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Compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights *I**

European Parliament legislative resolution of 5 February 2014 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))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0130),
 - having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0066/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 11 July 2013¹,
 - after consulting the Committee of the Regions,
 - having regard to Rule 55 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 (A7-0020/2014),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 327, 12.11.2013, p. 115.

Position of the European Parliament adopted at first reading on 5 February 2014 with a view to the adoption of Regulation (EU) No .../2014 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 Council Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure³,

¹ OJ C 327, 12.11.2013, p. 115.

² OJ C...

³ Position of the European Parliament of 5 February 2014.

Whereas:

- (1) Regulation (EC) No 261/2004 of the European Parliament and of the Council¹, and Council Regulation (EC) No 2027/97² have significantly contributed to protecting the rights of air passengers when their travel plans are disrupted by denied boarding, long delays, cancellations or mishandled baggage.

¹ 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 (OJ L 46, 17.2.2004, p. 1).

² Regulation (EC) No 2027/97 of the Council of 9 October 1997 on air carrier liability of the carriage of passengers and their baggage by air (OJ L 285, 17.10.1997, p. 1).

- (2) A number of shortcomings revealed during the implementation of the rights under the Regulations, have however prevented their full potential in terms of passenger protection from being realised. In order to ensure a more effective, efficient and consistent application of air passenger rights across the Union, a series of adjustments to the current legal framework is required. This was underlined in the Commission 2010 EU Citizenship Report on dismantling obstacles to EU citizens' rights which announced measures to ensure a set of common rights notably for air passengers and the adequate enforcement of these rights.
- (2a) *Air transport services are prepaid by the passenger and directly or indirectly subsidised by the taxpayer. Flight tickets should therefore be considered to be "result contracts", whereby the airlines guarantee to fulfil the obligations of the contract with the utmost care. [Am. 1]*

- (3) In order to increase legal certainty for air carriers and passengers, a more precise definition of the concept of "extraordinary circumstances" is needed, which takes into account the judgement of the European Court of Justice in the case C-549/07 (Wallentin-Hermann). Such a definition should be further clarified via a ~~non-exhaustive~~ **exhaustive** list of circumstances that are clearly identified as extraordinary ~~or not~~. ***The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to make additions, where necessary, to that list.***
[Am. 2]
- (4) In the case C-173/07 (Emirates), the European Court of Justice held that the concept of 'flight' within the meaning of Regulation (EC) No 261/2004 must be interpreted as consisting essentially of an air transport operation, as a 'unit' of such transport, performed by an air carrier which fixes its itinerary. In order to avoid uncertainty, a clear definition of a "flight" should now be provided, as well as for the associated notions of "connecting flight" and "journey".

- (5) In ~~the case~~ **Case C-22/11 (Finnair)**, the ~~European~~ Court **of Justice** decided that the concept of ‘denied boarding’ must be interpreted as relating not only to cases where boarding is denied because of overbooking but also to those where boarding is denied on other grounds, such as operational reasons. ~~Given this confirmation, there is no reason to modify the current~~ **The definition of "denied boarding" *should cover cases where the scheduled time of departure has been changed to an earlier departure with the consequence that a passenger misses the flight.* [Am. 3]**
- (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/EEC¹. 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.~~ ***Air carriers and tour operators should give passengers the evidence necessary for them to finalise their claims without delay.* [Am. 4]**

¹ Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours (OJ L 158, 23.6.1990, p.59).

- (7) In order to improve levels of protection, ***it should not be possible for*** passengers ~~should~~ ~~not to~~ be denied boarding ***on a section of*** the return journey of a two-way (return) ticket ~~because~~ ***on the grounds that*** they have ~~not taken the outward journey~~ ***not travelled on every leg of the journey covered by the ticket.*** [Am. 5]
- (8) At present, passengers are sometimes penalised for spelling errors in their names by the application of punitive administrative fees. ~~Reasonable~~ Corrections of booking errors should be provided free of charge provided they do not imply a change of times, date, itinerary or passenger. [Am. 6]
- (9) It should be clarified that in cases of cancellation the choice between receiving reimbursement, continuation of travel by re-routing or travel ***later on the same day or*** at a later date is the decision of the passenger and not that of the air carrier. [Am. 7]
- (9a) ***Where a passenger cancels a flight, air carriers should be obliged to refund, free of charge, taxes which have already been paid.*** [Am. 8]

- (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 should always be reimbursed in full. Those costs should always include public transport fares, taxi fares and parking charges at the airport. [Am. 9]*
- (9c) *The financial protection of passengers in the event of airline failure is a key component of an effective passenger rights regime. In order to strengthen air passengers' protection in the event of cancellations of flights due to the insolvency of an air carrier or the suspension of an air carrier's operations due to the revocation of its operating licence, air carriers should be obliged to provide sufficient evidence of security for the reimbursement of passengers or their repatriation. [Am. 10]*
- (9d) *The creation of a guarantee fund or a compulsory insurance scheme will for example enable air carriers to ensure that passengers can be reimbursed or repatriated when their flights are cancelled due to the insolvency of an air carrier or the suspension of its operations as the result of the revocation of its operating licence. [Am. 11]*

