

“How to improve air passenger rights during the COVID-19 crisis?”

Regulation (EC) No 261/2004

Wednesday, 14 July 2021, European Parliament, Brussels

Right to compensation and right to information

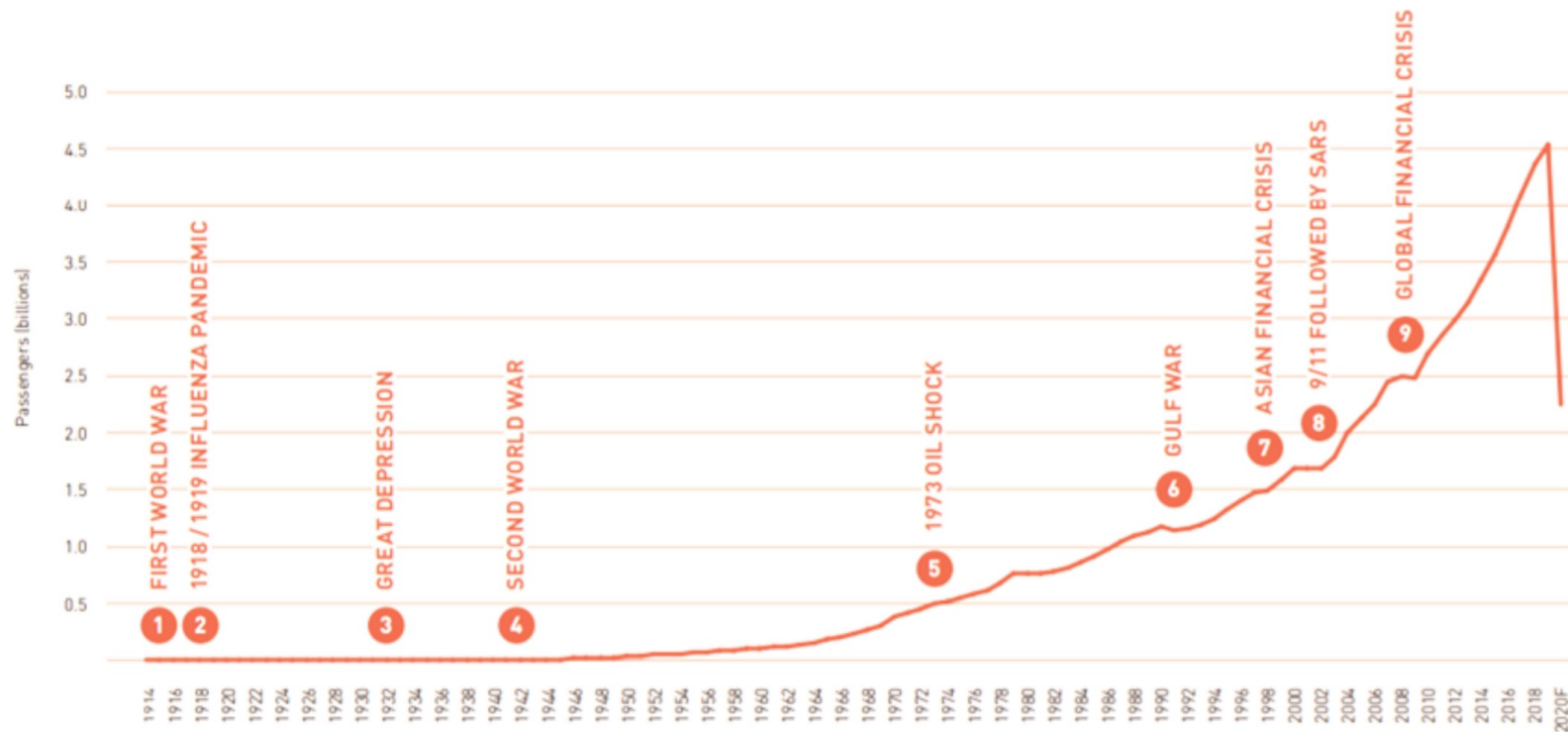
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We are facing the biggest crisis in aviation history

Global air passengers 1914-2020F¹³

Previous crises have resulted in a fairly rapid return to trend. The Covid-19 situation may see a slower recovery.



-94,4%

Drop in passenger traffic
APR2020 vs APR2019

Passenger rights in Europe

Airlines follow the European Regulation EC 261/2004, which already in 2013 **was found to be unfit for purpose**

The goal was to counteract:

- the policy of overbooking
- flight cancellations due to unjustified reasons

EC 261/2004 wasn't designed as legislation to compensate delays!

The ruling of the Court of Justice of the European Union diverted the Regulation 261/2004 from its original form and created an unjustified and undemocratic regulation for delays

Bad laws are the worst sort of tyranny

Edmund Burke

(Irish statesman, economist and philosopher)

European Court of Auditors report

„This 2013 proposal (...) included solutions that could have helped to better enforce passenger rights in times of crisis, such as better complaint handling procedures, and strengthened enforcement, monitoring and sanctioning to safeguard passenger rights.”

AIRE conclusion

Lack of clarity about the extraordinary circumstances put a burden, confusion, extra administration and costs on the aviation industry, which lead to a financial and administrative weakening of the industry before the Covid-19 outbreak

AIRE conclusion

Since 5th FEB 2014, when the European Parliament approved the proposal to revise EU rules on air passenger rights, we have now over seven years of unjustified delay in adopting the approved changes to the EC 261/2004, which resulted in:

- **A legislative chaos concerning what is and what isn't an extraordinary circumstance**
- **Wasted billions of EUR for unqualified claims, which has unnecessarily weakened the aviation industry pre Covid-19**

AIRE conclusion

Had the Regulation EC 261/2004 been adopted pre Covid-19, the aviation would have been in a much better position to deal with the refunds, as it would have:

- **created legal clarity to passengers on their rights**
- **prevented claim farms from robbing the aviation industry and passengers**
- **led to better financial liquidity of airlines to deal with claims**
- **reduce administration and compensation backlog**

AIRE conclusion

Not all proposed recommendations will solve the problems in case of a crisis:

- **Recommendation 1d) shows no understanding of the root cause of refund delays as experienced during Covid-19 pandemic;**
- **Guarantee fund for flights cancellations, proposed in the ECA report can't be effective – according to EC own study, 85% of the fund money will be wasted for overheads¹).**

1) Impact assessment of Passenger protection in the event of airlines insolvency, Final Report, European Commission, March 2011, page 112.

How to improve air passenger rights?

Council must adopt the EC 261/2004 Commission update proposal from 2013 which was already approved by the European Parliament

Advantages:

- **A robust, detailed, non-exhaustive list of extraordinary circumstances to ensure an equal qualification by National Enforcement Bodies in every Member Country.**
- **Less administration – transparency of rules will improve passenger awareness and reduce the number claims brought to the courts – no more claim farms.**

Thank you