



EUROPEAN PARLIAMENT

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Committee on the Internal Market and Consumer Protection

2013/0072(COD)

17.9.2013

DRAFT 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

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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. The rapporteur therefore proposes, in his opinion, that if possible no references to other directives or regulations should be included but that the regulation itself should contain the necessary provisions. This is appropriate because in the regulations which are to be revised – Regulations (EC) No 261/2004 and (EC) No 2027/97 – a total of five other laws have to be taken into account and if necessary consulted.

In the interests of passengers, the forms should be available in all EU official languages for all these regulations. This should be the case not only on line but also for forms at airports themselves.

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 €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 €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, €250 and €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.

The rapporteur also wishes to limit the waiting time in the event of a tarmac delay to two hours, and 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 rapporteur also believes that in the event of no-fault delays and cancellations, airlines should be required to bear the cost of a maximum of three nights at a hotel, with a ceiling of €150 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 in providing that the time limit 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 in 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.

Complaints procedures:

There is much feedback from passengers indicating that the way in which their claims and complaints are dealt with is not right. 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 enforcing passengers' rights better 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.

Or. de

Amendment 2

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) In order to improve levels of

Amendment

deleted

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.

Or. de

Justification

This ought, as a matter of general principle, not to be possible, and is therefore mentioned in an article. Here all flights, irrespective of the outward or return journey and whether they have been taken, are treated alike. No explicit clarification is needed, therefore.

Amendment 3

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.

Or. de

Amendment 4

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 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 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). ***The entitlement to compensation of €600 should arise only from a distance of 3 500 kilometres***, 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.

Or. de

Amendment 6**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.

Or. de

Amendment 7

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

Or. de

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 8

Proposal for a regulation Recital 18

Text proposed by the Commission

Amendment

(18) For disabled persons, persons with reduced mobility and other persons with

(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.

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 *on no account* apply to these categories of passenger.

Or. de

Amendment 9

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.

Or. de

Amendment 10

Proposal for a regulation Recital 21

Text proposed by the Commission

(21) In order to ensure a better enforcement

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.

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 interests of European consumers, the maximum handling time of 90 days must not be exceeded.***

Or. de

Amendment 11

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.***

Or. de

Amendment 12

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.

Or. de

Amendment 13

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.

Or. de

Amendment 14

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 at the airport. This could also take the form of the common Property Irregularity

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

Report (PIR).

(PIR).

Or. de

Amendment 15

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.

Or. de

Amendment 16

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

'«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;*

Amendment

'«Organiser» means ***the person who, not only occasionally, organises package travel and sells it, or offers it for sale, directly or through an intermediary;***

Or. de

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 17

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;

Or. de

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 18

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 as a result of age, and whose condition calls for appropriate attention and adaptation to his or her particular needs of the service made available to all

passengers.'

Or. de

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 19

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 *customary* 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, *inter alia*, the circumstances set out in the Annex;

Or. de

Amendment 20

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

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,

boarding *and, in token thereof, been issued with the ticket,*

Or. de

Amendment 21

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point a

Regulation (EC) No 261/2004

Article 3 – paragraph 2 – point a – indent 1

Text proposed by the Commission

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,

Amendment

Does not affect the English version.

Or. de

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 22

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point a

Regulation (EC) No 261/2004

Article 3 – paragraph 2 – point a – first subparagraph and indent 2

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,
- 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,*
- not later than 45 minutes before the

scheduled departure time; or

Or. de

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 23

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.'

Or. de

Amendment 24

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 ***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

'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 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.'

It Or. de

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 25

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

deleted

Or. de

Justification

Baording may not be denied on the return journey on the grounds that a passenger did not take the outward journey.

Amendment 26

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 a spelling mistake in the name, ***or an error 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.'

Or. de

Amendment 27

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'

Or. de

Amendment 28

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 **EU** 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.

Or. de

Amendment 29

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) and 9(2); and

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

Or. de

Justification

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

Amendment 30

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)**.

