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DRAFT REPORT

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

Committee on Transport and Tourism

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

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

The European Parliament,

- having regard to the Communication from the Commission on the application of Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights (COM(2011)0174),
 - having regard to the Report from the Commission on the functioning and effects of Regulation (EC) No 1107/2006 of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (COM(2011)0166),
 - having regard to the opinion of the European Economic and Social Committee of 27 October 2011,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on the Internal Market and Consumer Protection (A7-0000/2012),
- A. whereas while Regulation (EC) No 261/2004 and Regulation (EC) No 1107/2006 (hereinafter referred as ‘the Regulations’) are positive steps forward in terms of protecting passenger rights, there is a need for enhanced legal certainty, more interpretative clarity and uniform application of the Regulations across the EU;
- B. whereas the most important passenger right is to services provided as scheduled, based on the contractual obligation which arises from selling a ticket; whereas it is essential to provide passengers with accurate and timely information, accessible to all;
- C. whereas effective complaint systems should be at the disposal of passengers if the service is not properly delivered or if any other rights guaranteed to the passengers are infringed, especially since passengers have already paid the price of the ticket before the service is provided and since tax-payers’ money contributes substantially to the subsidies received by air carriers;
- D. whereas persons with reduced mobility (hereinafter referred as ‘PRM’) and persons with disabilities should be informed of their rights in advance of their journey and in formats corresponding to their needs; whereas airport and air carrier personnel should be duly trained in providing assistance to PRM and to persons with disabilities in order to help ensure barrier-free and equal access to air travel;

General Framework

1. Stresses that Member States must ensure the provision of independent enforcement bodies (hereinafter referred as ‘EBs’) to sanction infringements and to resolve disputes between

passengers and industry;

2. Calls on the Commission to promote uniform application of the Regulations and develop better cooperation amongst the EBs, including via exchange of best practice and formalisation of a European network of EBs;
3. Considers that there is a need for a better definition of the EBs' role, that EBs should have no conflict of interest with air carriers or airports and that national sanctions applicable to air carriers in case of breach of EU rules should be made more effective; considers that EBs should be obliged to publish details of the complaints they receive on a yearly basis and that the Commission should publish a league table based on air carriers' performance;
4. Stresses that information detailing passengers' rights should be communicated in a simple, appropriate and understandable way throughout the key stages of the journey, starting from when the passenger is considering whether to book a ticket;
5. Stresses that air carriers should ensure the presence of contact personnel at each airport they operate from who can take immediate decisions in case of disruption, in particular with regard to assistance, reimbursement, rerouting and rebooking, and with whom complaints can be lodged;
6. Underlines that passengers should have the right to be informed about the 'Passenger Name Record' (PNR) kept on them by the air carrier; stresses that passengers should not be denied boarding on the basis of their PNR, except if they are suspected of terrorist crimes;
7. Urges the Commission to propose the obligation for air carriers to provide for a final guarantee to cover the liabilities of air carriers towards passengers in the case of insolvency, bankruptcy or removal of an operating licence;
8. Calls on the Commission to ensure effective implementation and enforcement of the existing legislation on price transparency and to require that the advertised price is a fair reflection of the final price;
9. Calls on the Commission to examine measures that would allow passengers to correct booking errors or to withdraw from an online reservation within a cooling-off period of at least 48 hours following the initial booking;
10. Calls on the Commission to address the proliferation of unfair terms in air carrier contracts such as the non-transferability of tickets and the unfair requirement that passengers must use the outgoing part of a return ticket in order to be able to use the return part;
11. Refers to Initiative 29 of the White Paper on Transport Policy up to 2020¹ as well as Recital 16 of the Computerised Reservation System Regulation²; emphasises the right of passengers to have easy access to accurate and objective information detailing the

¹ COM(2011)144

² Regulation (EC) No 80/2009

environmental impact and energy efficiency of their travel, which should be clearly visible both on the websites of air carriers and on tickets themselves; calls on the Commission and air carriers to support ongoing work in this direction;

12. Emphasises that all passengers, including children younger than 2 years, must be carried safely; calls upon the Commission to review the EU OPS Regulation¹ to ensure that safe seats are available in the plane;

