are informed about **the causes and their rights in cases of delays and flight disruptions, such as** the cancellation of their flight, and about their rights in *the*

licence.

event that the airline unexpectedly ceases operations, for example in the event of its insolvency or revocation of its operating licence.

Justification

Airport managing bodies do not have information regarding individual passengers. They need to receive the information from air carriers, in the first place, in order to comply with the obligation above.

Amendment 111

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 261/2004

Article 14 – paragraph 5

Text proposed by the Commission

5. In the event of cancellation or delay in departure, passengers shall be informed by the operating air carrier of the situation as soon as **possible** and in any event no later than 30 minutes after the scheduled departure time, **and** of the estimated departure time **as soon as this information is available**, provided the air carrier has received the passenger's contact details in accordance with paragraphs 6 and 7 in case the ticket was acquired via an intermediary.

Amendment

5. In the event of cancellation or delay in departure, passengers shall be informed by the operating air carrier of the situation, **including the cause of the disruption**, as soon as **this information is available**, and in any event no later than 30 minutes after the scheduled departure time of the estimated departure time, provided **that** the air carrier has received the passenger's contact details in accordance with paragraphs 6 and 7 in case the ticket was acquired via an intermediary.

Justification

As outlined in recital 20 of the Commission proposal, passengers should not only be correctly informed about their rights in cases of flight disruption, but they should also be adequately informed about the cause of the disruption itself, as soon as the information becomes available. This amendment aims to strengthen the information given to passengers in real-time in cases of delay or cancellation so that they can effectively enforce its rights.

Amendment 112

Proposal for a regulation

Article 1 – paragraph 1 – point 13
Regulation (EC) No 261/2004
Article 14 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

"5a. 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."

Amendment 113

Proposal for a regulation
Article 1 – paragraph 1 – point 13
Regulation (EC) No 261/2004
Article 14 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

"5b. Air carriers shall provide accessible, effective telephone assistance for all passengers once a flight has been booked; this service shall provide information and alternative proposals in the event of disruption and shall under no circumstances exceed the cost of a local call;

Amendment 114

Proposal for a regulation
Article 1 – paragraph 1 – point 13
Regulation (EC) No 261/2004
Article 14 – paragraph 6

Text proposed by the Commission

Amendment

6. Where the passenger does not acquire a ticket directly from the operating air

6. Where the passenger does not acquire a ticket directly from the operating air

carrier, but via an intermediary established within the Union, *this* intermediary shall provide the passenger's contact details to the air carrier, on condition that the passenger has given **his explicit and written authorisation**. *This authorisation* may only be given on an "opt-in" basis. The air carrier may use *these* contact details exclusively for the purpose of fulfilling the information obligation under this Article and not for marketing purposes and shall delete the contact details within 72 hours after *the* completion of the contract of carriage. The processing, access and storage of *these* data shall be undertaken in accordance with Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data²⁴.

²⁴ OJ L 281, 23.11.1995, p.31

carrier, but via an intermediary established within the Union, *that* intermediary shall provide the passenger's contact details to the air carrier, on condition that the passenger has given his **consent**. *That consent* may only be given on an "opt-in" basis. The air carrier may use *those* contact details exclusively for the purpose of fulfilling the information obligation under this Article and not for marketing purposes, and shall delete the contact details within 72 hours after completion of the contract of carriage. The **passenger's consent to the transfer of his/her contact details to the air carrier and to** the processing, access and storage of *those* data shall be undertaken in accordance with Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data²⁴.

²⁴ OJ L 281, 23.11.1995, p.31

Justification

Passenger consent should be acquired in accordance with applicable data protection legislation, which does not specify the precise form of consent ('written'). The term 'authorisation' is replaced by 'consent', in line with the wording used in the European data protection legislation.

Amendment 115

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 261/2004

Article 14 – paragraph 7

Text proposed by the Commission

7. An intermediary shall be exempted from paragraph 6 if it can prove the existence of an alternative system that ensures that the passenger is informed without the transmission of the relevant contact details.

Amendment

7. An intermediary shall be exempted from **its obligations under** paragraph 6 if it can prove the existence of an alternative system that ensures that the passenger is informed without the transmission of the

relevant contact details *or where the passenger has opted not to provide his contact details.*

Justification

Intermediaries should not be held responsible for the provision of information where passengers have opted not to provide their contact details.

Amendment 116

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 261/2004

Article 14 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

"7a. The service provider shall provide easy access to accurate and objective information detailing the environmental (including climate) impact and energy efficiency of their travel. That information shall be published and clearly visible both on the websites of air carriers, tour operators and on tickets ; the Commission shall support on-going work in this direction.

Amendment 117

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 261/2004

Article 14 – paragraph 7 b (new)

Text proposed by the Commission

Amendment

"7b. Without prejudice to obligations under paragraph 2, any electronic communication to the passenger notifying him or her of cancellation, long delay, or change of schedule shall state prominently that the passenger may be

entitled to compensation and/or assistance under this Regulation."

Justification

Irrespective of the obligation to provide a written notice about rules for compensation according to paragraph 2 (which in any case according to surveys enjoys low levels of compliance), there should be a mention of possible rights to compensation and assistance in the notification of cancellation/delay itself.

Amendment 118

Proposal for a regulation

Article 1 – paragraph 1 – point 14

Regulation (EC) No 261/2004

Article 16 – paragraph 1

Text proposed by the Commission

1. Each Member State shall designate a National Enforcement Body responsible for the enforcement of this Regulation as regards flights from airports situated on its territory and flights from a third country to such airports. The Member States shall inform the Commission of the body that has been designated in accordance with this paragraph.

Amendment

1. Each Member State shall designate a National Enforcement Body responsible for the enforcement of this Regulation as regards ***infringements of this Regulation at airports situated on its territory***, flights from airports situated on its territory and flights from a third country to such airports. The Member States shall inform the Commission of the body that has been designated in accordance with this paragraph.

Justification

The Regulation is equally applicable to infringements at airports situated on the territory of the EU Member States.

Amendment 119

Proposal for a regulation

Article 1 – paragraph 1 – point 14

Regulation (EC) No 261/2004

Article 16 – paragraph 2

Text proposed by the Commission

2. The National Enforcement Body shall closely monitor compliance with the requirements of this Regulation and take the measures necessary to ensure that the rights of passengers are respected. For this purpose, air carriers and airport managing bodies shall provide the relevant documents to the National Enforcement Body **at its request**. In order to carry out its functions, the National Enforcement Body shall also take account of the information submitted to it by the body designated under Article 16a. It **may also decide on** enforcement actions based on individual complaints transmitted by the body designated under Article 16a.

Amendment

2. The National Enforcement Body shall closely monitor compliance with the requirements of this Regulation and take the measures necessary to ensure that the rights of passengers are respected. For this purpose, air carriers and airport managing bodies shall provide the relevant documents to the National Enforcement Body **within one month of its request, without prejudice to the obligations of air carriers under Article 14a**. In order to carry out its functions, the National Enforcement Body shall also take account of the information submitted to it by the body designated under Article 16a. It **shall take** enforcement actions based on individual complaints transmitted by the body designated under Article 16a. **Member States shall ensure that their respective National Enforcement Bodies are given sufficient power to penalise effectively with infringements.**

Justification

The amendment specifies a time limit for air carriers and airport managing bodies to comply with document requests and erases enforcement activities of NEBs that are best listed together in a subsequent new paragraph.

Amendment 120

Proposal for a regulation

Article 1 – paragraph 1 – point 14

Regulation (EC) No 261/2004

Article 16 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) Air carriers shall proactively provide the National Enforcement Body with comprehensive information as regards the advent of technical problems, in particular on the reasons therefore. The

National Enforcement Body shall share this information with the bodies responsible for out-of-court dispute resolution referred to in Article 16a.

Justification

Air carriers should be obliged to inform national enforcement bodies of the reasons and circumstances around technical problems.

Amendment 121

Proposal for a regulation

Article 1 – paragraph 1 – point 14

Regulation (EC) No 261/2004

Article 16 – paragraph 3

Text proposed by the Commission

3. The ***sanctions*** laid down by Member States for infringements of this Regulation shall be effective, proportionate ***and*** dissuasive.

Amendment

3. The ***sanctions*** laid down by Member States for infringements of this Regulation shall be effective, proportionate, dissuasive ***and sufficient to provide carriers with a financial incentive to comply consistently with this Regulation.***

Justification

The study undertaken in 2012 on behalf of the European Commission found that sanctions are too low to provide an economic incentive for carriers to comply with the regulation, taking into account also that only a limited number of passengers impacted by an infringement to the Regulation are likely to complain to the NEB.

Amendment 122

Proposal for a regulation

Article 1 – paragraph 1 – point 14

Regulation (EC) No 261/2004

Article 16 – paragraph 4

Text proposed by the Commission

4. ***Where the bodies designated under Articles 16 and 16a differ, reporting***

Amendment

4. ***In accordance with Directive 2013/11/EU, cooperation mechanisms***

mechanisms shall be set up *to ensure the exchange of information between the various bodies* in order to help the National Enforcement Body to carry out its tasks of supervision and enforcement and for the body designated under Article 16a to collect the information necessary *to examine* individual complaints.

shall be set up *between the National Enforcement Body and the body designated under Article 16a. Those cooperation mechanisms shall include mutual information exchanges* in order to help the National Enforcement Body to carry out its tasks of supervision and enforcement and for the body designated under Article 16a to collect the information *and acquire the technical expertise* necessary *for the handling of* individual complaints.

Justification

The amendment replaces the Rapporteur's amendment 81. The request for a Union-wide mechanism of exchange of information has been placed under Article 16 b.

Amendment 123

Proposal for a regulation

Article 1 – paragraph 1 – point 14

Regulation (EC) No 261/2004

Article 16 – paragraph 5

Text proposed by the Commission

5. For each year, at the latest at the end of April of the following calendar year, the National Enforcement Bodies shall publish statistics on their activity, including on sanctions applied.

Amendment

5. For each year, at the latest at the end of April of the following calendar year, the National Enforcement Bodies shall publish statistics on their activity, including on sanctions applied. *The National Enforcement Bodies shall at the same time publish, on the basis of data which air carriers and airport managing bodies are required to keep and supply, statistics concerning the number and nature of complaints, the number of cancellations, denied boardings and delays and their duration and data on lost, delayed or damaged baggage.*

Amendment 124

Proposal for a regulation

Article 1 – paragraph 1 – point 14

Regulation (EC) No 261/2004

Article 16 – paragraph 6

Text proposed by the Commission

6. Air carriers shall communicate their contact details, for matters covered by this Regulation, to the National Enforcement Bodies of the Member States in which they operate.'

Amendment

6. Pending the transposition by Member States of the provisions of Directive 2013/11/EU, each passenger may, at any airport situated on the territory of a Member State, complain to any National Enforcement Body about an alleged infringement of this Regulation which occurs at any airport situated on the territory of a Member State, or concerning flights from any airport situated on the territory of a Member State or flights from a third country to such airports.

Justification

This amendment is introduced in order to ensure that the NEBs still constitute the competent complaint handling bodies until the entry into force of the ADR Directive in 2015. Until the creation of the new conflict resolution body, passengers should still have the possibility of submitting individual complaints to any national enforcement body.

Amendment 125

Proposal for a regulation

Article 1 – paragraph 1 – point 14 a (new)

Regulation (EC) No 261/2004

Article 16 -a (new)

Text proposed by the Commission

Amendment

14a. The following Article is added:

"Article 16 -a

Compliance documents

1. Community air carriers shall prepare and submit to the National Enforcement Body of the Member State that issued

their operating licence pursuant to Regulation 1008/2008 and to the Commission by 1 January 2016 a document that demonstrates in reasonable detail that their operating procedures are sufficient to ensure that they consistently comply with all relevant Articles of this Regulation.

1a. The Commission may adopt implementing acts, laying down the minimum contents of such compliance documents. The minimum contents shall at least contain contingency plans for major disruptions, identify those responsible for providing assistance and other rights, the practical arrangements and procedures by which complaints are handled and assistance and compensation are provided, and procedures and templates for communication with passengers. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 16c(2).

2. Any other carrier providing services from a Union airport shall submit a compliance document to the NEBs of all Member States in which they operate and to the Commission.

3. Air Carriers shall review their compliance documents and submit updated versions to the relevant NEB(s) and to the Commission every three years starting on 1 January 2019.

4. The National Enforcement Body shall take account of the compliance documents submitted by air carriers, checking, where possible, the validity of compliance documents against complaints information."

Justification

The compliance document would be a cost-effective way to address the main problem with the Regulation, which is enforcement. The required contents of the documents could be determined by the Passenger Rights Committee of the proposed Article 16c. They could

include things like contingency plans for major disruptions, staff responsible for passenger assistance, procedures for denying boarding, cancelling flights, informing passengers etc.

Amendment 126

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16 a – paragraph 1

Text proposed by the Commission

1. ***At the time of reservation***, air carriers shall provide information to passengers on ***their*** claim and complaint handling processes in relation to the rights set out in this Regulation and on the relevant contact addresses, to which passengers can submit claims and complaints, including via electronic means of transmission. The air carrier shall also inform passengers of the body or bodies competent for handling passenger complaints.

Amendment

1. Air carriers, ***organisers or ticket sellers within the meaning of point (d) of Article 2 of Regulation (EC) 2111/2005***, shall provide information to passengers on ***the air carriers'*** claim and complaint handling processes ***and the relevant time-limits under paragraph 2 of this Article***, in relation to the rights set out in this Regulation, and on the relevant contact addresses to which passengers can submit claims and complaints, including via electronic means of transmission. The air carrier ***and, if relevant, the organiser*** shall also inform passengers of the body or bodies competent for handling passenger complaints, ***as designated by Member States under this Article and Article 16. The relevant information shall be given at the time of booking, shall be accessible to all, shall be clearly indicated in the passenger's ticket and on the air carrier's websites, shall be handed out at the air carrier's desks at airports and shall be communicated in the e-mail message that notifies them of their flight being cancelled or delayed. A complaint form shall be provided to passengers on request.***

Justification

The information provided to passengers concerning claim and complaint procedures needs to be reinforced. If necessary, the organiser shall forward general information to passengers concerning the procedures, including the contact addresses for the competent bodies.

Amendment 127

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16 a – paragraph 1 a (new)

Text proposed by the Commission

Amendment

‘1a. The burden of proof regarding the provision of the requisite information to passengers shall be on the air carrier.’

Amendment 128

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16a – paragraph 2

Text proposed by the Commission

Amendment

2. If a passenger wants to make a complaint to the air carrier with regard to his rights under this Regulation, he shall submit it within 3 months from the date on which the flight was performed or was scheduled to be performed. Within 7 days of receiving the complaint, the carrier shall confirm the receipt of the complaint to the passenger. Within two months of receiving the complaint, the air carrier shall provide a full answer to the passenger.

2. If a passenger wants to make a complaint to the air carrier with regard to his rights under this Regulation, he shall submit it within 3 months from the date on which the flight was performed or was scheduled to be performed. ***The submission of a complaint within three months and after the expiry of that three-month period shall be without prejudice to his right to enforce his claims under this Regulation within the framework of the judicial system and an out-of-court resolution.*** Within seven working days of receiving the complaint, the carrier shall confirm the receipt of the complaint to the passenger. Within two months of receiving the complaint, the air carrier shall provide a full answer to the passenger. ***Where the air carrier does not provide that full answer within that two-month period, it shall be deemed to have accepted the passenger’s claims.***

Where the air carrier invokes extraordinary circumstances, it shall, in its answer, inform the passenger of the specific circumstances responsible for the cancellation or delay. The air carrier shall also show that it took all reasonable measures to avoid the cancellation or delay.

With the full answer, the air carrier shall also communicate to the passenger concerned the relevant contact details of the designated body referred to in paragraph 3, including its postal address, phone number, email address and website address.

Justification

Replaces Amendment 85 by the rapporteur.

Amendment 129

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16a – paragraph 3

Text proposed by the Commission

3. In accordance with relevant EU and national law, each Member State shall designate a national body or bodies responsible for the out-of-court resolution of disputes between air carriers and passengers with regard to the rights covered by this Regulation.

Amendment

3. Member States shall ensure that air passengers are able to submit disputes with air carriers concerning rights and obligations established by this Regulation to independent, efficacious and efficient out-of-court resolution mechanisms. To that end, each Member State shall designate a national body or bodies responsible for the out-of-court resolution of disputes between air carriers and passengers with regard to the rights and obligations covered by this Regulation. **Those bodies should be other than the Enforcement Body referred to in Article 16(1). Member States shall ensure that those bodies have the power to resolve the underlying dispute between passengers**

and air carriers by means of a decision which is legally binding on both parties and enforceable. In respect of disputes falling within the scope of Directive 2013/11/EU, only that Directive shall apply. All air carriers which are involved in flights from an airport within the territory of a Member State or of a third country to these airports shall abide by the alternative dispute resolution system referred to in Directive 2013/11/EU, which will ensure simple, swift and cheap out-of-court resolution of disputes between passengers and air carriers.

