OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on Transport and Tourism

on the functioning and application of established rights of people travelling by air
(2011/2150(INI))

Rapporteur: Antonyia Parvanova
SUGGESTIONS

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 suggestions in its motion for a resolution:

1. Welcomes the Commission's commitment to analyse and revise the existing Regulations on air passenger rights aiming to improve the situation of passengers especially in the cases of long delay or cancellation; Believes that proper application of the existing rules by Member States and carriers, enforcement of sufficient and simple means of redress and providing passengers with accurate information concerning their rights should be the cornerstones of regaining passengers' trust;

2. Underlines the importance of uniform implementation and enforcement across Member States of Regulation (EC) No 261/2004 and Regulation (EC) No 1107/2006 on air passengers rights, including effective, dissuasive and proportionate penalties in order to create a level playing field and powerful economic incentives for the air carriers, as well as for the other actors involved, to comply with the provisions;

3. Emphasises the importance of addressing existing gaps in Member States' implementation and enforcement of Regulation (EC) No 261/2004 and Regulation (EC) No 1107/2006 on air passengers’ rights, which contribute to legal uncertainties and constitute obstacles to efficient protection of consumers;

4. Notes that enforcement actions are rarely carried out and vary widely across Members States, therefore encourages the Commission to work in cooperation with the competent authorities and National Enforcement Bodies (hereafter referred as "NEBs") and to explore the possibility to create network based on Solvit and/or a central EU unit, in order to promote a uniform and speedy enforcement of air passenger rights, and to sanction and monitor infringements and Members States, which do not implement this legislation;

5. Taking into account that the lack of information to passengers is a major obstacle to the effective application of Regulation (EC) No 261/2004 and Regulation (EC) No 1107/2006; calls on the Commission to clarify the obligation to inform passengers provided for in the two Regulations, in order to ensure that all passengers, in particular those in the most vulnerable positions receive timely, comprehensible and accurate information on their rights and procedures for receiving help in cases of long delays and/or cancellations, including the right to choose between the refund of the ticket price, rerouting or re-booking, as well as on procedures and contact points in case of dissatisfaction or request for compensation; such information should be given should be given in a comprehensive and consumer friendly manner throughout the key stages of a journey, namely at the time of booking, check-in and boarding, as well as printed on the ticket;

6. Notes that the process of a possible revision of Regulation 261/2004 and Regulation 1107/2006 will take time to complete; therefore calls on the Commission to consider introducing complementary interim measures to improve the application and enforcement of these Regulations. These may include keeping updated and published on
the EC's website the informative documents on air passengers' rights, as well as fostering discussions and collaboration between Member States, NEBs, consumer organizations and airlines in order to disseminate best practices and build agreement on the controversial parts of the legislation;

7. Calls on the Commission to organize information campaigns and establish a multi-linguistic information platform, where air passengers can get access to information on rights and procedures, including official forms for complaints and contact points, points out that efforts to publicize passengers' rights could be extended and shared with other actors in the chain by means of cooperation between national authorities, consumer organizations, NEBs, airports, air carriers, agents and tour operators;

8. Stresses that air carriers should ensure the presence of at least one representative and/or complaint desk at each airport they operate from, who can take immediate decisions in case of disruption, in particular with regard to assistance, reimbursement, rerouting and rebooking;

9. Points out the need for a revision of the Regulations to include the recent case-law\(^1\), after evaluation of the probable consequences and benefits for passengers, in order to clarify air passengers’ rights and strengthen enforcement measures;

10. Considers that a clear definition must be given for the most recurring terms which serve to establish the carrier's liability and/or the appropriate rights for passengers, which includes the terms "flight", "re-routing", "connection", "diversion", "cancellation", "long delay", "schedule", "final destination", "assistance and care" and "right of redress"; highlights the need for a clear definition and Commission guidelines on what is covered by "extraordinary circumstances", which should be clearly stated in future amendments of Regulation 261/2004, to prevent unjustified interpretations of the circumstances that have led to cancellations or delays; invites the Commission to reassess the unlimited liability of air carriers regarding the right to care under extraordinary circumstances beyond the carrier's control;