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

13. Calls on the Commission to incorporate the European Court of Justice's interpretations of various definitions and terms, in particular the notion of 'extraordinary circumstances' and rules for compensation, in any upcoming revision of the Regulation;
14. Believes that there is a strong need for clear rules regarding the content, timing and accuracy of the information communicated to air passengers, which should cover the reason for any delay or cancellation and expected duration of disruptions, as well as the alternative travel options available to passengers;
15. Emphasises that the upcoming revision of the Regulation should also define the body responsible for informing a package travel passenger of any alterations to service, as the contract is between the passenger and a tour operator and not directly with an air carrier;
16. Highlights that the triple choice for the passenger between refunding, rerouting and rebooking in case of travel disruption is a basic right and that this choice should be immediately offered to all stranded passengers;
17. Calls on the Commission to support measures which ensure better and more efficient use of alternative modes of transport, in particular in the case of extraordinary circumstances;
18. Believes that passengers whose luggage has been lost or delayed should enjoy equivalent rights, in terms of compensation and assistance, to passengers who have been delayed themselves;
19. Calls on the Commission to propose a maximum time limit of one month for industry and two months for EBs for handling of passenger complaints; considers that acknowledgement of receipt of complaints should be sent to passengers within 48 hours;
20. Is of the opinion that more balanced burden-sharing between air carriers, airports and other service providers concerned, notably in extraordinary circumstances, should be explored;
21. Invites the Commission to revise compensation criteria, levels and mechanisms; stresses that the currently applicable compensation levels should in no way be weakened, and that particular attention should be given to every passenger who has experienced long delays,

¹ Council Regulation (EEC) No 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation

irrespective of the cause in order to take fully into account the damages he has suffered ;

22. Stresses that the delay after which passengers are eligible for compensation should be made uniform across all transport modes, to avoid distortion of competition and to simplify the rules for passengers;
23. Believes that the Regulation should specifically cater for passengers who self-assist by purchasing refreshments or booking hotels or alternative flights and claiming back reasonable expenses from the air carrier;

Regulation (EC) No 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air

24. Calls on the Commission to cooperate with the enforcement bodies and the relevant representative organisations in order to improve the implementation of this Regulation; shares the Commission's view that the current definition of PRM should not be restricted;
25. Calls on the Commission and Member States to ensure barrier-free access for PRM and persons with disabilities to all air transport services; emphasises that, in this regard, the right to use mobility devices as well as to be accompanied by a recognised guide or assistance dog should be guaranteed in all circumstances; calls on the Commission to propose legislation covering the physical accessibility of aircraft and airports, in order to ensure that infrastructural and design barriers do not prevent persons with disabilities and PRM from enjoying equal travel opportunities;
26. Emphasises that the information formats and booking process must be fully accessible, that PRM and persons with disabilities should be able to communicate their assistance needs at the same time as booking their ticket and that a confirmation of the assistance notification should be provided to the passenger;
27. Underlines that training of air carrier, airport and EB personnel plays a key role and must adequately cover the different and individual needs of PRM and persons with disabilities, including handling of mobility equipment; emphasises that the training should be provided in cooperation with representative organisations of persons with disabilities and PRM;
28. Calls on the Commission to submit a proposal ensuring that PRM and persons with disabilities have at all times the right to use medical oxygen on airlines free of charge; considers that a list of approved medical oxygen equipment should be drawn up in cooperation with industry and representative organisations of persons with disabilities and PRM;
29. Is of the opinion that establishing minimum standards for the PRM assistance equipment and its usage at all EU airports is required to ensure a harmonised approach to ground handling and high quality service provision to PRM passengers in Europe;
30. Insists that any damage to the mobility equipment of PRM must be compensated in full, as such equipment is important for their integrity, dignity and independence and is therefore in no way comparable with luggage, and that the passenger should have the right, whenever possible, to use his or her own wheelchair until the door of the aircraft, and

receive it back at the door of the aircraft upon arrival;

31. Instructs its President to forward this resolution to the Council and the Commission.

EXPLANATORY STATEMENT

This report sets out to address the recent Commission Communication on 'the application of Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights' (COM(2011)0174) and the Report from the Commission on 'the functioning and effects of Regulation (EC) No 1107/2006 of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air' (COM(2011)0166).