Amendment 130

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16a – paragraph 4

Text proposed by the Commission

4. *Each* passenger may complain to any national body designated under paragraph 3, about an alleged infringement of this Regulation at any airport situated on the territory of a Member State or concerning any flight from a third country to *an airport situated on that territory*. Such complaints may be submitted *at the earliest two months after a complaint was submitted to the concerned carrier unless the carrier has already provided a final reply to such complaint*.

Amendment

4. *On receipt of the full answer from the air carrier, the passenger concerned* may complain to any national *out-of-court dispute resolution* body designated under paragraph 3 about an alleged infringement of this Regulation at any airport situated on the territory of a Member State or concerning any flight from *any airport situated on the territory of a Member State or of* a third country to *such airports*. Such complaints may be submitted *within a time-limit, which shall be set in advance at not less than one year from the date on which the passenger submitted the complaint or claim to the carrier concerned*.

Amendment 131

Proposal for a regulation

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Article 1 – paragraph 1 – point 15
Regulation (EC) No 261/2004
Article 16a – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. If the airline is found to be at fault the complaints handling body shall inform the National Enforcement Body, which, in accordance with Article 16a, paragraph 2, shall take action to ensure enforcement.

Amendment 132

Proposal for a regulation
Article 1 – paragraph 1 – point 15
Regulation (EC) No 261/2004
Article 16 a – paragraph 5

Text proposed by the Commission

Amendment

5. Within 7 days of receiving the complaint, the designated body shall confirm receipt of the complaint and shall send a copy to the appropriate National Enforcement Body. The time taken to provide the final reply to the complainant shall not be longer than ***three months from the receipt of the complaint***. A copy of the final reply shall also be provided to the National Enforcement Body.

5. Where a designated body has received a complaint, it shall notify the parties to the dispute as soon as it has received all documents containing the information relating to the complaint. It shall send a copy of the documents relating to the complaint to the appropriate National Enforcement Body. The time taken to provide the final reply to the complainant shall not be longer than ***90 calendar days from the date on which the designated body has received the complete complaint file***. A copy of the final reply shall also be provided to the National Enforcement Body.

Justification

The amendment adjusts the article in accordance with the new Directive 2013/11/EU on Alternative Dispute Resolution (ADR).

Amendment 133

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16 a – paragraph 5 a (new)

Text proposed by the Commission

Amendment

‘5a. In order for them to be contacted concerning matters covered by this Regulation, Air carriers shall communicate their contact details, to the bodies, designated under this Article, of the Member States in which they operate.’

Amendment 134

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16a – paragraph 5 b (new)

Text proposed by the Commission

Amendment

‘5b. When reasons of security are invoked under this Regulation, the burden of proof shall be on the airline company concerned.’

Amendment 135

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16 aa (new)

Text proposed by the Commission

Amendment

“Article 16 aa
Member States shall provide for well-equipped, free of charge and independent mediation bodies to assist in finding solutions in case of conflicts between the passengers and the airlines and service

providers of other transport modes."

Amendment 136

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16 b – paragraph 1

Text proposed by the Commission

1. The Commission shall support dialogue between Member States concerning national interpretation and application of this Regulation through the Committee referred to in Article 16c.

Amendment

1. The Commission shall support dialogue **and promote cooperation** between Member States concerning national interpretation and application of this Regulation through the Committee referred to in Article 16c.

Amendment 137

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16b – paragraph 2

Text proposed by the Commission

2. Member States shall provide annually a report on their activities to the Commission, at the latest at the end of April of the following calendar year. The Commission may decide on the issues to be addressed in these reports via implementing acts. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 16c.

Amendment

2. Member States shall provide annually a report on their activities, **including the statistics referred to in Article 16(5)**, to the Commission, at the latest at the end of April of the following calendar year. The Commission may decide on the issues to be addressed in these reports via implementing acts. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 16c.

Amendment 138

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004
Article 16b – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The Commission and Member States shall set up a Union-wide mechanism consisting of all bodies designated under Article 16 and Article 16a to ensure the exchange between Member States of information about infringements, sanctions and best practices of enforcement between the Member States. The Commission shall make this information available in electronic form to all the Member States.

Justification

The amendment is linked to the Rapporteur's amendment 81. The request for a Union-wide mechanism for an exchange of information has been removed from Article 16 (4) to this Article 16b which deals with cooperation mechanism between Member States and the Commission.

Amendment 139

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16 b – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5b. The National Enforcement Bodies shall provide, upon request, information and relevant documents on individual cases of infringement to the Commission.

Justification

In order to create a coherent flow of information the Commission should be enabled to obtain information from the NEBs via a relevant provision of this Regulation.

Amendment 140

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16b – paragraph 5 c (new)

Text proposed by the Commission

Amendment

5c. The Commission shall publish on its website and regularly update, starting no later than 1 May 2015, a list of all air carriers operating in the Union that systematically fail to comply with the provisions of this Regulation. Irrespective of size or nationality, any carrier for whom the Commission has received evidence of infringements pursuant to Article 16b (5b) that occurred to passengers on more than 10 different flights in one calendar year, and that relate to more than one article of this Regulation, shall be considered to have systematically fail to comply with this Regulation.

Amendment 141

Proposal for a regulation

Article 1 – paragraph 1 – point 15 a (new)

Regulation (EC) No 261/2004

Article 16c a (new)

Text proposed by the Commission

Amendment

(15a) The following Article shall be inserted:

“Article 16c a

Delegated acts

The Commission shall be empowered to adopt delegated acts, in accordance with Article 16cb , adding items to the exhaustive list of circumstances considered to be extraordinary circumstances resulting from the work of

the National Enforcement Bodies and judgments of the European Court of Justice.”

Amendment 142

Proposal for a regulation

Article 1 – paragraph 1 – point 15 b (new)

Regulation (EC) No 261/2004

Article 16c b (new)

Text proposed by the Commission

Amendment

(15 b) The following Article shall be inserted:

“Article 16c b

Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 16b a shall be conferred on the Commission for a period of five years from ...*. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of powers referred to in Article 16ca may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in

force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 16ba shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

** OJ please insert the date of entry into force of this Regulation.*

Amendment 143

Proposal for a regulation

Article 1 – paragraph 1 – point 16

Regulation (EC) No 261/2004

Article 17

Text proposed by the Commission

The Commission shall report to the European Parliament and the Council by 1 January 2017 on the operation and the results of this Regulation, in particular with regard to the impact of the compensation for long delays and the limitation of accommodation in extraordinary circumstances of long duration. The Commission shall also report on the enhanced protection of air passengers on flights from third countries operated by non-Community carriers, in the context of international air transport agreements. The

Amendment

The Commission shall report to the European Parliament and the Council by 1 January 2017 on the operation and the results of this Regulation, in particular with regard to the impact of the compensation for long delays and the limitation of accommodation in extraordinary circumstances of long duration, *issues concerning the interpretation of extraordinary circumstances, the statistics published by the National Enforcement Bodies on their activities, including on sanctions and their findings regarding*

report shall be accompanied, if necessary, by legislative proposals.

suspected infringing practices by air carriers, the progress made in establishing national bodies responsible for the out-of-court resolution of disputes and the activities of the latter. The Commission shall also report on the enhanced protection of air passengers on flights from third countries operated by non-Union carriers in the context of international air transport agreements. *In addition, the Commission shall report on the effectiveness of the measures taken and sanctions imposed by the bodies referred to in Article 16 and the possible need for a harmonised approach;* the report shall be accompanied, if necessary, by legislative proposals.

Justification

It is the rapporteur's view that the Commission's reporting should include more detailed information with a view to evaluating the impact, implementation and enforcement of the Regulation.

Amendment 144

Proposal for a regulation

Article 2 – paragraph 1 – point 1

Regulation (EC) No 2027/97

Article 3 – paragraph 2

Text proposed by the Commission

2. The Community air carrier shall **provide a complaint form at the airport** which **allows the passenger** to immediately submit **such** a complaint about damaged or delayed baggage. **Such a** complaint form, which may take the form of a Property Irregularity Report (PIR), shall be accepted by the air carrier at the airport as a complaint pursuant to Article 31(2) of the Montreal Convention. This possibility shall not affect the right of the passenger to submit a complaint via other means within the deadlines **given** by the Montreal

Amendment

2. At all airports within the Union the Community air carrier and the ground handlers acting on its behalf shall **establish a service that provides passengers with complaint forms** which **allow them** to immediately submit a complaint about damaged or delayed baggage **upon arrival. Likewise,** the **Community air carrier shall hand out such a complaint form at the passenger's request at their check-in desks or at their airport service desks, or both, and shall make the complaint form available on**

Convention.

their websites. The complaint form, which may take the form of a Property Irregularity Report (PIR), shall be accepted by the air carrier at the airport as a complaint pursuant to Article 31(2) of the Montreal Convention. This possibility shall not affect the right of the passenger to submit a complaint via other means within the deadlines *prescribed* by the Montreal Convention.

2a. The Commission may adopt implementing acts , lay down the form of the standardised claim form. Those implementing acts shall be adopted in accordance with the the advisory/examination procedure referred to in Article 6f(2).

Justification

The amendment replaces the Rapporteur's amendment 92. As all implementing acts, the complaint form will be published in the Official Journal in all EU languages.

Amendment 145

Proposal for a regulation

Article 2 – paragraph 1 – point 2 a (new)

Regulation (EC) No 2027/97

Article 5 – paragraph 3a (new)

Text proposed by the Commission

Amendment

2a. In Article 5, the following paragraph is added:

"3a. If luggage is lost, delayed or damaged, airlines shall first compensate the passengers with whom they have concluded a contract before being able to bring any claim against the airports or service providers for the damage, for which they are not necessarily responsible. "

Amendment 146

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 2027/97

Article 6a – paragraph 1

Text proposed by the Commission

1. Whenever carrying checked wheelchairs or other mobility equipment or assistive devices, the air carrier and its agents shall offer each person with reduced mobility as defined in Article 2(a) of Regulation (EC) No 1107/2006²⁵ the option to make, free of charge, a special declaration of interest pursuant to Article 22(2) of the Montreal Convention, at booking and at the latest when the equipment is handed to the carrier.

²⁵ Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air, OJ L 204, 26.7.2006, p.1

Amendment

1. Whenever carrying checked wheelchairs or other mobility equipment or assistive devices, the air carrier and its agents shall ***make passengers aware of their rights and offer each person with a disability or reduced mobility as defined in Article 2(a) of Regulation (EC) No 1107/2006²⁵ the option to make, free of charge, a special declaration of interest pursuant to Article 22(2) of the Montreal Convention, at booking and at the latest when the equipment is handed to the carrier. The Commission shall adopt implementing acts laying down the model form to be used for such a declaration of interest. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 6f(2).***

²⁵ Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air, OJ L 204, 26.7.2006, p.1

Justification

The amendment replaces the rapporteur's amendment 93. In order to facilitate the declaration procedure, a model form would be helpful. It would give both passengers and air carriers guidance for providing relevant information and the necessary documentation in case of the destruction, loss or damage of mobility equipment.

Amendment 147

Proposal for a regulation

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Article 2 – paragraph 1 – point 4
Regulation (EC) No 2027/97
Article 6a – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Airline companies shall ensure at no additional cost, that passengers are able to use their wheelchairs, including pushchairs for children, up to the boarding gate, and that these are returned to them at the aircraft door, . If for safety reasons this is impossible, airline companies shall, at no additional cost, provide wheelchair users with an alternative means of mobility at the airport terminal until such time as they are able to collect their wheelchairs, . If such safety reasons relate directly to the terminal itself, the airport management authority shall be responsible for providing the alternative means of mobility referred to in this paragraph.

Justification

It is not permitted at many EU airports for wheelchairs for persons with reduced mobility or children's wheelchairs to be used up to the boarding gate, and these wheelchairs are sometimes only returned to their users in the baggage collection area. Since this greatly hinders the mobility of such persons, steps should be taken to ensure that they can take their wheelchairs with them to the boarding gate. Should this not be possible for security reasons, alternative means of mobility should be made available to them free of charge.

Amendment 148

Proposal for a regulation
Article 2 – paragraph 1 – point 4
Regulation (EC) 2027/97
Article 6 b – paragraph 2

Text proposed by the Commission

Amendment

2. For the purpose of monitoring the protection of passengers with reduced mobility and disabled passengers in *case of* damage to their mobility equipment, the National Enforcement Body shall also

2. For the purpose of monitoring the protection of passengers with reduced mobility and disabled passengers in *the event of* damage to their mobility equipment ***or assistive devices***, the

examine and take account of the information on complaints concerning mobility equipment submitted to the bodies designated under Article 16a of Regulation 261/2004.

National Enforcement Body shall also examine and take account of the information on complaints concerning mobility equipment submitted to the bodies designated under Article 16a of Regulation **(EC) No 261/2004**.

Justification

As in other parts of this Regulation, assistive devices shall be considered equivalent to mobility equipment.

Amendment 149

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 2027/97

Article 6c – paragraph 2

Text proposed by the Commission

2. The **delegation of power** referred to in Article **6(1)** shall be conferred on the Commission for **an indeterminate** period of **time from** the date of entry into force of this Regulation.

Amendment

2. The **power to adopt delegated acts** referred to in Article **6(1)** shall be conferred on the Commission for a period of **five years from ...***. **The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**

*** OJ please insert the date of entry into force of this Regulation.**

Justification

The text has been adapted to the standard period of delegation of power conferred by Parliament to the Commission.

Amendment 150

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 2027/97

Article 6d – paragraph 1

Text proposed by the Commission

Whilst air carriers **have full commercial freedom to establish the conditions under which they permit baggage to be carried, they shall clearly indicate, at booking** and at the check-in desks (including at self-service check-in machines), the maximum baggage allowance passengers are permitted to carry within the cabin and hold of the aircraft on each of the flights included within a passenger's reservation, including any restrictions on the number of items that **would** be applied within a given maximum baggage allowance. **Where** additional charges **are applied** for the carriage of baggage air carriers shall **clearly indicate details of those charges at booking and on request at the airport.**

Amendment

1. Air carriers **shall clearly indicate, at an early stage of the booking process, in all distribution channels that are used, including computerised reservation systems,** and at the check-in desks (including at self-service check-in machines), the maximum baggage allowance passengers are permitted to carry within the cabin and hold of the aircraft on each of the flights included within a passenger's reservation, including any restrictions on the number of items that **will** be applied within a given maximum baggage allowance **and any restrictions on airport purchases. Details of** additional charges **applicable** for the carriage of baggage air carriers shall **be communicated at an early stage of the booking process** and on request at the airport **in a clear, transparent and unambiguous manner. Core travel services and additional charges must be clearly identifiable and capable of being purchased separately from each other.**

Justification

The amendment replaces the Rapporteur's amendment 95 in order to increase the request for price transparency and freedom of trade.

Amendment 151

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 2027/97

Article 6d – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Passengers shall 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.

Amendment 152

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 2027/97

Article 6d – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Without prejudice to Regulation (EC) No 1107/2006, carry-on baggage allowances may be expressed in maximum dimensions or maximum weights of the total carry-on allowance per passenger, or both, but without any restriction on the specific number of items carried.

Justification

Airlines should determine a maximum baggage allowance in weight or dimension but the possibility to limit the number of items should be banned.

Amendment 153

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 2027/97

Article 6d – paragraph 2

Text proposed by the Commission

Amendment

2. Where extraordinary circumstances, such as safety reasons or a change of the

2. The air carrier may arrange for the above items to be carried in the hold of

aircraft type since the booking was made, preclude the carriage in the cabin of items included in the carry-on baggage allowance, the air carrier may carry them in the hold of the aircraft, but at no extra cost to the passenger.

the aircraft in the case of exceptional conditions related to safety reasons and the specific characteristics of the aircraft preclude transportation in the cabin. No additional charges will apply in such cases.

Justification

This amendment is designed to take into account exceptional circumstances related to the aircraft or safety reasons that may preclude the carriage in the cabin of items mentioned at Article 6 – point d – subparagraph 1a and 1b.

Amendment 154

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 2027/97

Article 6d – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. If hand baggage is moved from the cabin of the aircraft to its hold before boarding or take-off, it must be returned to passengers as they disembark the aircraft, as hand baggage.