11. Calls on the Commission to clarify that in case one flight within a rotation is delayed or cancelled due to an extraordinary circumstance, the airline can also refer to that extraordinary circumstance for the first succeeding flight within that same rotation;

12. Emphasises the right of passengers to have easy access to accurate and objective information detailing the environmental impact and energy efficiency of their travel, which should be clearly visible both on the websites of air carriers, as well as on tickets themselves; calls on the Commission and air carriers to support ongoing work in this direction;

13. Appreciates the diversity of passenger rights depending on the different mode of transport such as rail, air, sea and inland amongst others; However believes that a holistic approach is needed to integrate all passenger rights namely the right of compensation, reimbursement, information, amongst others into one comprehensive, consolidated legislative framework;

\(^{1}\) for example joint cases C 402/07 and C 432/07 Sturgeon
14. Notes that recent rulings of the European Court of Justice concerning passenger entitlement to compensation in the event of delays confirm the need for measures aimed at equitable treatment, ensuring appropriate compensation in the event of long delays regardless of the cause of such delays in order to take fully into account the damages he has suffered; therefore urges the Commission to propose measures to that effect, without cancelling the right to be transferred to the next available flight;

15. Suggests that further research could be carried out to examine the opportunity and feasibility of establishing one single legislative instrument comprising all provisions and principles on consumer rights in civil aviation in order to reduce fragmentation and reconcile inconsistencies across the different areas of passenger rights;

16. Notes that existing commercial practices (such as check-in fees, priority boarding fees, excessive credit card-payment fees especially when buying more than 1 ticket, luggage fees, fees for complying with EU legislation or the blocking of double the amount of the price of the ticket from the passenger's bank account for a certain period of time) lead to substantive differences between the advertised and the final price thus misleading consumers about the components making up final air fares and therefore stresses the need to ensure price transparency, similarly to the provisions on passenger transport services in the recently adopted Consumer Rights Directive which states that before the consumer is bound by any contract or an offer, the trader shall provide the consumer with the total price inclusive of taxes; insists that the advertised price must fairly reflect the final price, urges the Commission for an increased control of advertised and final air fares, especially on the airlines' websites;

17. Emphasizes the widespread proliferation of unfair contract terms in air transport contracts and an increase in national case law prohibiting certain terms regularly used by airlines; thus urges the Commission to address this issue by black-listing specific unfair terms in the air transport sector; stresses the need to adopt measures to protect passengers against other unfair contractual terms implemented by airlines, such as contractual issues related to mishandled/delayed/damaged luggage, the transferability of tickets, force majeure circumstances, the unilateral rescheduling of flights, and the prohibition to use the ongoing part of a return ticket unless based on very limited and objective "no show" criteria; measures should also be adopted to protect the passengers against policies related to the different restrictions on hand luggage and air purchases, for which passengers should not be charged additionally; it must be ensured that passengers should benefit from uniform restrictions on the size and weight of hand luggage;

18. Emphasises the need to ensure consistency between the different legislations on air passenger rights and in particular between the legal protection for package travellers and the lack of similar protection for seat-only passengers, thus following travel market trends whereby consumers increasingly arrange their travel themselves and avoiding any discrimination against passengers based on type of ticket purchase or unfair competition between the different service providers (air carriers, travel agencies or tour operators); in particular, it urges the Commission to propose binding measures, including obligations for air carriers to provide for a final guarantee to cover liabilities of air carriers towards passengers, ensuring that passengers buying seat-only seats are equally effectively protected in case of airline insolvency, bankruptcy or removing of an operating licence as
package travellers are already;

19. Calls on the Commission to draw up guidelines on the interpretation of Regulation (EC) No 1107/2006 concerning the rights of air passengers with reduced mobility, notably on the provisions on security and accompanying persons;

20. Shares the Commission's view that the current definition of "passengers with reduced mobility" (PRM) or "disabled person" should not be restricted, as this will undermine the purpose of the current definition to provide broad assistance to the relevant groups requiring special assistance; suggests whether elderly people who do not have reduced mobility, pregnant women and unaccompanied children, insofar as their age limits their ability to use public transport autonomously, should be included in the definition, possibly under the term "passengers with special needs";