Or. de

Justification

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

Amendment 31

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**

(iii) when the delay is of at least **three hours and includes one or more nights**,

8(1)(a).

the assistance specified in **Article 9(1)(b) and 9(1)(c); and**

Or. de

Justification

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

Amendment 32

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

(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;

Amendment

(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;

Or. de

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 33

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

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

Amendment

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

kilometres;

Or. de

Amendment 34

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 to/from third countries of 6000 kilometres or more.

deleted

Or. de

Justification

There should be a maximum of two different categories.

Amendment 35

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EC) No 261/2004

Article 6 – paragraph 3

Text proposed by the Commission

Amendment

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.

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.

Or. de

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 36

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 ***in writing*** 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. ***Passengers shall have a right, enforceable by penalties, to adequate information about these extraordinary circumstances.***

Or. de

Amendment 37

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

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 **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.

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. de

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 38

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:

Or. de

Amendment 39

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

Or. de

Justification

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

Amendment 40

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).

Or. de

Amendment 41

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

Amendment

2. Where a passenger misses a connecting flight as a result of a delay, ***cancellation or***

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.

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.

Or. de

Amendment 42

Proposal for a regulation

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

Regulation (EC) No 261/2004

Article 7 – paragraph 1 – introductory phrase

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 receive compensation payments amounting to the full price of the fare, but not exceeding the following amounts:'

Or. de

Justification

The amounts are disproportionate for budget airlines. It would be uneconomic to pay €250 in compensation for a ticket which only cost €49. It should therefore be possible to limit the claim to the amount of the fare and otherwise to the maximum amounts indicated.

Amendment 43

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

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

Amendment

(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,'

Or. de

Amendment 44

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point a 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'

Or. de

Amendment 45

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.

Or. de

Amendment 46

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

'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.

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 **ultimate** destination, even if a new cancellation or missed connection should arise during rerouting.

Or. de

Justification

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

Amendment 47

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.***

Or. de

Justification

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

Amendment 48

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,***

Or. de

Amendment 49

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;***

Or. de

Justification

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

Amendment 50

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.

Or. de

Amendment 51

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 or fax messages or e-mails.

Or. de

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 52

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, it may limit the total cost of accommodation provided according to paragraph 1(b) to **EUR 150** 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 **two nights**, in addition to the continued obligations for information specified in Article 14.

Or. de

Amendment 53

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

5. The obligation to offer accommodation under paragraph 1(b) shall not apply

Amendment

deleted

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.

Or. de

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 54

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point b

Regulation (EC) No 261/2004

Article 9 – paragraph 6 (new)

Text proposed by the Commission

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.

Amendment

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.***

Or. de

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 55

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.

Or. de

Amendment 56

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

'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.'

Justification

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

Amendment 57

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 58

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

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.'

Regulation, no provision of this Regulation 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.'

Or. de

Amendment 59

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 261/2004

Article 14 – paragraph 2

Text proposed by the Commission

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.

Amendment

2. An operating air carrier denying boarding or cancelling a flight shall *immediately* 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), *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.

Or. de

Amendment 60

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 30 minutes *before* the scheduled departure time, and of the estimated departure time as soon as this information is available.

Or. de

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 61

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

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 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.

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.

Or. de

Amendment 62

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 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. 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 ***and the time limit laid down in Article 16a(2) for claiming an entitlement.***

Or. de

Amendment 63

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16a - paragraph 2

Text proposed by the Commission

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 carrier shall provide a full answer to the passenger.

Amendment

2. 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 submit it **in writing or in electronic form** within 3 months from the date on which the flight was scheduled to **begin**. Within 7 days of receiving the **claim or** complaint, the carrier shall confirm the receipt of the complaint to the passenger. Within two months of receiving the **claim or** complaint, the air carrier shall provide a full answer to the passenger.

Or. de

Justification

Here, entitlements/claims and complaints are mixed up. An official complaint under paragraph 4 is made only if the passenger applies to a body designated for the purpose with the aim of complaining about the reply received from the air carrier.