Amendment 155

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 261/2004

Article 6 e – paragraph 1

Text proposed by the Commission

Amendment

1. A **Community** air carrier shall permit a passenger to carry a musical instrument in the passenger cabin of an aircraft subject to applicable safety rules and the technical specifications and constraints of the aircraft concerned. Musical instruments shall be accepted for carriage within an aircraft cabin provided such instruments can be

1. A **Union** air carrier shall permit a passenger to carry a musical instrument in the passenger cabin of an aircraft subject to applicable safety rules and the technical specifications and constraints of the aircraft concerned. Musical instruments shall be accepted for carriage within an aircraft cabin provided such instruments can be

stowed safely in a suitable baggage compartment within the cabin or under an appropriate passenger seat. **An air carrier may determine that** a musical instrument shall form part of a passenger's hand luggage allowance **and not** be carried in addition to that allowance.

stowed safely in a suitable baggage compartment within the cabin or under an appropriate passenger seat. **When accepted for carriage within the aircraft cabin,** a musical instrument shall form part of a passenger's hand-luggage allowance. **The air carrier may determine that additional charges are to apply for hand luggage** to be carried in addition to that allowance.

Amendment 156

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 261/2004

Article 6 e – paragraph 2

Text proposed by the Commission

2. Where a musical instrument is too large to be stowed safely in a suitable baggage compartment within the cabin or under an appropriate passenger seat, an air carrier may request the payment of a second fare where such musical instruments are carried as hand luggage on a second seat. Where a second seat is purchased an air carrier *should* make reasonable efforts to seat the passenger and the musical instrument concerned together. ***Where available and if requested, musical instruments shall be carried in a heated part of an aircraft cargo hold subject to applicable safety rules, space constraints and the technical specifications of the aircraft concerned. An air carrier shall clearly indicate in its terms and conditions the basis on upon which musical instruments will be transported and the applicable charges.***

Amendment

2. Where a musical instrument is too large to be stowed safely in a suitable baggage compartment within the cabin or under an appropriate passenger seat, an air carrier may request the payment of a second fare where such musical instruments are carried as hand luggage on a second seat. ***Such additional fare shall not be subject to the payment of the relevant airport departure tax.*** Where a second seat is purchased, an air carrier *shall* make reasonable efforts to seat the passenger and the musical instrument concerned together.

Justification

In order to improve the structure of the article, the deleted text has been split and integrated into Article 6e, paragraph 2a (new) and 2b (new).

Amendment 157

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 261/2004

Article 6 e – paragraph 2 a (new)

Text proposed by the Commission

Amendment

‘2a. Where space is available and if requested, musical instruments shall be carried in a heated part of an aircraft cargo hold, subject to applicable safety rules, space constraints and the technical specifications of the aircraft concerned. Air carriers shall provide special tags for clear display on musical instruments to ensure that they are handled with the necessary care. Only instruments that are properly packaged in a rigid and/or hard-shell container specifically designed for such items shall be allowed to be carried as aircraft cargo.’

Amendment 158

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 2027/97

Article 6e – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. An air carrier shall clearly indicate at booking and in its terms and conditions the basis on which musical instruments will be transported, including the applicable charges, the facilities for the carriage of musical instruments that are available on the aircraft concerned and the dimensions of these facilities. Where a second seat needs to be booked, passengers shall be offered the possibility of booking that second seat online.

Amendment 159

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 2027/97

Article 6f (new)

Text proposed by the Commission

Amendment

Article 6f

1. The Commission shall be assisted by the Passengers Rights Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

Amendment 160

Proposal for a regulation

Annex 1

Regulation (EC) 261/2004

Annex 1 – introductory part

Text proposed by the Commission

Amendment

'Annex: **non-exhaustive** list of circumstances considered as extraordinary circumstances for the purposes of this Regulation

'Annex: **exhaustive** list of circumstances considered as extraordinary circumstances for the purposes of this Regulation

Justification

To guarantee legal certainty regarding the definition of extraordinary circumstances, the list should be exhaustive.

Amendment 161

Proposal for a regulation

Annex 1

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Text proposed by the Commission

Amendment

ii. technical problems which are **not inherent in the normal operation of the aircraft, such as the identification of a defect during the flight operation concerned and which prevents the normal continuation of the operation**; or a hidden manufacturing defect **revealed** by the manufacturer or a competent authority **and** which impinges on flight safety;

ii. technical problems **afflicting the aircraft** which are **directly caused by** a hidden manufacturing defect **formally acknowledged as such** by the manufacturer or a competent authority **arose during the maintenance check preceding the flight or after the aircraft has been released to service**, which impinges on flight safety;

Justification

Tactical amendment in opposition to Amendment 101?

Amendment 162

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – paragraph 1 – point ii a (new)

Text proposed by the Commission

Amendment

iii. damage caused by bird strike;

Justification

Birds' behaviour in the air is outside the control of airlines, whatever precautionary measures they may take.

Amendment 163

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – paragraph 1 – point iii

Text proposed by the Commission

Amendment

iii. **security risks**, acts of sabotage or terrorism rendering impossible the safe

iii. **war, political unrest**, acts of sabotage or terrorism rendering impossible the safe

operation of the flight;

operation of the flight;

Amendment 164

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – paragraph 1 – point iv

Text proposed by the Commission

iv. **life-threatening** health risks or medical emergencies necessitating the interruption or deviation of the flight concerned;

Amendment

iv. health risks or medical emergencies necessitating the interruption or deviation of the flight concerned;

Amendment 165

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – paragraph 1 – point v

Text proposed by the Commission

air traffic management restrictions or closure of airspace or an airport;

Amendment

v. **unforeseen** air traffic management restrictions or **the unforeseen** closure of **the** airspace, **including runway closures by the authorities**;

Amendment 166

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – paragraph 1 – point vi

Text proposed by the Commission

vi. meteorological conditions incompatible with flight safety; and

Amendment

vi. meteorological conditions incompatible with flight safety **or that have damaged the aircraft in flight or on the tarmac after service release and rendering the**

safe operation of the flight impossible;
and

Amendment 167

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – paragraph 1 – point vii

Text proposed by the Commission

vii. labour disputes at the operating air carrier or at essential service providers such as airports and Air Navigation Service Providers.

Amendment

vii. unforeseen labour disputes at the operating air carrier or at essential service providers such as airports and Air Navigation Service Providers.

Amendment 168

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – paragraph 2

Text proposed by the Commission

2. The following circumstances shall not be considered as extraordinary:

- i. technical problems inherent in the normal operation of the aircraft, such as a problem identified during the routine maintenance or during the pre-flight check of the aircraft or which arises due to failure to correctly carry out such maintenance or pre-flight check; and***
- ii. unavailability of flight crew or cabin crew (unless caused by labour disputes).***

Amendment

deleted

EXPLANATORY STATEMENT

Introduction:

The aviation industry has undergone significant changes in recent years, which are associated with an increase in the number of passengers and flights in the liberalised European market. However, this generally positive development has been accompanied, in a way, by the application of unfair practices and a reduction in the quality of services, with negative consequences for travellers. In addition, since the entry into force of the Regulation in 2004, problems can be observed with respect to varied interpretations resulting from grey zones and gaps in the existing Regulation, non-uniform enforcement across Member States, and the difficulty experienced by passengers in enforcing their rights when air carriers are in breach of the legislation. Parliament has already expressed its opinions on several of these points in the context of its resolutions adopted in 2012¹.

The following elements of the Commission's proposal could be highlighted as a step forward in the enforcement of air passenger rights: the role of the national enforcement bodies has been better defined and extended to baggage claims; a complaint procedure has been introduced with clear time limits and the identification of the precise role of a new body to be established for the handling of complaints; new provisions have been introduced which relate to cases of denied boarding, missed connecting flights and long delays; a non-exhaustive list of extraordinary circumstances has been created in order to clarify cases in which air carriers are exempted from paying compensation; the obligation of air carriers to inform passengers adequately and timely has been reinforced; and new provisions have been introduced regarding the carriage of mobility equipment and musical instruments.

Main concerns:

The incomplete and inconsistent implementation of the existing Regulation by both the carriers and the national authorities causes confusion both for passengers and the industry. In addition, passengers lack information about their rights and are dissatisfied with the circumstances and costs associated with the enforcement of those rights.

Legal uncertainty has led to a series of European Court of Justice judgements, which have created extensive case law on the rights of passengers over the years. This is, however, difficult to oversee. The figures show that only a small proportion of those passengers who would in theory be entitled to benefits and compensation ever demand or receive their entitlements in reality.

The crucial factor is that the operating air carriers do not automatically recognise the rights of the passengers concerned. Therefore, the passengers must individually claim their rights with large international companies. Customers feel more insecure in such a situation, not least in view of the complexity of the process. Many passengers are reluctant to go to court because of the high cost and efforts involved, a sentiment which is exploited by some airlines in order to avoid providing customer protection.

¹ Texts adopted, P7_TA-PROV(2012)0371, P7_TA-PROV(2012)0099.

Hence the rapporteur's proposals are generally in favour of strengthening passenger rights.

Right to compensation in case of long delays:

The revised Regulation should be explicit with regard to the right to assistance and compensation for passengers experiencing long delays. Thresholds above which delays give rise to assistance or compensation should be set in line with the judgement of the European Court of Justice (cases C-407/07 and C-432/07 - Sturgeon) which grants passengers, in case of long delays of more than three hours, the same rights as passengers whose flights are cancelled. The rapporteur welcomes the fact that the Commission has taken the Sturgeon judgement into account in its proposal.

The rapporteur shares the Commission's view that the thresholds should be the same for all journeys within the EU, but should depend on the journey distance for travel to and from third countries, in order to take account of the operational difficulties encountered by air carriers when dealing with delays at remote airports.

In light of the ECJ decision, however, the rapporteur does not share the Commission's view that all thresholds should be increased in order to lower the financial impact on the air carrier and to minimise the risk that they lead to more flight cancellations (Recital 11). Moreover, the proposed thresholds are considered to be much too long, especially for internal EU flights where the flight duration usually does not exceed three hours. For this reason, the rapporteur has amended Article 6 by replacing the thresholds of five, nine and twelve hours by three and five hours respectively.

With the aim to facilitate further the application of the current system and to create greater clarity for passengers and airlines, the rapporteur proposes, in addition, to streamline the trigger points and compensation amounts under Articles 6, 6a and 7 by introducing the following limits: EUR 300 for flights within the Union (independent of the flight distance); EUR 300 for all other flights up to a distance of 3 500 km; EUR 600 Euro for all other flights of more than 3 500 km.

Voluntary agreements between air carriers and passengers about compensation should only be enforceable if related to modalities but not to the compensation itself (Article 7(5)).

Rights with regard to connecting flights:

Cases where a passenger misses a connecting flight due to a change of schedule or delay are of particular concern. Therefore, a new Article 6a has rightly 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. However, the rapporteur takes the view 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, the rapporteur has added a minimum threshold of 90 minutes of delay to the preceding flight at the transfer point, which shall entitle the passenger to compensation (Recital 13a (new), Article 6a (2)) provided that the delay at the final destination of the journey is more than three or five hours respectively. This twofold condition is added for reasons of proportionality and is justified if the preceding air carrier causes only a short delay which in the end results in missing a connecting flight and in a much longer delay at the final destination.

Denied boarding:

Denied boarding can happen because of overbooking, but also due to other operational reasons, as confirmed by the Court. A special case of denied boarding is the so-called no-show policy of air carriers. In practice, air carriers deny boarding to passengers for their return flight if they did not use the outward flight of their ticket. This policy is against the customer's interest and should be clearly forbidden. The rapporteur proposes, therefore, that the Commission's proposal be strengthened (Recital 7, Article 4(4)).

The Regulation should also clarify that 'denied boarding' covers cases in which the scheduled time of departure has been moved forward with the consequence that a passenger misses the flight, unless the passenger was informed at least 24 hours in advance (Recital 5, Article 2(j), Article 4 (5a (new))). If a significant change in schedule is incurred, the passenger should have the right to reimbursement or rerouting (Article 6(1) (iii)).

In addition, if a departure has been postponed to a later time, the case should give rise to similar rights as those that are allowed for in the case of a delayed flight (Recital 12).

The rapporteur takes the view that passengers to whom boarding is denied against their will should not suffer any limitation in relation to assistance and that Article 9 shall apply without any delay. For this reason, the rapporteur is opposed to the Commission's proposal to apply Article 9 only after a waiting period of two hours in case the passenger chooses rerouting after being denied boarding (Article 4(3), Article 4(4)).

Protection in case of multiple flight disruptions:

Insolvency

The Spanair and Malev Airline cases show how important it is that passenger rights are protected when it comes to airlines ceasing activity due to their economic situation. Such cases of flight cancellation are generally covered by Regulation (EC) No 261/2004 with a refund or alternative transport being offered to the passenger concerned. However, practice shows that in cases of insolvency, some uncertainty exists in relation to payments, which also indirectly concerns package tour operators. An improvement of the EU legislation is therefore necessary.

Contrary to the Commission, which has not addressed the key issue of the protection of passengers, the rapporteur takes the view that the revision of the Regulation should include relevant provisions. In order to ensure effectively the passenger's right to reimbursement or a return flight, air carriers should be obliged to provide sufficient evidence of security for the

reimbursement or repatriation of passengers (Recital 9a new, Article 5(5c (new))). The requirement allows air carriers to take several measures (which could include a fund or insurance) in order to protect passengers in such cases.

Contingency plans

A major new element introduced by the Commission relates to the obligation for airport managing bodies and airport users to set up contingency plans to minimise the impact of multiple flight disruptions in order to organise in a coordinated manner the care or re-routing of passengers. If an air carrier suddenly ceases operation, such plans are of particular necessity in order to help stranded passengers. The Rapporteur considers 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 (Recital 10, Article 5(5)). 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 (Recital 10a new, Article 5(5), Article 5(5a (new))).

Extraordinary circumstances:

Air carriers can be exempted from compensation payment if they can prove that problems are due to certain extraordinary circumstances. However, there is much uncertainty about the interpretation of this term. Relevant judgements of the European Court of Justice should help to formulate the EU provisions in a more trustful way. The list which is annexed to this Regulation is intended to serve as an aid. Here, special attention is dedicated to the concept of ‘technical problems’. In fact, airlines often justify delays or cancellations on the grounds of ‘technical problems’, leaving the passenger without any possibility of understanding the circumstances.

The revised Regulation should give clearer guidance to the kind of extraordinary circumstances under which the air carrier does not have to pay compensation. The rapporteur has made substantial amendments to the non-exhaustive list annexed to the Commission’s proposal. The most far-reaching amendment relates to the inclusion or exclusion of technical problems under extraordinary circumstances. The rapporteur agrees with the Court’s decision in the Wallentin-Herrmann case that – as a general rule – technical defects do not represent exceptional circumstances. Technical problems should exceptionally be considered as extraordinary circumstances if they are caused by circumstances that are not manageable by the operating air carrier, that affect flight safety and that make the normal continuation of the flight impossible.

Moreover, an amendment should clarify that even though a flight disruption might be caused by extraordinary circumstances, it must be proven that the air carrier had correctly taken all measures in order to avoid the cancellation. Only if both conditions are met should the air carrier be exempt from the payment of compensation (Article 5(3)).

Right to accommodation:

In principle, the right to accommodation is not contested in case of cancellation, missed connecting flights or long delays, if the relevant conditions are met. The rapporteur agrees with the Commission that in case of extraordinary circumstances of a long duration, the currently existing unlimited liability of the air carrier to provide accommodation should be limited. However, contrary to the Commission, the Rapporteur proposes to limit only the costs of the accommodation and not the duration itself. He takes the view that passengers who suffer the most under extraordinary circumstances of a long duration should not be treated less favourably than passengers who suffer less under such circumstances. Exceptionally, for passengers who organise their accommodation themselves, the costs and duration of care might be limited by the air carrier (Recital 16, Article 9(4)). With these combined proposals, the rapporteur takes account of both the interests of the passengers and the interests of the companies involved.

The provision regarding limited care in case of extraordinary circumstances should, however, not relieve the air carrier of its obligation to provide accommodation (Article 9(4)).

Right to information:

Informing passengers and transparency are key elements in the context of the revision of the existing regulation. This concerns their right to be informed adequately, in case of flight disruption, of their rights in general, but also of the cause of the disruption, other possible modes of transport (Article 14(4)), and access to complaint procedures and complaint forms, etc. Since air carriers are the most reliable source responsible for providing this information (Recital 20, Article 5(2)), the rapporteur considers that information and assistance to passengers can be substantially improved by an adequate presence of air carriers at airports (Article 14 (1a new)).

Price transparency:

There is also a need for improvement in relation to ticket prices. Ticket prices are often not sufficiently transparent, which confuses passengers and makes the comparison of prices difficult. The legislator must ensure that the regulation is designed in such a manner that ensures that misuse can be largely excluded. The definition of a 'ticket price' should be as clear and as comprehensive as possible. Therefore, the Rapporteur proposes to add to the Commission's 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 (Article 2 (s)).