21 Stresses that passengers with limited mobility or with disabilities must be given equal air travel opportunities and unrestricted access to services;

22. Emphasises the need to provide special protection for vulnerable consumer groups, especially disabled persons and persons with reduced mobility; points out that these vulnerable groups need additional guarantees when exercising their rights as passengers and calls on the Commission, the Member States and the air carries to enforce those rights;

23. Calls on the Commission to introduce binding measures for airlines and airports to harmonize their policies, especially with regards to booking procedures, procedures to ask for assistance and security control policies, and to provide better information on these issues from the time of booking until Passengers with Reduced Mobility (hereinafter referred as "PRMs"), and eventually Passengers with Special Needs, leave the airport at their destination point in order to guarantee equal travel opportunities and non-discrimination and to enable PRMs to know what to expect from the different airlines and at the different airports;

24. Highlights the fact that the training of air carrier and airport personnel plays a key role for guaranteeing the effective implementation of all parts of Regulation 1107/2006 and is the most cost-efficient means for ensuring non-discrimination; therefore stresses that adequate training of personnel at airports and on board the aircraft must be provided in close cooperation with representative organizations of persons with reduced mobility;

25. Emphasises the fact that there is a need to ensure that mobility equipment is not considered and/or treated as ordinary luggage, but as an indispensable tool for independence which is irreplaceable for the passenger; for this reason it underlines that mobility equipment should be handled with care by trained personnel according to strict and harmonized procedures for boarding and disembarking, allowing passengers to use this equipment as long as possible;

26. Believes that it is essential to ensure that people who need medical oxygen when travelling, obese passengers and passengers who are required to travel with an assistant are not required to pay additional charges or denied boarding unless on strictly safety grounds;
27. Encourages the Commission to work with Member States to identify and overcome shortcomings in national complaint handling bodies and procedures and to ensure proper coordination of the legislation on air passengers’ rights with the expected EU measures on alternative dispute resolution mechanisms.

28. Stresses that the consumers' possibilities of claiming their rights should be increased; calls on the Commission to propose measures for setting up accessible and independent complaint handling procedures and means of redress which will ensure the effective protection of the rights of passengers and will guarantee that they receive the compensation they are entitled to in a timely and efficient manner; calls for the national EBs or a new EU EB to assist consumers in their complaints, especially cross-border; stresses the need for fixed deadlines for responding to passengers' complaints, similarly to other Regulations on passengers' rights, and for considering making the decisions of the NEBs binding in order to ensure that they are recognized by courts and complied with by air carriers and other actors involved; calls on the Member States to deploy sufficient resources for national enforcement bodies and impose on them proportionate power to sanction;

29. Calls to ensure proper consistency between the legislation on air passengers' rights and the expected EU measures on collective redress in order to guarantee passengers' rights in an efficient way and challenge those companies that systematically ignore these rights;

30. Proposes the introduction of a European Award for the most consumer friendly airline, to be awarded every year to the company with the best track record on consumer friendliness.
RESULT OF FINAL VOTE IN COMMITTEE

<table>
<thead>
<tr>
<th>Date adopted</th>
<th>9.1.2012</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Result of final vote</strong></td>
<td></td>
</tr>
<tr>
<td>+:</td>
<td>29</td>
</tr>
<tr>
<td>-:</td>
<td>0</td>
</tr>
<tr>
<td>0:</td>
<td>0</td>
</tr>
<tr>
<td><strong>Members present for the final vote</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Substitute(s) present for the final vote</strong></td>
<td></td>
</tr>
<tr>
<td>Simon Busuttil, Ashley Fox, Marielle Gallo, Constance Le Grip, Morten Lokkegaard, Antonyia Parvanova, Sylvana Rapti, Olga Sehnalová, Marc Tarabella, Rafał Trzaskowski, Wim van de Camp, Anja Weisgerber</td>
<td></td>
</tr>
</tbody>
</table>