Amendment 64

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.

Or. de

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 65

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. 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.

Or. de

Amendment 66

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004
Article 16a - paragraph 5

Text proposed by the Commission

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.

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 **on no account** be longer than **90 calendar days** from the receipt of the complaint. A copy of the final reply shall also be provided to the National Enforcement Body.

Or. de

Justification

This would be in line with Directive 2013/11 on Alternative Dispute Resolution.

Amendment 67

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.

Or. de

Amendment 68

Proposal for a regulation

Article 1 – paragraph 1 – point 15

Regulation (EC) No 261/2004

Article 16b - paragraph 4

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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.

Or. de

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 69

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

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 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

the deadlines given by the Montreal Convention.'

submit a complaint via other means within the deadlines given by the Montreal Convention.'

Or. de

Amendment 70

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 ***€20 000*** 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.'

Or. de

Amendment 71

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 2027/97

Article 6c – paragraph 1

Text proposed by the Commission

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

Amendment

1. The power to adopt delegated acts conferred on the Commission ***in all these Regulations shall be*** subject to the conditions laid down in this Article.

Justification

Article 6c must apply to both Regulations: Regulations (EEC) Nos 261/2004 AND 2027/97.

Amendment 72**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 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. Whilst air carriers have full commercial freedom to establish the conditions under which they permit baggage to be carried, they **must** 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 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 **must** clearly indicate details of those charges at **the beginning of every** booking **process** and on request 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.**

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. The requirement must apply to all operators, including for example travel agents, internet travel sites or other intermediaries.

Amendment 73

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.

Or. de

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 74

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.

Or. de

Amendment 75

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.

Or. de

Amendment 76

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 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

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, ***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

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.'

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.'

Or. de

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 77

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.***

Or. de

Amendment 78

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:

Or. de

Amendment 79

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.

Or. de

Justification

The points should be placed in order of importance of the causes.

Amendment 80

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004
Annex 1 – paragraph 1 – point ii

Text proposed by the Commission

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;

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; **and** a hidden manufacturing defect revealed by the manufacturer or a competent authority and which impinges on flight safety;

Or. de

Amendment 81

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – paragraph 1 – point iii

Text proposed by the Commission

iii. security risks, acts of sabotage or terrorism rendering impossible the safe operation of the flight;

Amendment

iii. **war, political unrest and outrages,** security risks, acts of sabotage or terrorism rendering impossible the safe operation of the flight;

Or. de

Amendment 82

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;

Justification

It is not clear who is intended to judge when a health risk is life-threatening.

Amendment 83

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. labour disputes at essential service providers such as airports and Air Navigation Service Providers.

Or. de

Amendment 84

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point iii a (new)

Text proposed by the Commission

Amendment

iiia. labour disputes at the operating air carrier;

Or. de

Justification

Labour disputes at the operating air carrier are controllable and avoidable, and cannot, therefore, be taken as an excuse. Labour disputes at other undertakings are a different matter.

Amendment 85

Proposal for a regulation

Annex 1

Regulation (EC) No 261/2004

Annex 1 – paragraph 2 – point i

Text proposed by the Commission

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

Amendment

i. technical problems inherent in the normal operation of the aircraft, such as a problem ***which should have been*** 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

Or. de

Amendment 86

Proposal for a regulation

Annex 2 – paragraph 2

Regulation (EC) No 2027/97

Annex 2 – Title 2

Text proposed by the Commission

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.

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 disembarkation. For damages up to ***€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.

Or. de

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 87

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 **€21 000**.

Or. de

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 88

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

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 **4 694 SDRs** (*approximate amount in local currency*).

to **€5 200**.

Or. de

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 89

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 **€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.

Or. de

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 90

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 **€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.

Or. de

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 91

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 **10 days** applies in case the baggage was damaged and **one month** 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 **made available in all EU official languages and** accepted by the air carrier at the airport as a complaint.

Or. de