Complaint procedure:

Several amendments have been introduced to the new Article 16a on claims and complaint procedures, in order to align the text with the new Directive 2013/11/EU on Alternative Dispute Resolution (ADR)^[1] 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

^[1] OJ L 165, 18.6.2013, p.63.

an ADR system. The complaint procedure with the air carrier does not prejudice the passenger's right of access to the judicial system and to out-of-court resolution (Article 16a (2)).

Tarmac delays:

On tarmac delays, the Rapporteur proposes to define tarmac delay in relation to the end of boarding and not the start of boarding as the Commission proposes, because boarding depends on the size of the aircraft. Tarmac delay should be calculated in absolute terms and not in relation to each aircraft (Article 2 (w)). The Commission's proposal to set the tarmac delay to a minimum of five hours before passengers are allowed to disembark seems too long. The Rapporteur proposes to reduce the tarmac delay to two hours.

Baggage allowances:

One prominent example of the lack of adequate information relates to the practice of air carriers with respect to passengers' baggage allowances. Certain air carriers allow passengers to carry a single piece of hand luggage on board and charge for any additional item such as airport shopping. In order to avoid confusion among passengers and to enable passengers to compare prices, if additional charges are applicable transparent information on baggage allowances should be available prior to the booking process (Recital 28, Article 6d(1)).

Moreover, it is the rapporteur's view that passengers should be allowed to carry in the cabin essential personal items or belongings including airport shopping at no extra cost in addition to the prescribed maximum cabin baggage allowance (Article 6d (1a (new))). A less restrictive policy by air carriers would also counteract the decline in sales at retail outlets.

Several amendments are introduced with the aim of improving the handling of musical instruments. In principle, air carriers should permit a passenger to carry a musical instrument in the passenger cabin of an aircraft. A musical instrument should form part of the hand luggage allowance. A clear indication of applicable charges and conditions available for carriage on the aircraft should be respected by the air carrier.

Lost and damaged or delayed baggage:

In order to facilitate the submission of complaints concerning lost, damaged or delayed baggage, a special baggage claim service, which already exists at many airports, should in principle be set up at all airports. Such a service allows passengers the possibility to submit a complaint upon arrival and helps speed up procedures. In addition, a standardised Union-wide complaint form should be made available as an annex to the regulation. This annex would have the advantage of the form being translated into all official EU languages. (Recital 31, Article 3(2)).

8.11.2013

OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION

for the Committee on Transport and Tourism

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
(COM(2013)0130 – C7-0066/2013 – 2013/0072(COD))

Rapporteur: Hans-Peter Mayer

SHORT JUSTIFICATION

The revision seems to be urgently called for in view of the fact that – particularly in connection with Regulation (EC) No 261/2004 – cases have repeatedly been brought before the Court of Justice of the European Union on account of a lack of legal clarity. The aim is to strike an equitable balance between the interests of passengers and airlines. However, the revision is also intended to encourage airlines to think about ways of improving the service that they provide and their general approach.

In order to simplify matters, in particular for European consumers/passengers, it is desirable not only to clarify individual parts of the legislation but also to simplify the instrument as a whole and to make it more comprehensible.

Regulation (EC) No 261/2004:

Entitlements and differentiations:

One of the key points in connection with Regulation (EC) No 261/2004 is the issue of what delays give rise to entitlements and how they should be differentiated. In his opinion, the rapporteur has been guided by the case-law of the Court of Justice in this respect. In the interests of clarity, he also proposes a system involving only two categories: flights of less and more than 3 500 km. The first category – journeys of up to 3 500 km and flights within the EU – explicitly also incorporates overseas departments of the EU. Here, a maximum compensation payment of EUR 250 per flight for a delay of at least three hours should be possible. The second category is concerned with flights of 3 500 km or longer. For these, claims of up to EUR 600 are possible in the event of a delay of at least five hours.

In order to take appropriate account of the economic situation of budget airlines, it should be possible to limit compensation to the amount of the fare. Here, however, the whole fare, including both the outward and return flights and all ancillary charges, particularly relating to additional baggage for which a booking has been made, should be taken as the relevant figure. The amounts referred to here, EUR 250 and EUR 600, should accordingly be taken as the upper limit. This is intended to avoid disproportionality.

The entitlement to compensation should, overall, cover the damage. The rapporteur therefore proposes clarifying Article 12(1), second sentence, so as to indicate that a right to compensation cannot be offset against further claims for damages. The need for this clarification follows from Case X ZR111/12 which is currently pending before the Court of Justice.

One other key point is the no-show policy. Denied boarding at the return or onward journey on the grounds that the passenger did not take the outward journey or stage of the journey shall be prohibited, because a European legislation should avoid-even for compensation of damages- the legitimation of a breach of contract.

The rapporteur also wishes to limit the waiting time in the event of a tarmac delay to two hours. In case take-off is imminent, meaning it is likely to take place within half an hour, waiting time can be prolonged beyond two hours. In those cases, pilots need to decide based on the situation. Furthermore the rapporteur wishes to provide for an entitlement to re-routing which will arise after a delay of no more than three hours. At the same time, the opinion stipulates that the assistance specified in Articles 8 and 9 must already be provided at an early stage.

The Committee believes that in the event of no-fault delays and cancellations, airlines should be required to bear the cost of a maximum of five nights at a hotel, with a ceiling of EUR 175 per night. The amount proposed by the Commission seems too small in the case of some destinations, particularly with regard to the need to spend the night near the airport because of a possible further flight.

The opinion also follows Article 12 of Directive 2013/11 on alternative dispute resolution for consumer disputes in providing that the time limit to submit complaints should be two years across the board, in order to ensure uniform conditions. Furthermore, it requires airlines to explicitly draw attention to time limits.

List of extraordinary circumstances in Annex I:

The opinion alters the order in which the circumstances which are to be regarded as binding should be listed, to place them in order of importance. It includes technical problems, but extends the list into the field of safety risks.

It also makes a distinction in the case of labour disputes between the operating air carrier on the one hand and other carriers and essential service-providers on the other. Only in the case of the latter, therefore, will extraordinary circumstances be deemed to exist.

In both lists, extraordinary circumstances and those who are not should be non-exhaustive in order to be future proof and not to cause any problems in situations where certain circumstances are not mentioned. Those lists have already been extended following decisions taken by European courts. They may be adapted but not shortened by means of delegated acts.

Complaints procedures:

There is much feedback from passengers indicating that the way in which their claims and complaints are being dealt with is not satisfactory. Often, airlines initially attempt to reject claims, sometimes citing untrue reasons. Penalties should be introduced to deal with such cases.

In order to facilitate enforcement, a legal entitlement to complete information about the reasons for a delay, cancellation or change of schedule ought in addition to be created. Otherwise the aim of better enforcing passengers' rights will not be attained.

Regulation (EC) No 2027/97:

As this is an EU Regulation, the euro should be the unit of currency. In the interests of clarity, therefore, the opinion deletes references to the Special Drawing Right (SDR) as a unit. Instead, rounded amounts, based on the current value of the SDR, are indicated.

AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Transport and Tourism, as the committee responsible, to incorporate the following amendments into its report:

Amendment 1

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) Regulation (EC) No 261/2004 also applies to passengers that have booked their air transport as part of a package travel. However, it should be clarified that passengers may not cumulate corresponding rights, in particular under both this Regulation and Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours. The passengers should be able to choose under which law they introduce their claims, but should not have the right to cumulate compensation for the same problem under both legal acts. Passengers should not be concerned about how air carriers and tour operators allocate such claims between them.

Amendment

(6) Regulation (EC) No 261/2004 also applies to passengers that have booked their air transport as part of a package travel. However, it should be clarified that passengers may not cumulate corresponding rights, in particular under both this Regulation and Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours, ***even if in principle they are entitled to assert those rights either separately or simultaneously***. The passengers should be able to choose under which law they introduce their claims, but should not have the right to cumulate compensation for the same problem under both legal acts. Passengers should not be concerned about how air carriers and tour operators allocate such claims between them.

Amendment 2

Proposal for a regulation

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) It ought to be made clear that, if a passenger does not wish to take part of his journey, he can inform the air carrier of the fact before the scheduled time of

departure and not only retrospectively, purely for the purpose of claiming the taxes to be reimbursed.

Amendment 3

Proposal for a regulation Recital 9 b (new)

Text proposed by the Commission

Amendment

(9b) Where a passenger cancels a flight, air carriers should be obliged to refund, free of charge, taxes which have already been paid.

Justification

Some air carriers make service charges - excessive in many instances - in such cases. That is improper. A tax which is not incurred must be refunded in full. Not taking a flight which has been paid for ought to be a sufficient 'penalty' in itself.

Amendment 4

Proposal for a regulation Recital 9 c (new)

Text proposed by the Commission

Amendment

(9c) If the passenger opts, in accordance with an agreement, to travel at a later time, the costs of travelling to and from the airport for the cancelled flight must be reimbursed in full. These include public transport fares, taxi fares and parking charges at the airport.

Amendment 5

Proposal for a regulation Recital 9 d (new)

Text proposed by the Commission

Amendment

(9d) Passengers must enjoy specific protection in the event of flight cancellations due to the insolvency of an air carrier or the suspension of an air carrier's 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.

Justification

Provision must be made for the protection of passengers should an air carrier cease operating, ensuring reimbursement of unused tickets or repatriation if they are stranded abroad. Air carriers are allowed a margin of discretion (funding, insurance...).

Amendment 6

Proposal for a regulation

Recital 10

Text proposed by the Commission

Amendment

(10) Airports and airport users such as air carriers **and** ground handling companies should cooperate to minimise the impact of multiple flight disruptions on passengers by ensuring their care and rerouting. To this end, they should prepare contingency plans for such occurrences and work together in the development of such plans.

(10) Airports and airport users such as air carriers, ground handling companies **and air traffic control services** should cooperate to minimise the impact of multiple flight disruptions on passengers by ensuring their care and rerouting. To this end they should prepare contingency plans for such occurrences and work together **with European, national, regional and local authorities** in the development of such plans. **Existing contingency plans should, if necessary, be adapted accordingly.**

Amendment 7

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) Regulation (EC) No 261/2004 should explicitly include the right to compensation for passengers suffering long delays, in line with the judgement of the European Court of Justice in the Joined cases C-402/07 and C-432/07 (Sturgeon). ***At the same time, the thresholds above which delays give rise to a right to compensation should be increased to take account of the financial impact on the sector and to avoid any increase in the frequency of cancellations as a consequence.*** To ensure that citizens travelling within the EU face homogenous conditions for compensation, the threshold should be the same for all travel within the Union, but it should depend upon the journey distance for travel to and from third countries to take into account the operational difficulties encountered by air carriers to deal with delays on remote airports.

Amendment

(11) Regulation (EC) No 261/2004 should explicitly include the right to compensation for passengers suffering long delays, in line with the judgement of the European Court of Justice in the Joined cases C-402/07 and C-432/07 (Sturgeon). To ensure that citizens travelling within the EU face homogenous conditions for compensation, the threshold should be the same for all travel within the Union, but it should depend upon the journey distance for travel to and from third countries to take into account the operational difficulties encountered by air carriers to deal with delays on remote airports.

Amendment 8

Proposal for a regulation
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) In order to take account of the financial impact on the air transport sector in the low-cost sector as well, it should be possible to claim compensatory payments amounting to the full price of the fare, but not exceeding the amounts referred to in this Regulation. This fare should cover the outward and homeward flights, including all ancillary charges, for example for baggage. This entitlement should apply, for the corresponding amount, for each flight delayed. Accordingly, where an outward journey and a return journey are delayed, there

should be an entitlement to two compensatory payments, each covering the total ticket price.

Amendment 9

Proposal for a regulation Recital 12

Text proposed by the Commission

(12) To ensure legal certainty, Regulation (EC) No 261/2004 should explicitly confirm that the changing of flight schedules has a similar impact on passengers to long delays and should therefore give rise to similar rights.

Amendment

(12) To ensure legal certainty, Regulation (EC) No 261/2004 should explicitly confirm that the changing of flight schedules has a similar impact on passengers to long delays **and cancellations** and should therefore give rise to similar rights.

Amendment 10

Proposal for a regulation Recital 17

Text proposed by the Commission

(17) The implementation of certain passenger rights, in particular the right to accommodation, has been shown to be out of proportion to air carriers' revenues for certain small-scale operations. Flights performed by small aircraft on short distances should therefore be exempted from the obligation to pay for accommodation, although the carrier should still help the passenger to find such accommodation.

Amendment

deleted

Justification

The article associated with this recital refers not only to small aircraft but also to distances of less than 250 km. If a passenger is stranded at an airport in the middle of the night, and has no option to travel on, immediately or otherwise, he must be provided with accommodation. It is not the consumer's fault if the aircraft is small.

Amendment 11

Proposal for a regulation Recital 18

Text proposed by the Commission

(18) For disabled persons, persons with reduced mobility and other persons with special needs such as unaccompanied children, pregnant women and persons in need of specific medical attention, it may be more difficult to arrange accommodation when flight disruptions occur. Therefore, any limitations on the right for accommodation in cases of extraordinary circumstances **or for regional operations** should **not** apply to these categories of passenger.

Amendment

(18) For disabled persons, persons with reduced mobility and other persons with special needs such as unaccompanied children, pregnant women and persons in need of specific medical attention, it may be more difficult to arrange accommodation when flight disruptions occur. Therefore, any limitations on the right for accommodation in cases of extraordinary circumstances should **on no account** apply to these categories of passenger.

Amendment 12

Proposal for a regulation Recital 20

Text proposed by the Commission

(20) Passengers should not only be correctly informed about their rights in cases of flight disruption, but they should also be adequately informed about the **cause of the disruption itself**, as soon as the information becomes available. This **information should also be provided** where the passenger has acquired the ticket through an intermediary established in the Union.

Amendment

(20) Passengers should not only be correctly informed about their rights in cases of **a delayed flight, flight cancellation, flight disruption or change of schedule**, but they should also be adequately informed about the **reasons for it**, as soon as the information becomes available. **They should have a legal entitlement to this, enforceable by means of penalties.** This **entitlement should also exist** where the passenger has acquired the ticket through an intermediary established in the Union.

Amendment 13

Proposal for a regulation Recital 20

Text proposed by the Commission

(20) Passengers should not only be correctly informed about their rights in cases of flight disruption, but they should also be adequately informed about the cause of the disruption itself, as soon as the information becomes available. This information should also be provided where the passenger has acquired the ticket through an intermediary established in the Union.

Amendment

(20) Passengers should not only be correctly informed about their rights in cases of flight disruption, but they should also be adequately informed about the cause of the disruption itself, as soon as the information becomes available. This information should also be provided where the passenger has acquired the ticket through an intermediary established in the Union. ***Passengers should also be informed as to the simplest and most rapid procedures for making claims and complaints, enabling them to exercise their rights.***

Amendment 14

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) In order to ensure a better enforcement of passenger rights, the role of the National Enforcement Bodies should be more precisely defined and clearly distinguished from the handling of individual passenger complaints.

Amendment

(21) In order to ensure a better enforcement of passenger rights, the role of the National Enforcement Bodies should be more precisely defined and clearly distinguished from the handling of individual passenger complaints. ***It should also be made clear that, in the interest of European consumers, the maximum handling time of 90 days must not be exceeded. The responsibility for dealing with individual complaints should be clearly defined, in order to avoid the situation that National Enforcement Bodies refer passengers to each other instead of swiftly dealing with the complaint.***

Amendment 15

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) Passengers should be adequately informed about the relevant procedures for submitting claims and complaints to air carriers and should receive a reply within **a reasonable time period**. Passengers should also have the option to complain about air carriers via out-of-court measures. **However**, since the right to an effective remedy before a tribunal is a fundamental right recognised in Article 47 of the Charter of Fundamental Rights of the European Union, those measures should neither prevent nor hinder passengers' access to courts.

Amendment

(22) Passengers should be adequately informed about the relevant procedures for submitting claims and complaints to air carriers and should **have their attention drawn to the time limits applicable in this connection, particularly those laid down in Article 16a(2)**. **They should** receive a reply within **two months of the lodging of the claim or complaint**. Passengers should also have the option to complain about air carriers via out-of-court measures. Since the right to an effective remedy before a tribunal is a fundamental right recognised in Article 47 of the Charter of Fundamental Rights of the European Union, those measures should neither prevent nor hinder passengers' access to courts. **In order to process claims easily, quickly and cheaply in both judicial and extrajudicial procedures, reference should be made, in particular, to the online and alternative dispute resolution procedures and to the European Small Claims Procedure.**

Amendment 16

Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) Passengers should be adequately informed about the relevant procedures for submitting claims and complaints to air carriers and should receive a reply within a reasonable time period. Passengers should also have the option to complain about air carriers via out-of-court measures. However, since the right to an effective remedy before a tribunal is a fundamental right recognised in Article 47 of the Charter of Fundamental Rights of the European Union, those measures should

Amendment

(22) Passengers should be adequately informed about the relevant procedures for submitting claims and complaints to air carriers and should receive a reply within a reasonable time period. Passengers should also have the option to complain about air carriers via out-of-court measures. **For this purpose, they must be given the addresses and contact details of all bodies responsible for completion of the relevant formalities in each country.** However, since the right to an effective remedy

neither prevent nor hinder passengers' access to courts.

before a tribunal is a fundamental right recognised in Article 47 of the Charter of Fundamental Rights of the European Union, those measures should neither prevent nor hinder passengers' access to courts.