Furthermore, because passenger rights are touched upon in many different EU laws, my draft report also looks at the broader context of air passenger rights at a European level.

My draft report identifies the need for enhanced legal certainty, for more interpretative clarity and uniform application of the regulations across the EU. There is also a need for judgements of the European Court of Justice to be incorporated into the upcoming revision of Regulation 261/2004. Ultimately, I want to increase accountability and transparency, to clarify and strengthen existing rights and to make sure they are made clear to consumers.

This report is timely, as the Commission plans a review of Regulation 261/2004 next year. I also hope it will help inform upcoming revisions of other legislation, such as the Package Travel Directive and the Airport Package, among others. Below I highlight the key points of my draft report.

General Framework

Knowledge of rights is essential in ensuring that passengers can access them. That is why information on passenger rights should be communicated in a simple, appropriate and understandable way throughout key stages of the journey, starting from when the passenger is considering whether to purchase a ticket.

To help ensure that rights are upheld, I am calling for contact personnel at airports who can take immediate decisions in relation to providing assistance, reimbursement, re-routing and other issues that arise when flight disruptions occur.

Efficient, transparent and independent Enforcement Bodies (EBs) to deal with passenger complaints, to help resolve disputes between passengers and air carriers and to ultimately impose sanctions if necessary are vital. I am calling for formalisation of a European network of EBs, coordinated by the Commission, and for EBs to publish information on the complaints they receive.

Other elements in my draft report include the need for passengers to be fully covered in event of bankruptcy or insolvency of the air line and for effective implementation and enforcement of existing legislation on price transparency, so that the advertised price on airline websites is a fair reflection of the final price. Passengers should also have the right to access the Passenger Name Record held on them by the air carrier, and this should be enshrined in legislation.

I also believe that passengers should have the right to change the details on their ticket in case of a mistake without incurring a fee for doing so (air lines can currently charge exorbitant amounts for doing do). This example highlights the general proliferation of unfair terms in air carrier contracts, which needs to be tackled.

One of the most basic rights of passengers is to a safe journey. I therefore believe that it is essential that all passengers, including children younger than two years, are ensured a safe seat on the plane. Finally, passengers should have the right to information on the environmental impact of their mode of travel. I am therefore calling on the Commission and airlines to support ongoing work which will allow objective and accurate comparisons between the environmental footprint of different flights, as well as between air and other modes of transport.

Regulation 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and cancellation of long delay of flights

Interpretative clarity is key and that is why I am calling on the Commission to incorporate, in the upcoming revision of Regulation 261/2004, the European Court of Justice interpretations of various definitions and terms, including 'extraordinary circumstances' and rules on compensation.

In case of disruption to travel, passengers should be informed in a timely manner with information covering reasons for delay or cancellation, expected duration of delay and alternative travel options, including other modes of transport where applicable. The triple choice for the passenger between refunding, rerouting and rebooking, as a basic right, should also be highlighted.

Furthermore, passengers with lost or delayed baggage should be entitled to equivalent rights as to passengers who are themselves delayed. In order to allow air lines to look after the most vulnerable groups of passengers and to reduce the number of passengers travelling to the airport to seek assistance, passengers should be able to self-assist by purchasing refreshment, hotels or alternative flights and claiming back reasonable expenses from the airline.

Finally, compensation levels, criteria and mechanisms should be revised by the Commission, with the proviso that current levels are not weakened.

Regulation 1107/2006 concerning the rights of people with reduced mobility when travelling by air

Barrier-free access and equal travel opportunities for persons with reduced mobility ('PRM') and persons with disabilities is a basic right. Lack of training of staff and the physical infrastructure of airports and aircraft are obstacles which need to be urgently addressed. It is also important that PRM and persons with disabilities can be accompanied by recognised guide or assistant dogs onboard aircraft if required and that they are also guaranteed access to oxygen for medical purposes free of charge.

Any damage to the mobility equipment of PRM must be compensated in full as such

equipment is part of a person's integrity, dignity and independence. Finally, information to PRM and to persons with disabilities must be fully accessible and in formats corresponding to their needs.