



24.7.2020

## NOTICE TO MEMBERS

**Subject: Petition No 0470/2019 by A. S. (Greek) on the transport of musical instruments by airline companies**

### 1. Summary of petition

The petitioner deplores the lack of uniform provisions for EU airlines regarding the transfer of musical instruments in the cabin or in the cargo hold as fragile items. He claims that the US obliges its airlines to accept musical instruments in the cabin, and only if there is no room in the cabin are they allowed to move them to the cargo hold as fragile items.

### 2. Admissibility

Declared admissible on 11 October 2019. Information requested from Commission under Rule 227 (6).

### 3. Commission reply, received on 24 July 2020

#### The Commission's observations

In the absence of specific EU rules on the transport of musical instrument on airplanes, the rules of the Montreal Convention governing the carriage by air of passengers, baggage and cargo apply in this case. The provisions of the Convention have been transposed into the EU legal order by Regulation (EC) No 2027/97<sup>1</sup>.

While the Montreal Convention provides for rules in the event of damage or loss to baggage,

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<sup>1</sup> Regulation (EC) No 2027/97 of the Council of 9 October 1997 on air carrier liability in respect of the carriage of passengers and their baggage by air (OJ L 285, 17.10.1997, p.1) as amended by Regulation (EC) No 889/2002 of the European Parliament and of the Council of 13 May 2002, OJ L 140, 30.5.2002, p.2.

these do not prescribe the way in which airlines handle specific types of baggage such as musical instruments. It is thus up to the air carriers to stipulate in their terms and conditions of carriage the conditions under which they transport such type of baggage.

In 2013 the Commission adopted a proposal<sup>2</sup> for amending the Air Passenger Rights Regulation (Regulation (EC) No 261/2004)<sup>3</sup> as well as Regulation (EC) No 2027/97. The proposal included measures with regard to musical instruments, and would require air carriers to accept small instruments inside the passenger cabin, subject to certain conditions, and to clarify their rules with regard to the carriage of larger instruments in the cargo compartment (Article 2(4) of the proposal – Article 6e of the amended Regulation (EC) No 2027/97).

### Conclusion

The proposal was discussed by the co-legislators between 2013 and 2015; since mid-2015 it has been blocked in the Council. The revision of Regulation (EC) No 261/2004 was taken up by the Finnish and the Croatian presidencies. However, the question of musical instruments has not been discussed during the Croatian presidency given the COVID-19 crisis. It will now depend on the incoming German presidency whether and how the Commission's proposal on the revision of air passenger rights will be dealt with in Council.

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<sup>2</sup> 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; 13.3.2013; COM(2013)130final; 2013/0072 (COD).

<sup>3</sup> Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 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 repealing Regulation (EEC) No 295/91 (Text with EEA relevance) - Commission Statement, *OJ L 46, 17.2.2004, p. 1–8.*