Amendment 17

Proposal for a regulation Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) Air carriers should belong to dispute resolution systems as referred to in Directive 2013/11/EU on alternative dispute resolution.

Amendment 18

Proposal for a regulation Recital 22 b (new)

Text proposed by the Commission

Amendment

(22b) In order to ensure uniform conditions, complaints and claims further to this Regulation should be lodged within two years of the claim's arising, as calculated from the date on which the flight was booked to begin.

Amendment 19

Proposal for a regulation Recital 31

Text proposed by the Commission

Amendment

(31) Given the short deadlines for the submission of complaints for lost, damaged or delayed baggage, air carriers should give passengers the possibility to submit a complaint by providing a complaint form

(31) Given the short deadlines for the submission of complaints for lost, damaged or delayed baggage, air carriers should give passengers the possibility to submit a complaint by providing a complaint form

at the airport. This could also take the form of the common Property Irregularity Report (PIR).

in all EU official languages at the airport. This could also take the form of the common Property Irregularity Report (PIR).

Amendment 20

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) It is necessary that the monetary limits expressed in Regulation (EC) No 2027/97 should be amended in order to take into account economic developments, *as reviewed by the International Civil Aviation Organization (ICAO) in 2009 pursuant to Article 24(2) of the Montreal Convention.*

Amendment

(33) It is necessary that the monetary limits expressed in Regulation (EC) No 2027/97 should be amended *by means of implementing acts* in order to take into account economic developments.

Amendment 21

Proposal for a regulation

Recital 34 a (new)

Text proposed by the Commission

Amendment

(34a) This regulation should also apply to the Airport of Gibraltar.

Amendment 22

Proposal for a regulation

Article 1 – paragraph 1 – point -1 (new)

Regulation (EC) No 261/2004

Article 1 – paragraph 3

Present text

Amendment

3. Application of this Regulation to Gibraltar airport shall be suspended until the arrangements in the Joint Declaration

deleted

made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 enter into operation. The Governments of Spain and the United Kingdom will inform the Council of such date of entry into operation.

Justification

The Commission's proposal does not remove from the 2004 Regulation the clause suspending application to the Airport of Gibraltar. In 2006, the UK, Spain and the Government of Gibraltar reached a constructive agreement that ensured Gibraltar Airport was included in the aviation single market. Gibraltar is an EU airport and in line with the Treaties all EU aviation measures must be extended to Gibraltar.

Amendment 23

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point b

Regulation (EC) No 261/2004

Article 2 – point d

Text proposed by the Commission

Amendment

'«Organiser» means *a person within the meaning of Article 2(2) of Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours;*

'«Organiser» means *the person who, other than occasionally, organizes packages and sells or offers them for sale, whether directly or through a retailer;*

Justification

To make the provision easier to understand and improve user-friendliness, it is preferable to avoid any form of cross-reference and instead to clearly state all the relevant definitions in this Regulation.

Amendment 24

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point b

Regulation (EC) No 261/2004

Article 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) 'presentation for boarding' means registration of the passenger either by the air carrier itself or by a handling company in preparation for boarding a flight, or else by means of self-check-in by the passenger online;

Justification

Article 3(2) of the English version now refers to 'boarding', whereas the German version refers to 'Abfertigung' (presentation for boarding). This is confusing in view of the indicated 45-minute period (does it refer to checking in for the flight or to boarding the aircraft?).

Amendment 25

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point c

Regulation (EC) No 261/2004

Article 2 – point i

Text proposed by the Commission

Amendment

'«person with reduced mobility» means any person as defined in Article 2(a) of Regulation (EC) No 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air.'

"disabled person" or "person with reduced mobility" means any person whose mobility when using transport is reduced due to any physical disability (sensory or locomotory, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or age, and whose situation needs appropriate attention and the adaptation to his or her particular needs of the service made available to all passengers.'

Justification

To make the provision easier to understand and improve user-friendliness, it is preferable to avoid any form of cross-reference and instead to clearly state all the relevant definitions in this Regulation.

Amendment 26

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point d

Regulation (EC) No 261/2004

Article 2 – point l

Text proposed by the Commission

(d) The following sentence is added to the definition of "cancellation" in point (l):

'A flight where the aircraft took off but, for whatever reason, was subsequently forced to land at an airport other than the airport of destination or to return to the airport of departure, shall be considered a cancelled flight.'

Amendment

(d) The following sentence is added to the definition of "cancellation" in point (l):

'Regarding consequences for airlines and passengers, a flight where the aircraft took off but, for whatever reason, was subsequently forced to land at an airport other than the airport of destination or to return to the airport of departure, shall be considered a cancelled flight.'

Amendment 27

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point e

Regulation (EC) No 261/2004

Article 2 – point m

Text proposed by the Commission

'(m) «extraordinary circumstances» means 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. For the purposes of this Regulation, extraordinary circumstances shall include the circumstances set out in the Annex;

Amendment

'(m) «extraordinary circumstances» means 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. For the purposes of this Regulation, extraordinary circumstances shall include the circumstances set out in the *non-exhaustive list in Annex 1. The Commission shall be empowered, by means of a delegated act in accordance with Article 16d, to add circumstances to the list in Annex 1, which are to be considered as extraordinary circumstances for the purposes of this Regulation;*

Amendment 28

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point e

Regulation (EC) No 261/2004

Article 2 – point s

Text proposed by the Commission

'ticket price' means the full price paid for a ticket and including the air fare, **and** all applicable taxes, charges, surcharges and fees paid for all optional and non-optional services included in the ticket;

Amendment

"ticket price" means the full price paid for a ticket and including the air fare, all applicable taxes, charges, surcharges and fees paid for all optional and non-optional services included in the ticket **related to the air transport part of the journey.**

Justification

Clarifies that "ticket price" only refers to air transport related services (and not to services such as hotel reservations and car hire).

Amendment 29

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point e

Regulation (EC) No 261/2004

Article 2 – point w

Text proposed by the Commission

«tarmac delay» means, at departure, the time the aircraft remains on the ground between the **start** of boarding of the passengers and the take-off time of the aircraft or, at arrival, the time between the touch-down of the aircraft and the start of disembarkation of the passengers;

Amendment

«tarmac delay» means, at departure, the time the aircraft remains on the ground between the **end** of boarding of the passengers and the take-off time of the aircraft or, at arrival, the time between the touch-down of the aircraft and the start of disembarkation of the passengers;

Justification

Tarmac delay should not be included in boarding time. It should be calculated from the point at which boarding is completed.

Amendment 30

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point a

Regulation (EC) No 261/2004

Article 3 – paragraph 2 – point a

Text proposed by the Commission

(a) have a confirmed reservation on the flight concerned and, except in the case of cancellation referred to in Article 5 and in the case of change of schedule referred to in Article 6, **present** themselves for boarding,

- as stipulated and at the time indicated in advance and in writing (including by electronic means) by the air carrier, the organiser or an authorised travel agent, or, if no time is indicated,

- not later than 45 minutes before the scheduled departure time; or

Amendment

(a) have a confirmed reservation on the flight concerned and, except in the case of cancellation referred to in Article 5 and in the case of change of schedule referred to in Article 6, **have presented** themselves for boarding **and, in token thereof, been issued with the ticket,**

- as stipulated and at the time indicated in advance and in writing (including by electronic means) by the air carrier, the organiser or an authorised travel agent, or, if no time is indicated,

- not later than 45 minutes before the scheduled departure time; or

Justification

It is unclear what is meant by 'Abfertigung' (presentation for boarding). This amendment and the proposed new definition of 'presentation for boarding' are intended to make it clear that this does not refer to actual boarding.

Amendment 31

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point -a (new)

Regulation (EC) No 261/2004

Article 3 – paragraph 1 – point b

Present text

(b) to passengers departing from an airport located in a third country to an airport situated in the territory of a Member State to which the Treaty applies, unless they received benefits or compensation and were given assistance in that third country,

Amendment

(b) to passengers departing from an airport located in a third country to an airport situated in the territory of a Member State to which the Treaty applies, unless they received benefits or compensation and were given assistance in that third country,

if the operating air carrier of the flight concerned is a Community carrier.

if the operating air carrier of the flight concerned is a Community carrier ***or the flight was a return flight booked together with a corresponding flight departing from an airport in the EU by a Community carrier.***

Amendment 32

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point c

Regulation (EC) No 261/2004

Article 3 – paragraph 6

Text proposed by the Commission

'6. This Regulation shall also apply to passengers transported according to package travel contracts but shall not affect the rights of passengers under Council Directive 90/314/EEC. The passenger shall be entitled to present claims under this Regulation and under Council Directive 90/314/EEC, but may not in relation to the same facts cumulate rights under both legal acts if the rights safeguard the same interest or have the same objective. This Regulation shall not apply in cases where a package tour is cancelled or delayed for reasons other than cancellation or delay of the flight.'

Amendment

'6. This Regulation shall also apply to passengers transported according to package travel contracts but shall not affect the rights of passengers under Council Directive 90/314/EEC. The passenger shall be entitled to present claims under this Regulation and under Council Directive 90/314/EEC ***separately or simultaneously***, but may not in relation to the same facts cumulate rights under both legal acts if the rights safeguard the same interest or have the same objective. This Regulation shall not apply in cases where a package tour is cancelled or delayed for reasons other than cancellation or delay of the flight.'

Amendment 33

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point a

Regulation (EC) No 261/2004

Article 3 – paragraph 3

Text proposed by the Commission

'3. If boarding is denied to passengers against their will, the operating air carrier shall ***immediately*** compensate them in accordance with Article 7 and assist them in accordance with Article 8. Where the

Amendment

'3. If boarding is denied to passengers against their will ***on the outward or homeward flight***, the operating air carrier shall compensate them ***as soon as possible*** in accordance with Article 7 and assist

passenger opts for rerouting at the earliest opportunity pursuant to Article 8(1)(b) **and where the departure time is at least two hours after the initial departure time**, the operating carrier shall assist the passenger in accordance with Article 9.'

them in accordance with Article 8. Where the *passengers opt* for rerouting at the earliest opportunity pursuant to Article 8(1)(b), the operating carrier shall assist the passenger in accordance with Article 9.'

Justification

It should not make any difference whether or not the passenger has taken the outward flight. Nor is it acceptable that passengers should only be offered a drink after two hours' delay.

Amendment 34

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point a

Regulation (EC) No 261/2004

Article 4 – paragraph 3

Text proposed by the Commission

If boarding is denied to passengers against their will, the operating air carrier shall immediately compensate them in accordance with Article 7 and assist them in accordance with Article 8. Where the passenger opts for rerouting at the earliest opportunity pursuant to Article 8(1)(b) and where the departure time is at least two hours after the initial departure time, the operating carrier shall assist the passenger in accordance with Article 9.

Amendment

If boarding is denied to passengers against their will, the operating air carrier shall immediately **and without any further formality** compensate them in accordance with Article 7 and assist them in accordance with Article 8. Where the passenger opts for rerouting at the earliest opportunity pursuant to Article 8(1)(b) and where the departure time is at least two hours after the initial departure time, the operating carrier shall assist the passenger in accordance with Article 9.

Amendment 35

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point b

Regulation (EC) No 261/2004

Article 4 – paragraph 4

Text proposed by the Commission

4. Paragraphs 1, 2 and 3 shall also apply to return tickets where the passenger is

Amendment

4. Denying boarding at the return **or onward** journey on the grounds that the

denied boarding at the return journey on the grounds that *he/she* did not take the outward journey *or did not pay an additional charge for this purpose*.

passenger did not take the outward journey *or a stage of the journey shall be prohibited*.

Justification

Boarding may not be denied on the return or the onward journey on the grounds that a passenger did not take the outward journey or a stage of the journey. This was intended by the Rapporteur's amendment 25

Amendment 36

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point b

Regulation (EC) No 261/2004

Article 4 – paragraph 4

Text proposed by the Commission

Paragraphs 1, 2 and 3 shall also apply to return tickets where the passenger is denied boarding at the return journey on the grounds that he/she did not take the outward journey or did not pay an additional charge for this purpose.

Amendment

Paragraphs 1, 2 and 3 shall also apply to return tickets where the passenger is denied boarding at the return journey on the grounds that he/she did not take the outward journey or did not pay an additional charge for this purpose.

(This amendment concerns the Greek version only. It is intended to correct a mistake in the Greek version of the Commission proposal, which makes reference to paragraphs 1 and 2 only, and not to paragraphs 1, 2 and 3 as in the other language versions.)

Amendment 37

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point b

Regulation (EC) No 261/2004

Article 4 – paragraph 5

Text proposed by the Commission

5. Where the passenger, or an intermediary acting on behalf of the passenger, reports a spelling mistake in the name of one or

Amendment

5. Where the passenger, or an intermediary acting on behalf of the passenger, reports a spelling mistake in the name, *or an error*

several passengers included in the same contract of carriage that may lead to a denial of boarding, the air carrier shall correct this 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.

in the title, 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 this 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.'

Amendment 38

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point a

Regulation (EC) No 261/2004

Article 5 – paragraph 1 – point b

Text proposed by the Commission

'(a) be offered by the operating air carrier in the event of re-routing *when the reasonably expected time of departure of the flight is at least 2 hours after the planned departure of the cancelled flight*, the care specified in Article 9 and'

Amendment

'(a) be offered by the operating air carrier in the event of re-routing the care specified in Article 9 and'

Amendment 39

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point b

Regulation (EC) No 261/2004

Article 5 – paragraph 3

Text proposed by the Commission

An operating air carrier shall not be obliged to pay compensation in accordance with Article 7 if it can prove that the cancellation is caused by extraordinary circumstances and that the cancellation could not have been avoided even if all reasonable measures had been taken. Such extraordinary circumstances can only be invoked in so far they affect the flight concerned or the previous flight operated

Amendment

An operating air carrier shall not be obliged to pay compensation in accordance with Article 7 if it can prove that the cancellation is caused by extraordinary circumstances and that the cancellation could not have been avoided even if all reasonable measures had been taken. Such extraordinary circumstances can only be invoked in so far they affect the flight concerned or the previous flight operated

by the same aircraft.

by the same aircraft. *Where the air carrier does not produce such evidence in writing, in view of a passenger's claim, the compensation remains due.*

Amendment 40

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point c

Regulation (EC) No 261/2004

Article 5 – paragraph 5

Text proposed by the Commission

'5. At airports whose annual traffic has been not less than three million passengers for at least three consecutive years, the airport managing body shall ensure that the operations of the airport and of airport users, in particular the air carriers and the suppliers of ground handling services, are coordinated through a proper contingency plan in view of possible situations of multiple cancellations and/or delays of flights leading to a considerable number of passengers stranded at the airport, including in cases of airline insolvency or revocation of the operating licence. The contingency plan shall be set up to ensure adequate information and assistance to the stranded passengers. The managing body of the airport shall communicate the contingency plan and any amendments to it to the National Enforcement Body designated pursuant to Article 16. At airports below the above-mentioned threshold, the airport management body shall make all reasonable efforts to coordinate airport users and to assist and inform stranded passengers in such situations.

Amendment

'5. At **Union** airports whose annual traffic has been not less than three million passengers for at least three consecutive years, the airport managing body shall ensure that the operations of the airport and of airport users, in particular the air carriers and the suppliers of ground handling services, are coordinated through a proper contingency plan in view of possible situations of multiple cancellations and/or delays of flights leading to a considerable number of passengers stranded at the airport, including in cases of airline insolvency or revocation of the operating licence. The contingency plan shall be set up to ensure adequate information and assistance to the stranded passengers. The managing body of the airport shall communicate the contingency plan and any amendments to it to the National Enforcement Body designated pursuant to Article 16. At airports below the above-mentioned threshold, the airport management body shall make all reasonable efforts to coordinate airport users and to assist and inform stranded passengers in such situations.

Amendment 41

Proposal for a regulation

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Article 1 – paragraph 1 – point 4 – point c a (new)
Regulation (EC) No 261/2004
Article 5 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

*(ca) The following paragraph 5a is added:
'5a. In the event of cancellation of a flight due to the insolvency of an air carrier or suspension of operations of an air carrier, passengers shall have the right to reimbursement or a return flight to the point of departure in accordance with point (a) of Article 8(1) and the right to care as specified in Article 9. Air carriers shall provide sufficient evidence of security for the costs of reimbursement and repatriation.'*

Justification

In the event of cancellation because of insolvency, or for any other reason, passengers must be safeguarded. That also includes instances where an operating licence is revoked.

Amendment 42

Proposal for a regulation
Article 1 – paragraph 1 – point 5
Regulation (EC) No 261/2004
Article 6 – title

Text proposed by the Commission

Amendment

Long delay

Delay

Amendment 43

Proposal for a regulation
Article 1 – paragraph 1 – point 5
Regulation (EC) No 261/2004
Article 6 – paragraph 1 – point i

Text proposed by the Commission

Amendment

(i) when the delay is of at least two hours,
the assistance specified in Article 9(1)(a)

(i) the assistance specified in Article

and 9(2); and

9(1)(a) and 9(2); and

Justification

It cannot be right that a passenger should have to wait for two hours before receiving a glass of water.

Amendment 44

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 261/2004

Article 6 – paragraph 1 - point ii

Text proposed by the Commission

Amendment

(ii) when the delay is of at least **five hours and includes one or several nights**, the assistance specified in **Article 9(1)(b) and 9(1)(c); and**

(ii) when the delay is of at least **three hours**, the assistance specified in **Article 8(1)**.

Justification

The sequence in which points (ii) and (iii) appear should be reversed.

Amendment 45

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 261/2004

Article 6 – paragraph 1 – point iii

Text proposed by the Commission

Amendment

(iii) when the delay is of at least **five hours**, the assistance specified in **Article 8(1)(a)**.

(iii) when the delay is of at least **three hours and includes one or more nights**, the assistance specified in **Article 9(1)(b) and 9(1)(c); and**

Justification

The sequence in which points (ii) and (iii) appear should be reversed.

Amendment 46

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 261/2004

Article 6 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) **five hours** or more after the scheduled time of arrival for all **intra-Community** journeys and for journeys to/from third countries of 3500 kilometres or less;

(a) **three hours** or more after the scheduled time of arrival for all journeys **within the Union, including overseas departments of the Member States**, and for journeys to/from third countries of 3500 kilometres or less;

Justification

The maximum time should be based on existing case-law. This provision should also apply to overseas departments forming part of the EU.

Amendment 47

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 261/2004

Article 6 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) **nine hours** or more after the scheduled time of arrival for journeys to/from third countries **between 3500 and 6000 kilometres**;

(b) **five hours** or more after the scheduled time of arrival for journeys to/from third countries **of more than 3 500 kilometres**;

Amendment 48

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 261/2004

Article 6 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) **twelve hours or more after the scheduled time of arrival for journeys**

deleted

to/from third countries of 6000 kilometres or more.

Justification

There should be a maximum of two different categories.

Amendment 49

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 261/2004

Article 6 – paragraph 3

Text proposed by the Commission

3. Paragraph 2 shall also apply where the operating air carrier has modified the scheduled times of departure and arrival causing a delay compared to the time of arrival of the original schedule, unless the passenger was informed of the schedule change more than fifteen days in advance of the originally scheduled time of departure.

Amendment

3. Paragraph 2 shall also apply where the operating air carrier has modified the scheduled times of departure and arrival causing a delay *or earlier departure* compared to the time of arrival of the original schedule, unless the passenger was informed of the schedule change more than fifteen days in advance of the originally scheduled time of departure.

Justification

Bringing forward the time of departure is also relevant, because unless the new departure time is communicated soon enough, passengers might miss the flight.

Amendment 50

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 261/2004

Article 6 – paragraph 4

Text proposed by the Commission

4. An operating air carrier shall not be obliged to pay compensation in accordance with Article 7, if it can prove that the delay or change of schedule is caused by extraordinary circumstances and that the delay or change of schedule could not have

Amendment

4. An operating air carrier shall not be obliged to pay compensation in accordance with Article 7, if it can prove *in writing* that the delay or change of schedule is caused by extraordinary circumstances and that the delay or change of schedule could

been avoided even if all reasonable measures had been taken. Such extraordinary circumstances can only be invoked insofar they affect the flight concerned or the previous flight operated by the same aircraft.

not have been avoided even if all reasonable measures had been taken. Such extraordinary circumstances can only be invoked insofar they affect the flight concerned or the previous flight operated by the same aircraft. ***Passengers shall have a right, enforceable by penalties, to adequate information about these extraordinary circumstances.***

Amendment 51

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 261/2004

Article 6 – paragraph 5

Text proposed by the Commission

5. Subject to safety constraints, where a tarmac delay ***exceeds one hour***, the operating air carrier shall provide free of charge access to toilet facilities and drinking water, shall ensure adequate heating or cooling of the passenger cabin, and shall ensure that adequate medical attention is available if needed. Where a tarmac delay reaches a maximum of ***five hours***, the aircraft shall return to the gate or another suitable disembarkation point where passengers shall be allowed to disembark and to benefit from the same assistance as specified in paragraph 1, unless there are safety-related or security-related reasons why the aircraft cannot leave its position on the tarmac.

Amendment

5. Subject to safety constraints, where a tarmac delay ***occurs***, the operating air carrier shall provide free of charge access to toilet facilities and drinking water, shall ensure adequate heating or cooling of the passenger cabin, and shall ensure that adequate medical attention is available if needed. Where a tarmac delay reaches a maximum of ***two hours***, the aircraft shall return to the gate or another suitable disembarkation point where passengers shall be allowed to disembark and to benefit from the same assistance as specified in paragraph 1, unless there are safety-related or security-related reasons why the aircraft cannot leave its position on the tarmac, ***or unless take-off is imminent, meaning it is likely to take place within half an hour.***

Justification

It is not apparent why passengers should have to remain on board on aircraft for up to five hours when they could also wait in the airport's transit zone.

Amendment 52

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 261/2004

Article 6 a – paragraph 1

Text proposed by the Commission

Where a passenger misses a connecting flight as a result of a delay or change of schedule to a preceding flight, the Community air carrier **operating the onward connecting flight** shall offer the passenger:

Amendment

Where a passenger misses a connecting flight as a result of a delay or change of schedule to a preceding flight, the Community air carrier **responsible for the delay** shall offer the passenger:

Amendment 53

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 261/2004

Article 6a – paragraph 1 – introductory phrase

Text proposed by the Commission

1. Where a passenger misses a connecting flight as a result of a delay or change of schedule to a preceding flight, the Community air carrier operating the onward connecting flight shall offer the passenger:

Amendment

1. Where a passenger misses a connecting flight as a result of a delay, **cancellation** or change of schedule to a preceding flight, the Community air carrier operating the onward connecting flight shall offer the passenger:

Amendment 54

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 261/2004

Article 6a – paragraph 1 – point i

Text proposed by the Commission

(i) the assistance specified in Article 9(1)(a) and 9(2) **if the passenger's waiting time for the connection is prolonged by at least two hours**; and

Amendment

(i) the assistance specified in Article 9(1)(a) and 9(2); and

Justification

It cannot be right that a passenger should have to wait for two hours before receiving a glass of water.

Amendment 55

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 261/2004

Article 6a – paragraph 1 – point iii

Text proposed by the Commission

(iii) when the scheduled time of departure of the alternative flight or other transport offered under Article 8 is at least **5 hours** after the scheduled time of departure of the flight missed and the delay includes one or several nights, the assistance specified in Article 9(1)(b) and 9(1)(c).

Amendment

(iii) when the scheduled time of departure of the alternative flight or other transport offered under Article 8 is at least **3 hours** after the scheduled time of departure of the flight missed and the delay includes one or several nights, the assistance specified in Article 9(1)(b) and 9(1)(c).

Amendment 56

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 261/2004

Article 6a – paragraph 2

Text proposed by the Commission

2. Where a passenger misses a connecting flight as a result of a delay **to** a preceding connecting flight, the passenger shall have a right to compensation by the Community air carrier operating that preceding flight in accordance with Article 6(2). For these purposes, the delay shall be calculated by reference to the scheduled time of arrival at the final destination.

Amendment

2. Where a passenger misses a connecting flight as a result of a delay, **cancellation or change of schedule affecting** a preceding connecting flight, the passenger shall have a right to compensation by the Community air carrier operating that preceding flight in accordance with Article 6(2). For these purposes, the delay shall be calculated by reference to the scheduled time of arrival at the final destination.

Amendment 57

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point -a (new)

Regulation (EC) No 261/2004

Article 7 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

(-a) In paragraph 1, the introductory phrase is replaced by the following:

'Where reference is made to this Article, passengers shall, for every delayed flight, receive compensation payments amounting to the full ticket price, but not exceeding the following amounts:'

Justification

The amounts are too high for low-cost airlines. When a ticket cost only EUR 49, it would be uneconomic to pay compensation of EUR 250. It should therefore be possible to limit the claim to the ticket price and treat the amounts specified as the permitted maximum. The amount in question may, however, be paid twice over if the outward and return flights are both delayed.

Amendment 58

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point a

Regulation (EC) No 261/2004

Article 7 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) In Paragraph 1, ***the word "flights"*** is replaced by ***"journeys"***.

(a) In Paragraph 1, ***point (a)*** is replaced by ***the following:***

'(a) EUR 250 for all journeys within the EU, including the overseas departments, and journeys of 3 500 km or less to or from third countries,'

Amendment 59

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point a (new)

Regulation (EC) No 261/2004
Article 7 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(aa) In paragraph 1, point (b) is replaced by the following:

'(b) EUR 600 for all journeys of more than 3 500 km to/from third countries'

Amendment 60

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point a b (new)

Regulation (EC) No 261/2004

Article 7 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(ab) In paragraph 1, point (c) shall be deleted.

Amendment 61

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point b

Regulation (EC) No 261/2004

Article 7 – paragraph 2

Text proposed by the Commission

Amendment

'2. Where the passenger has opted for the continuation of his travel pursuant to Article 8(1)(b), the right to compensation can arise only once during his travel to the ***final*** destination, even if a new cancellation or missed connection should arise during rerouting.

'2. Where the passenger has opted for the continuation of his travel pursuant to Article 8(1)(b), the right to compensation can arise only once during his travel to the ***ultimate*** destination, even if a new cancellation or missed connection should arise during rerouting.

Justification

'Final destination' might possibly also refer to an intermediate destination. 'Ultimate destination' is a clearer concept.

Amendment 62

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point b

Regulation (EC) No 261/2004

Article 7 – paragraph 5

Text proposed by the Commission

5. The air carrier may reach a voluntary agreement with the passenger that replaces the compensation provisions set out in paragraph 1, provided that this agreement is confirmed by a document signed by the passenger which reminds the passenger of his rights to compensation under this Regulation.

Amendment

5. The air carrier may reach a voluntary agreement with the passenger that replaces the compensation provisions set out in paragraph 1, provided that this agreement is confirmed by a document signed by the passenger which reminds the passenger of his rights to compensation under this Regulation. ***Such an agreement may only be concluded after the events giving rise to the entitlement have occurred.***

Justification

Otherwise it would be possible to expect passengers to sign such a document in advance, when booking their flight.

Amendment 63

Proposal for a regulation

Article 1 – paragraph 1 – point 8

Regulation (EC) No 261/2004

Article 8 – paragraph 1 – point a – indent 1

Text proposed by the Commission

(a) reimbursement within seven days of the passenger's request, by the means provided for in Article 7(3), of the flight price, for the part or parts of the journey not made, and for the part or parts already made if the flight is no longer serving any purpose in relation to the passenger's original travel plan, together with, when relevant,

Amendment

(a) reimbursement within seven days of the passenger's request, by the means provided for in Article 7(3), of the flight price, for the part or parts of the journey not made, and for the part or parts already made if the flight is no longer serving any purpose in relation to the passenger's original travel plan, together with, when relevant, ***if the passenger so wishes,***

Amendment 64

Proposal for a regulation

Article 1 – paragraph 1 – point 8

Regulation (EC) No 261/2004

Article 8 – paragraph 1 – point a – indent 2

Text proposed by the Commission

a return flight to the first point of departure, at the earliest opportunity;

Amendment

a return flight to the first point of departure, at the earliest opportunity, ***to be arranged by the air carrier responsible;***

Justification

The air carrier responsible must organise such a flight: this is not the responsibility of the passenger.

Amendment 65

Proposal for a regulation

Article 1 – paragraph 1 – point 8

Regulation (EC) No 261/2004

Article 8 – paragraph 5

Text proposed by the Commission

5. Where passengers choose the option referred to in paragraph 1(b), they shall, subject to availability, have the right to re-routing 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 **12 hours** of the scheduled arrival time. Notwithstanding Article 22(1) of Regulation (EC) No 1008/2008, the other air carrier or other transport operator shall not charge the contracting carrier a price that goes beyond the average price paid by its own passengers for equivalent services in the last three months.

Amendment

5. Where passengers choose the option referred to in paragraph 1(b), they shall, subject to availability, have the right to re-routing 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 **three hours** of the scheduled arrival time. Notwithstanding Article 22(1) of Regulation (EC) No 1008/2008, the other air carrier or other transport operator shall not charge the contracting carrier a price that goes beyond the average price paid by its own passengers for equivalent services in the last three months.

Amendment 66

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point a (new)

Regulation (EC) No 261/2004

Article 9 – paragraph 2

Text proposed by the Commission

Amendment

(aa) Paragraph 2 is replaced by the following:

2. In addition, passengers shall be offered free of charge two telephone calls or fax messages or e-mails.

Justification

This is a revised version of the original Article 9(2), which was not included in the revised proposal and which still referred to 'telexes'. They are out of date and therefore no longer relevant.

Amendment 67

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point b

Regulation (EC) No 261/2004

Article 9 – paragraph 4

Text proposed by the Commission

Amendment

'4. 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, it may limit the total cost of accommodation provided according to paragraph 1(b) to **EUR 100** per night and per passenger and to a maximum of **3** nights. If the operating air carrier chooses to apply this limitation, it shall nevertheless provide the passengers with information about available accommodation after the **three nights**, in addition to the continued obligations for

'4. 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, it may limit the total cost of accommodation provided according to paragraph 1(b) to **EUR 175** per night and per passenger and to a maximum of **five** nights. 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 specified in Article 14.

information specified in Article 14.

Amendment 68

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point b

Regulation (EC) No 261/2004

Article 9 – paragraph 5

Text proposed by the Commission

Amendment

5. The obligation to offer accommodation under paragraph 1(b) shall not apply where the flight concerned is of 250 km or less and scheduled to be operated by an aircraft with a maximum capacity of 80 seats or less, except where the flight is a connecting flight. If the operating air carrier chooses to apply this exemption, it shall nevertheless provide the passengers with information about available accommodation. *deleted*

Justification

It is not apparent why the distance or the size of the aircraft should be regarded as relevant here. Passengers have no influence over the size of the aircraft. Even a short flight may end at night. This does not mean that a passenger should have to spend the night on a bench.

Amendment 69

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point b

Regulation (EC) No 261/2004

Article 9 – paragraph 6

Text proposed by the Commission

Amendment

6. Where a passenger opts for reimbursement pursuant to Article 8(1)(a) **while being at the departure airport of his journey**, or opts for rerouting at a later date pursuant to Article 8(1)(c), the passenger shall have no further rights with regard to care under Article 9(1) in relation to the relevant flight.

6. Where a passenger opts for reimbursement pursuant to Article 8(1)(a), or opts for rerouting at a later date pursuant to Article 8(1)(c), the passenger shall have no further rights with regard to care under Article 9(1) in relation to the relevant flight. **Where the passenger demonstrably incurs costs as a result of this decision in**

travelling to and from the airport, the passenger shall receive a full reimbursement thereof in the case of such travel to the airport in relation to the journey not taken.

Justification

These include costs of journeys to and from the airport by bus, rail or taxi and parking charges at the airport, as these can be demonstrated.

Amendment 70

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point b

Regulation (EC) No 261/2004

Article 9 – paragraph 7 (new)

Text proposed by the Commission

Amendment

7. An air carrier may interrupt or cancel the care only if offering and providing it would clearly further delay departure.

Amendment 71

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 261/2004

Article 11 – paragraph 3

Text proposed by the Commission

Amendment

'3. The operating air carrier shall not apply the limitations set out in Articles 9(4) and 9(5) if the passenger is a person with reduced mobility or any person accompanying him/her, an unaccompanied child, a pregnant woman or a person in need of specific medical assistance, ***on condition the air carrier or its agent or the organiser has been notified of their particular needs for assistance at least 48 hours before the scheduled time of departure of the flight, Such notification shall be deemed to cover the entire***

'3. The operating air carrier shall not apply the limitations set out in Articles 9(4) and 9(5) if the passenger is a person with reduced mobility or any person accompanying him/her, an unaccompanied child, a pregnant woman or a person in need of specific medical assistance.'

journey and the return journey if both journeys have been contracted with the same air carrier.'

Justification

Notification should not be of any significance, as such persons should always receive special protection.

Amendment 72

Proposal for a regulation

Article 1 – paragraph 1 – point 11 a (new)

Regulation (EC) No 261/2004

Article 12 – paragraph 2

Text proposed by the Commission

Amendment

Article 12 paragraph 2 is amended as follows:

'This Regulation shall apply irrespective of any further claim to compensation by the passenger. The compensation provided pursuant to this Regulation must not be offset against such a compensation claim.'

Justification

There was scope for various interpretations of the original provisions, and this state of affairs should be remedied. A case relating to this subject is currently pending before the Court of Justice (ref. X ZR/111/12).

Amendment 73

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 261/2004

Article 13

Text proposed by the Commission

Amendment

In cases where an operating air carrier pays compensation or meets the other obligations incumbent on it under this Regulation, no provision of this Regulation

In cases where an operating air carrier pays compensation or meets the other obligations incumbent on it under this Regulation, no provision of this Regulation

or of national law may be interpreted as restricting its right to *seek* compensation for the costs incurred under this Regulation from any third parties which contributed to the event triggering compensation or other obligations.'

or of national law *or general contract terms* may be interpreted as restricting its right to *receive* compensation for the costs incurred under this Regulation from any third parties which contributed to the event triggering compensation or other obligations.'

Amendment 74

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 261/2004

Article 14 – paragraph -1 (new)

Text proposed by the Commission

Amendment

The following is inserted before paragraph 1:

'-1. Air carriers shall ensure that contact personnel or third parties appointed to act as agents of the air carrier concerned are available at every airport where they operate in order to provide passengers with the necessary information about their rights, including complaint procedures, to assist them, and to take immediate action if flights have been disrupted or baggage has been lost or delayed.'

Amendment 75

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 261/2004

Article 14 – paragraph 2

Text proposed by the Commission

Amendment

2. An operating air carrier denying boarding or cancelling a flight shall provide each passenger affected with a written notice setting out the rules for

2. An operating air carrier denying boarding or cancelling a flight shall *immediately* provide each passenger affected with a written notice setting out

compensation and assistance in line with this Regulation, including information on possible limitations pursuant to Articles 9(4) and 9(5). It shall also provide each passenger affected by a delay or a change of schedule of at least two hours with an equivalent notice. The contact details of the competent complaint handling bodies designated under Article 16a shall also be given to the passenger in written form.

the rules for compensation and assistance in line with this Regulation, including information on possible limitations pursuant to Articles 9(4) and 9(5), **together with an explicit reference to the time limit laid down in Article 16a(2) for claiming the entitlement.** It shall also provide each passenger affected by a delay or a change of schedule of at least two hours with an equivalent notice. The contact details of the competent complaint handling bodies designated under Article 16a **and of the National Enforcement Bodies (NEB)** shall also be given to the passenger in written form.

Amendment 76

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 261/2004

Article 14 – paragraph 5

Text proposed by the Commission

5. In the event of cancellation or delay in departure, passengers shall be informed by the operating air carrier of the situation as soon as possible and in any event no later than **30 minutes after** the scheduled departure time, and of the estimated departure time as soon as this information is available, **provided the air carrier has received the passenger's contact details in accordance with paragraphs 6 and 7 in case the ticket was acquired via an intermediary.**

Amendment

5. In the event of cancellation or delay in departure, passengers shall be informed by the operating air carrier of the situation as soon as possible and in any event no later than the scheduled departure time, and of the estimated departure time as soon as this information is available.

Justification

If passengers are informed only 30 minutes after the scheduled departure time, they will already have been waiting at the gate for an hour (boarding time) without knowing what is happening. The information must be given beforehand. Passengers must be informed on the spot, not by means of the contact details. Not every passenger supplies these details: there is no requirement to do so. Moreover, some passengers will already have switched off their mobile phones, possibly because boarding was beginning.

Amendment 77

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 261/2004

Article 14 – paragraph 6

Text proposed by the Commission

6. Where the passenger does not acquire a ticket directly from the operating air carrier, but via an intermediary established within the Union, this intermediary shall provide the passenger's contact details to the air carrier, on condition that the passenger has given his explicit and written authorisation. This authorisation may only be given on an 'opt-in' basis. The air carrier may use these contact details exclusively for the purpose of fulfilling the information obligation under this *Article* and not for marketing purposes and shall delete the contact details within **72 hours** after the completion of the contract of carriage. The processing, access and storage of these data shall be undertaken in accordance with Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

Amendment

6. Where the passenger does not acquire a ticket directly from the operating air carrier, but via an intermediary established within the Union, this intermediary shall provide the passenger's contact details to the air carrier, on condition that the passenger has given his explicit and written authorisation. This authorisation may only be given on an 'opt-in' basis. The air carrier may use those contact details exclusively for the purpose of fulfilling the information obligation under this *Regulation* and not for marketing purposes, and shall delete the contact details within **7 days** after completion of the contract of carriage. The processing, access and storage of these data shall be undertaken in accordance with Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

Amendment 78

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16a – paragraph 1

Text proposed by the Commission

1. At the time of reservation, air carriers shall provide information to passengers on their claim and complaint handling processes in relation to the rights set out in this Regulation and on the relevant contact addresses, to which passengers can submit

Amendment

1. At the time of reservation, air carriers shall provide information to passengers on their claim and complaint handling processes in relation to the rights set out in this Regulation and on the relevant contact addresses, to which passengers can submit

claims and complaints, including via electronic means of transmission. The air carrier shall also inform passengers of the body or bodies competent for handling passenger complaints.

claims and complaints, including via electronic means of transmission. The air carrier shall also inform passengers of the body or bodies competent for handling passenger complaints **and the time limit laid down in Article 16a(2) for claiming an entitlement.**

Amendment 79

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16 a – paragraph 2

Text proposed by the Commission

If a passenger wants to make a complaint to the air carrier **with regard** to his rights **under** this Regulation, he shall **submit it** within **3** months from the date on which the flight was performed or was scheduled to **be performed**. Within 7 days of receiving the complaint, the carrier shall confirm **the receipt of the complaint** to the passenger. Within two months of receiving the complaint, the carrier shall provide a full answer to the passenger.

Amendment

If a passenger wants to **lodge a claim with, or** make a complaint to, the air carrier **in connection with the rights laid down in** this Regulation, he shall **do so in writing or in electronic form** within **6** months from the date on which the flight was scheduled to **begin**. **Where one of the cases referred to in Articles 4, 5 and 6 has occurred, the carrier shall, without undue delay, inform passengers of the address for complaints and of the fact that complaints must be submitted in writing within six months.** Within 7 days of receiving **the claim or** the complaint, the carrier shall confirm **its** receipt to the passenger. Within two months of receiving the complaint, the carrier shall **be required to** provide a full answer to the passenger.

Amendment 80

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 6a – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. A civil-law claim shall lapse through passage of time if it is not lodged before the court within two years of its origination. Member States shall ensure that parties who opt to resolve a dispute by means of procedures before National Enforcement Bodies or Alternative Dispute Resolution bodies as referred to in Directive 2013/11/EU of 21 May 2013, whose outcome is not binding, are not subsequently prevented from bringing legal proceedings in relation to the same dispute due to expiry of the time limit during such a procedure. This shall be without prejudice to provisions on limitation or prescription contained in international agreements to which Member States are party.

Justification

To ensure uniform conditions and simplify matters for consumers, uniform rules should apply with regard to this subject. The substance of the paragraph is identical to that of the recently adopted Directive on Alternative Dispute Resolution.

Amendment 81

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16a - paragraph 3

Text proposed by the Commission

Amendment

3. In accordance with relevant EU and national law, each Member State shall designate a national body or bodies responsible for the out-of-court resolution of disputes between air carriers and passengers with regard to the rights covered by this Regulation.

3. In accordance with relevant EU and national law, each Member State shall designate a national body or bodies responsible for the out-of-court resolution of disputes between air carriers and passengers (***claim***) with regard to the rights covered by this Regulation.

Amendment 82

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16 a – paragraph 5

Text proposed by the Commission

Within 7 days of receiving **the complaint**, **the designated body shall confirm receipt of the complaint and shall** send a copy to the appropriate National Enforcement Body. The time taken to provide the final reply to the complainant shall not be longer than **three months** from the receipt of the complaint. A copy of the final reply shall also be provided to the National Enforcement Body.

Amendment

The designated body shall be required to confirm receipt of the complaint within 7 days of receiving **it** and **to** send a copy to the appropriate National Enforcement Body. The time taken to provide the final reply to the complainant shall not be longer than **90 days** from the receipt of the complaint. A copy of the final reply shall also be provided to the National Enforcement Body.

Justification

This would make for an arrangement modelled on Directive 2013/11/EU on alternative dispute resolution, which admittedly allows the 90-day time-frame to be extended, but only in highly complex exceptional cases, that is to say, those posing extreme technical difficulties and hence requiring complicated calculations – as do life assurance disputes, for example – or expert opinion. Neither of those needs will arise here.

Amendment 83

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16a – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. The passenger's right to bring a case before the civil courts shall be unaffected by the aforementioned National Enforcement Bodies.

Amendment 84

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Text proposed by the Commission

4. At the request of a Member State, or on its own initiative, the Commission shall examine cases where differences in the application and enforcement of any of the provisions of this Regulation arise and particularly concerning the interpretation of extraordinary circumstances; and shall clarify the provisions of the Regulation, with a view to promoting a common approach. To this end, the Commission may adopt a recommendation after consultation of the Committee referred to in Article 16c.

Amendment

4. At the request of a Member State, or on its own initiative, the Commission shall examine cases where differences in the application and enforcement of any of the provisions of this Regulation arise and particularly concerning the interpretation of extraordinary circumstances; and shall clarify the provisions of the Regulation **by means of a delegated act to supplement Annex I appropriately**, with a view to promoting a common approach. To this end, the Commission may adopt a recommendation after consultation of the Committee referred to in Article 16c.

Justification

Here the procedure must involve a delegated act. The list is in any case not exhaustive. The consequences for consumers/passengers are considerable.

Amendment 85

Proposal for a regulation

Article 1 – paragraph 1 – point 15 a (new)

Regulation (EC) No 261/2004

Article 16d (new)

Text proposed by the Commission

Amendment

'Article 16d

Exercise of the delegation of powers

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.***
- 2. The delegation of power referred to in Article 2(m) shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.***
- 3. The delegation of power referred to in***

Article 2(m) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 2(m) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.'

Amendment 86

Proposal for a regulation

Article 2 – paragraph 1 – point 1

Regulation (EC) No 2027/97

Article 3 – paragraph 2

Text proposed by the Commission

'2. The Community air carrier shall provide a complaint form at the airport which allows the passenger to immediately submit such a complaint about damaged or delayed baggage. Such a complaint form, which may take the form of a Property Irregularity Report (PIR), shall be accepted by the air carrier at the airport as a

Amendment

'2. The Community air carrier shall provide a complaint form at the airport ***in all EU official languages*** which allows the passenger to immediately submit such a complaint about damaged or delayed baggage. Such a complaint form, which may take the form of a Property Irregularity Report (PIR), shall be accepted

complaint pursuant to Article 31(2) of the Montreal Convention. This possibility shall not affect the right of the passenger to submit a complaint via other means within the deadlines given by the Montreal Convention.'

by the air carrier at the airport as a complaint pursuant to Article 31(2) of the Montreal Convention. This possibility shall not affect the right of the passenger to submit a complaint via other means within the deadlines given by the Montreal Convention.'

Amendment 87

Proposal for a regulation

Article 2 – paragraph 1 – point 2

Regulation (EC) No 2027/97

Article 5 – paragraph 2

Text proposed by the Commission

'2. Without prejudice to paragraph 1, an advance payment shall not be less than ***the equivalent in euro of 18 096 SDRs*** per passenger in the event of death. 'The Commission shall be empowered, by means of a delegated act in accordance with Article 6c, to adjust this amount in light of a decision by the International Civil Aviation Organisation pursuant to Article 24(2) of the Montreal Convention. Any adjustment in the before mentioned amount shall also modify the corresponding amount in the Annex.'

Amendment

'2. Without prejudice to paragraph 1, an advance payment shall not be less than ***EUR20 000*** per passenger in the event of death. 'The Commission shall be empowered, by means of a delegated act in accordance with Article 6c, to adjust this amount in light of a decision by the International Civil Aviation Organisation pursuant to Article 24(2) of the Montreal Convention. Any adjustment in the before mentioned amount shall also modify the corresponding amount in the Annex.'

Amendment 88

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 261/2004

Article 6d – paragraph 1

Text proposed by the Commission

1. ***Whilst*** air carriers ***have full commercial freedom to establish the conditions under which they permit baggage to be carried,*** ***they*** shall clearly indicate, at booking and at the check-in desks (including at self-service check-in machines), the maximum

Amendment

1. ***Air*** carriers shall clearly indicate, at ***the beginning of every*** booking ***process*** and at the check-in desks (including at self-service check-in machines), the maximum baggage allowance passengers are permitted to carry within the cabin and

baggage allowance passengers are permitted to carry within the cabin and hold of the aircraft on each of the flights included within a passenger's reservation, including any restrictions on the number of items that would be applied within a given maximum baggage allowance. Where additional charges are applied for the carriage of baggage air carriers shall clearly indicate details of those charges at booking and on request at the airport.

hold of the aircraft on each of the flights included within a passenger's reservation, including any restrictions on the number of items that would be applied within a given maximum baggage allowance. Where additional charges are applied for the carriage of baggage air carriers shall clearly indicate details of those charges at ***the beginning of every booking process*** and at the airport.

Additional charges must be communicated clearly and transparently, and it must be possible for them to be paid in conjunction with the actual reservation of the journey, irrespective of the manner in which that reservation is made. This obligation shall also apply to operators offering flights on behalf of air carriers. Additional charges are part of the overall fare.

This paragraph is without prejudice to the rights set out in Article 8(2) and Article 22 of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights.

Justification

In line with the requirement already introduced by Regulation 1008/2008, this once again stresses the requirement of price transparency at the beginning of the booking process.

Amendment 89

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 2027/97

Article 6d – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The size of an item of hand baggage shall be at least 55 cm x 40 cm x 20 cm, and it may weigh at least 6 kg.

Justification

The values indicated are the smallest values implemented by air carriers currently operating. These minimum values are intended to make it impossible, in future, to introduce additional charges for hand baggage above a minimum size.

Amendment 90

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 2027/97

Article 6d – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. If hand baggage is moved from the aircraft to the hold before boarding or take-off, it must be returned to passengers upon their leaving the aircraft, as hand baggage.

Amendment 91

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 2027/97

Article 6d – paragraph 3 a (new)

Text proposed by the Commission

Amendment

The following paragraph 1a is inserted in Article 6d:

'3a. In addition to the prescribed maximum cabin baggage allowance, passengers shall be allowed to carry in the cabin essential personal items or belongings, including airport shopping, up to 5kg and at no extra cost. The air carrier may have the above items carried in the hold of the aircraft in case exceptional conditions related to safety reasons and the specific characteristics of the aircraft preclude transportation in cabin. No additional charges will apply in these cases.'

Justification

For prescribing the maximum cabin baggage allowance, a minimum standard in terms of volume and weight should be set in order to create minimal clarity for air passengers (cf. AM 73 by the Rapporteur); for personal items or belongings, a maximum in terms of weight should however be set.

Amendment 92

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 2027/97

Article 6e – paragraph 1

Text proposed by the Commission

1. A Community air carrier **shall** permit a passenger to carry a musical instrument in the passenger cabin of an aircraft subject to applicable safety rules and the technical specifications and constraints of the aircraft concerned. Musical instruments shall be accepted for carriage within an aircraft cabin provided such instruments can be stowed safely in a suitable baggage compartment within the cabin or under an appropriate passenger seat. An air carrier may determine that a musical instrument shall form part of a passenger's hand luggage allowance and not be carried in addition to that allowance.

Amendment

1. A Community air carrier **may** permit a passenger to carry a musical instrument in the passenger cabin of an aircraft subject to applicable safety rules and the technical specifications and constraints of the aircraft concerned. Musical instruments shall be accepted for carriage within an aircraft cabin provided such instruments can be stowed safely in a suitable baggage compartment within the cabin or under an appropriate passenger seat. An air carrier may determine that a musical instrument shall form part of a passenger's hand luggage allowance and not be carried in addition to that allowance.

Amendment 93

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 2027/97

Article 6e – paragraph 2

Text proposed by the Commission

2. Where a musical instrument is too large to be stowed safely in a suitable baggage compartment within the cabin or under an appropriate passenger seat, an air carrier may request the payment of a second fare

Amendment

2. Where a musical instrument is too large to be stowed safely in a suitable baggage compartment within the cabin or under an appropriate passenger seat, an air carrier may request the payment of a second fare,

where such musical instruments are carried as hand luggage on a second seat. Where a second seat is purchased an air carrier should make reasonable efforts to seat the passenger and the musical instrument concerned together. Where available and if requested, musical instruments shall be carried in a heated part of an aircraft cargo hold subject to applicable safety rules, space constraints and the technical specifications of the aircraft concerned. An air carrier shall clearly indicate in its terms and conditions the basis on upon which musical instruments will be transported and the applicable charges.'

which must be exempt from any applicable airport taxes, where such musical instruments are carried as hand luggage on a second seat. Where a second seat is purchased an air carrier should make reasonable efforts to seat the passenger and the musical instrument concerned together. Where available and if requested, musical instruments shall be carried in a heated part of an aircraft cargo hold subject to applicable safety rules, space constraints and the technical specifications of the aircraft concerned. ***Air carriers should attach special labels to such instruments to ensure that they are handled with the requisite care.*** An air carrier shall clearly indicate in its terms and conditions the basis on upon which musical instruments will be transported and the applicable charges.'

Justification

If an additional seat has to be bought for an instrument, it must be exempt from the applicable taxes, and at the minimum from airport taxes.

Amendment 94

Proposal for a regulation Article 3 – paragraph 1

Text proposed by the Commission

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Amendment

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. ***It shall apply to all flights and journeys whose scheduled take-off time is 00.00 or later on that date.***

Amendment 95

Proposal for a regulation Annex 1 Regulation (EC) No 261/2004 Annex 1 – paragraph 1

Text proposed by the Commission

1. The following circumstances shall be considered as extraordinary:

Amendment

1. The following circumstances shall **always, as a binding rule**, be considered as extraordinary:

Amendment 96

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – paragraph 1 – sequence of points

Text proposed by the Commission

Amendment

iii.

i.

iv.

ii.

v.

vi.

vii.

Justification

The points should be placed in order of importance of the causes.

Amendment 97

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – paragraph 1 – point ii

Text proposed by the Commission

Amendment

ii. technical problems which are not inherent in the normal operation of the aircraft, such as the identification of a defect during the flight operation concerned and which prevents the normal continuation of the operation; **or** a hidden manufacturing defect revealed by the

ii. technical problems which are not inherent in the normal operation of the aircraft, such as the identification of a defect during the flight operation concerned and which prevents the normal continuation of the operation; **and** a hidden manufacturing defect revealed by the

manufacturer or a competent authority and which impinges on flight safety;

manufacturer or a competent authority and which impinges on flight safety;

Amendment 98

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – point 1 – point ii a (new)

Text proposed by the Commission

Amendment

war, political unrest, and riots rendering impossible the safe operation of the flight;

Amendment 99

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – point 1 – point iii

Text proposed by the Commission

Amendment

security risks, acts of sabotage or terrorism rendering impossible the safe operation of the flight;

War, conflicts political instability, security risks, acts of sabotage or terrorism rendering impossible the safe operation of the flight;

Amendment 100

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – paragraph 1 – point iv

Text proposed by the Commission

Amendment

iv. ***life-threatening*** health risks or medical emergencies necessitating the interruption or deviation of the flight concerned;

iv. health risks or medical emergencies necessitating the interruption or deviation of the flight concerned;

Justification

It is not clear who is intended to judge when a health risk is life-threatening.

Amendment 101

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – point 1 – point vi a (new)

Text proposed by the Commission

Amendment

bird strike;

Amendment 102

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – paragraph 1 – point vii

Text proposed by the Commission

Amendment

vii. labour disputes ***at the operating air carrier or*** at essential service providers such as airports and Air Navigation Service Providers.

vii. labour disputes at essential service providers such as airports and Air Navigation Service Providers.

Amendment 103

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – point 1 – point vii a (new)

Text proposed by the Commission

Amendment

official radar blackout in the airspace concerned and closure of an airport by the airport managing body;

Amendment 104

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – point 2 – point i

Text proposed by the Commission

Amendment

technical problems *inherent in the normal operation of the aircraft, such as a problem identified during the routine maintenance or during the pre-flight check of the aircraft or which arises due to failure to correctly carry out such maintenance or pre-flight check; and*

technical problems *not to be considered as extraordinary for the purposes of point 1(ii);*

Justification

Technical problems invariably lie within the remit of air carriers, but never within the remit of passengers. Unless they are extraneous to normal aircraft operation and stem from a hidden manufacturing defect, they should not be possible to excuse.

Amendment 105

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – point 2 – point ii

Text proposed by the Commission

Amendment

unavailability of flight crew or cabin crew *(unless caused by labour disputes).*

unavailability of flight crew or cabin crew;

Justification

This is one of the risks to be borne by the carrier, which – in the event of illness, say – has to organise replacements in good time or else fall back on a stand-by crew.

Amendment 106

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004
Annex 1 – point 2 – point ii a (new)

Text proposed by the Commission

Amendment

severe weather conditions, unless the airspace or airport concerned has been officially closed by the airport managing body;

Justification

The decision to remain grounded, ostensibly because of the weather, is often taken by air carriers themselves. This does not necessarily mean that the weather is in fact so bad as to affect their flying options.

Amendment 107

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004
Annex 1 – point 2 – point ii b (new)

Text proposed by the Commission

Amendment

the onset of winter, given that aircraft have to be kept operational;

Amendment 108

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004
Annex 1 – point 2 – point ii c (new)

Text proposed by the Commission

Amendment

any delays caused by incidents affecting a preceding flight;

Justification

In cases of this kind air carriers have enough time until the next flight to organise a replacement flight and find a crew. There is no discernible link in time or space with the next

flight. This applies even in the event of sabotage of a preceding flight, medical incidents, earlier airspace closures, and so on.

Amendment 109

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – point 2 – point ii d (new)

Text proposed by the Commission

Amendment

removal of ownerless baggage from the hold;

Justification

Cases of this kind must have been caused by a security error, but passengers should not be made to suffer for it. Carriers are, however, free to seek redress from the agencies responsible.

Amendment 110

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – point 2 – point ii e (new)

Text proposed by the Commission

Amendment

iced-up engine, no de-icer;

Justification

De-icing has to be possible when necessary. Airports have to keep sufficient stocks of de-icer, even to cover periods of protracted severe weather, and must bear the risk entailed in doing so. In cases of this kind, carriers can claim compensation.

Amendment 111

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004
Annex 1 – point 2 – point ii f (new)

Text proposed by the Commission

Amendment

damage to the aircraft on the ground by a third party shortly before the scheduled departure time;

Justification

In such a case the carrier can seek compensation from the third party. However, it is unacceptable that the passengers, who can do nothing, should be deprived of their rights.

Amendment 112

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004
Annex 1 – point 2 – point ii g (new)

Text proposed by the Commission

Amendment

labour disputes at the operating air carrier.

Justification

Labour disputes at the operating air carrier are controllable and avoidable. They therefore cannot be considered extraordinary for the purposes of the regulation. Labour disputes in other companies are a different matter.

Amendment 113

Proposal for a regulation

Annex 2 – paragraph 2

Regulation (EC) No 2027/97
Annex 2 – Title 2

Text proposed by the Commission

Amendment

There are no financial limits to the liability for passenger injury or death caused by an accident on board the aircraft or during any of the operations of embarkation and

There are no financial limits to the liability for passenger injury or death caused by an accident on board the aircraft or during any of the operations of embarkation and

disembarkation. For damages up to **113,100 SDRs (approximate amount in local currency)**, the carrier cannot exclude or limit its liability. Above that amount, the air carrier is not liable if it proves that it was not negligent or otherwise at fault, or that the damage was solely due to the negligence or other fault of a third party.

disembarkation. For damages up to **EUR 130 000**, the carrier cannot exclude or limit its liability. Above that amount, the air carrier is not liable if it proves that it was not negligent or otherwise at fault, or that the damage was solely due to the negligence or other fault of a third party.

Justification

This is an EU Regulation. There is no compelling reason why SDRs should be used as the currency unit. For consumers, rounded amounts in euros will make the most sense. The amount can be adjusted by means of delegated acts.

Amendment 114

Proposal for a regulation

Annex 2 – paragraph 3

Regulation (EC) No 2027/97

Annex 2 – Title 3

Text proposed by the Commission

If a passenger is killed or injured, the air carrier must make an advance payment, to cover immediate economic needs, within 15 days from the identification of the person entitled to compensation. In the event of death, this advance payment shall not be less than **18 096 SDRs (approximate amount in local currency)**.

Amendment

If a passenger is killed or injured, the air carrier must make an advance payment, to cover immediate economic needs, within 15 days from the identification of the person entitled to compensation. In the event of death, this advance payment shall not be less than **EUR 21 000**.

Justification

This is an EU Regulation. There is no compelling reason why SDRs should be used as the currency unit. For consumers, rounded amounts in euros will make the most sense. The amount can be adjusted by means of delegated acts.

Amendment 115

Proposal for a regulation

Annex 2 – paragraph 4

Regulation (EC) No 2027/97

Annex 2 – Title 4

Text proposed by the Commission

In case of passenger delay, the air carrier is liable for damage unless it took all reasonable measures to avoid the damage or it was impossible to take such measures. The liability for passenger delay is limited to **4 694 SDRs (approximate amount in local currency)**.

Amendment

In case of passenger delay, the air carrier is liable for damage unless it took all reasonable measures to avoid the damage or it was impossible to take such measures. The liability for passenger delay is limited to **EUR 5 200**.

Justification

This is an EU Regulation. There is no compelling reason why SDRs should be used as the currency unit. For consumers, rounded amounts in euros will make the most sense. The amount can be adjusted by means of delegated acts.

Amendment 116

Proposal for a regulation

Annex 2 – paragraph 5

Regulation (EC) No 2027/97

Annex 2 – Title 5

Text proposed by the Commission

In case of baggage loss, damage or delay, the air carrier is liable for damage up to **1 113 SDRs (approximate amount in local currency)**, the compensation limit being applicable per passenger and not per piece of checked baggage, unless a higher limit has been agreed upon between the carrier and the passenger through a special declaration of interest. For damaged or lost baggage, the air carrier is not liable if the damage or loss is caused by an inherent quality or defect of the baggage. For delayed baggage, the air carrier shall not be liable when it has taken all reasonable measures to avoid the damage resulting from the delay of the baggage or when it was impossible to take such measures. In case of hand luggage, including personal items, the airline is only liable if the damage has resulted from its fault.

Amendment

Baggage shall be deemed to be lost after 15 days. In case of baggage loss, damage or delay, the air carrier is liable for damage up to **EUR 1 300**, the compensation limit being applicable per passenger and not per piece of checked baggage, unless a higher limit has been agreed upon between the carrier and the passenger through a special declaration of interest. For damaged or lost baggage, the air carrier is not liable if the damage or loss is caused by an inherent quality or defect of the baggage. For delayed baggage, the air carrier shall not be liable when it has taken all reasonable measures to avoid the damage resulting from the delay of the baggage or when it was impossible to take such measures. In case of hand luggage, including personal items, the airline is only liable if the damage has resulted from its fault.

Justification

This is an EU Regulation. There is no compelling reason why SDRs should be used as the currency unit. For consumers, rounded amounts in euros will make the most sense. The amount can be adjusted by means of delegated acts.

Amendment 117

Proposal for a regulation

Annex 2 – paragraph 6

Regulation (EC) No 2027/97

Annex 2 – Title 6

Text proposed by the Commission

A passenger can benefit from a higher liability limit by making a special declaration at the latest at check-in and by paying a supplementary fee if so required. Such supplementary fee shall be based on a tariff which is related to the additional costs involved in transporting and insuring the baggage concerned over and above the liability limit of **1 131 SDRs**. The tariff shall be made available to passengers upon request. Disabled passengers and passengers with reduced mobility shall systematically be offered free of charge the option of making a special declaration of interest for the transportation of their mobility equipment.

Amendment

A passenger can benefit from a higher liability limit by making a special declaration at the latest at check-in and by paying a supplementary fee if so required. Such supplementary fee shall be based on a tariff which is related to the additional costs involved in transporting and insuring the baggage concerned over and above the liability limit of **EUR 1 150**. The tariff shall be made available to passengers upon request. Disabled passengers and passengers with reduced mobility shall systematically be offered free of charge the option of making a special declaration of interest for the transportation of their mobility equipment.

Justification

This is an EU Regulation. There is no compelling reason why SDRs should be used as the currency unit. For consumers, rounded amounts in euros will make the most sense. The amount can be adjusted by means of delegated acts.

Amendment 118

Proposal for a regulation

Annex 2 – paragraph 7

Regulation (EC) No 2027/97

Annex 2 – Title 7

Text proposed by the Commission

If the baggage is damaged, delayed, lost or destroyed, the passenger must in all cases write and complain to the air carrier as soon as possible. A time limit to complain of **7 days** applies in case the baggage was damaged and **21 days in case it was delayed, in both cases** from the date on which the baggage was placed at the passenger's disposal. In order to easily meet these deadlines, the air carrier must offer passengers the possibility to fill in a complaint form at the airport. Such complaint form, which may also take the form of a Property Irregularity Report (PIR), must be accepted by the air carrier at the airport as a complaint.

Amendment

If the baggage is damaged, delayed, lost or destroyed, the passenger must in all cases write and complain to the air carrier as soon as possible. A time limit to complain of **28 days** applies in case the baggage was damaged and delayed, from the date on which the baggage was placed at the passenger's disposal. In order to easily meet these deadlines, the air carrier must offer passengers the possibility to fill in a complaint form at the airport. Such complaint form, which may also take the form of a Property Irregularity Report (PIR), must be **made available in all Union official languages and** accepted by the air carrier at the airport as a complaint.

PROCEDURE

Title	Amendment of 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 amendment of Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air
References	COM(2013)0130 – C7-0066/2013 – 2013/0072(COD)
Committee responsible Date announced in plenary	TRAN 16.4.2013
Opinion by Date announced in plenary	IMCO 16.4.2013
Rapporteur Date appointed	Hans-Peter Mayer 29.5.2013
Discussed in committee	26.9.2013 4.11.2013
Date adopted	5.11.2013
Result of final vote	+: 35 -: 0 0: 0
Members present for the final vote	Preslav Borissov, Jorgo Chatzimarkakis, Sergio Gaetano Cofferati, Birgit Collin-Langen, Lara Comi, Anna Maria Corazza Bildt, António Fernando Correia de Campos, Cornelis de Jong, Vicente Miguel Garcés Ramón, Evelyne Gebhardt, Thomas Händel, Małgorzata Handzlik, Malcolm Harbour, Edvard Kožušník, Toine Manders, Hans-Peter Mayer, Phil Prendergast, Zuzana Roithová, Heide Rühle, Christel Schaldemose, Andreas Schwab, Catherine Stihler, Emilie Turunen, Barbara Weiler, Kerstin Westphal
Substitute(s) present for the final vote	Raffaële Baldassarre, Regina Bastos, Jürgen Creutzmann, María Irigoyen Pérez, Constance Le Grip, Emma McClarkin, Claudio Morganti, Sylvana Rapti
Substitute(s) under Rule 187(2) present for the final vote	Eva Ortiz Vilella, Marie-Thérèse Sanchez-Schmid

PROCEDURE

Title	Amendment of 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 amendment of Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air		
References	COM(2013)0130 – C7-0066/2013 – 2013/0072(COD)		
Date submitted to Parliament	13.3.2013		
Committee responsible Date announced in plenary	TRAN 16.4.2013		
Committee(s) asked for opinion(s) Date announced in plenary	ENVI 16.4.2013	IMCO 16.4.2013	JURI 16.4.2013
Not delivering opinions Date of decision	ENVI 26.3.2013	JURI 15.4.2013	
Rapporteur(s) Date appointed	Georges Bach 28.3.2013		
Discussed in committee	16.9.2013	4.11.2013	
Date adopted	17.12.2013		
Result of final vote	+: -: 0:	37 3 1	
Members present for the final vote	Inés Ayala Sender, Georges Bach, Erik Bánki, Izaskun Bilbao Barandica, Antonio Cancian, Michael Cramer, Joseph Cuschieri, Luis de Grandes Pascual, Christine De Veyrac, Saïd El Khadraoui, Ismail Ertug, Carlo Fidanza, Knut Fleckenstein, Jacqueline Foster, Franco Frigo, Mathieu Grosch, Jim Higgins, Georgios Koumoutsakos, Werner Kuhn, Bogusław Liberadzki, Eva Lichtenberger, Marian-Jean Marinescu, Gesine Meissner, Mike Natrass, Dominique Riquet, Petri Sarvamaa, Vilja Savisaar-Toomast, Olga Sehnalová, Brian Simpson, Silvia-Adriana Țicău, Giommara Uggias, Peter van Dalen, Patricia van der Kammen, Roberts Ziļe		
Substitute(s) present for the final vote	Phil Bennion, Spyros Danellis, Bogdan Kazimierz Marcinkiewicz, Anna Rosbach, Alfreds Rubiks, Bernadette Vergnaud, Sabine Wils		
Date tabled	22.1.2014		