- (10) ~~Airports~~ ***The airport managing body*** and airport users such as air carriers, and ground handling companies, ***navigation service providers and assistance providers for disabled passengers and passengers with reduced mobility*** should ~~cooperate~~ ***take adequate measures to enforce coordination and cooperation between airport users in order*** to minimise the impact of multiple flight disruptions on passengers by ensuring their care and rerouting. To this end, ~~they should prepare~~ ***airport managing bodies should ensure adequate coordination by means of a proper contingency plans plan*** for such occurrences and work together ***with national, regional or local authorities*** in the development of such plans. ***Such plans should be assessed by the National Enforcement Bodies which may require adaptations, where necessary.*** [Am. 12]

- (10a) *Air carriers should set up procedures and coordinated action in order to provide adequate information to stranded passengers. Those procedures should clearly indicate who is to be responsible at each airport for arranging the care, assistance, re-routing or reimbursement and should set out the processes and conditions for the provision of those services. [Am. 13]*
- (10b) *In order to assist passengers in the case of flight disruptions or delayed, damaged or lost luggage, air carriers should set up contact points at airports where their personnel or third parties commissioned by them should provide passengers with the necessary information regarding their rights, including complaint procedures, and assist them to take immediate action. [Am. 14]*

- (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~~ ***and with the principle of equal treatment, which requires that comparable situations must not be treated differently. The*** thresholds above which delays give rise to a right to compensation should be increased, ***inter alia*** 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~~ ***They should have the effect of ensuring*** 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~~ ***At the same time, certain thresholds should be put higher depending on*** 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. ***As regards the amount of compensation, the same rate should always be applied to the same distance of the flight involved.*** [Am. 15]

- (12) To ensure legal certainty, Regulation (EC) No 261/2004 should explicitly confirm that the changing of flight schedules has a similar impact on passengers to long delays *or denied boarding* and should therefore give rise to similar rights. **[Am. 16]**
- (13) Passengers missing a connecting flight *due to a change of schedule or delay* should be properly cared for while waiting for re-routing. In line with the principle of equal treatment *and the judgement of the European Court of Justice in Case C-11/11 (Air France v. Folkerts)*, such passengers should be able to claim compensation on a similar basis to passengers whose flights are delayed or cancelled in light of the delay upon reaching the final destination of their journey. **[Am. 17]**
- (13a) *In principle, it should be the air carrier causing the change of schedule or the delay that is obliged to offer assistance and re-routing. However, in order to reduce the economic burden on the air carrier concerned, the compensation to be paid to the passenger should be in relation to the delay of a preceding connecting flight at the transfer point.* **[Am. 18]**

- (13b) *Disabled passengers or passengers with reduced mobility who miss a connecting flight due to a delay caused by airport assistance services should be adequately cared for while they are waiting for re-routing. Such passengers should be able to claim compensation from the airport managing body on a similar basis to passengers whose flights are delayed or cancelled by the air carrier. [Am. 19]*
- (14) In order to enhance passenger protection, it should be clarified that delayed passengers enjoy rights to care and compensation irrespective of whether they are waiting in the airport terminal or are already seated on board the aircraft. However, as the latter have no access to the services available in the terminal, their rights should be reinforced with regard to basic needs and with regard to the right to disembark.
- (15) Where a passenger has taken up the choice of rerouting at the earliest possibility, the air carrier often makes the rerouting conditional upon the availability of seats on its own services, thereby denying their passengers the option of being rerouted more quickly by alternative services. It should be established that after a certain period of time has elapsed, the carrier should offer rerouting on another carrier's services or on other transport modes where this can speed up rerouting. Alternative rerouting should be dependent upon the availability of seats.

(16) Air carriers currently face unlimited liability for the accommodation of their passengers in the case of extraordinary circumstances of long duration. ~~This uncertainty linked with the absence of any foreseeable limit in time may risk endangering a carrier's financial stability.~~ An air carrier should ~~therefore,~~ *however,* be able to limit the provision of care *as regards the duration of accommodation and, in cases where passengers arrange the accommodation themselves, as regards costs and care* after a certain duration of time. Moreover, contingency planning and speedy rerouting should lessen the risk of passengers being stranded for long periods. [Am. 20]

~~(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. [Am. 21]~~

- (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~~ ***on no account*** apply to these categories of passenger. [Am. 22]
- (18a) *Where the Community air carrier requires disabled persons or persons with reduced mobility to be accompanied by a carer, carers should not be subject to the payment of the relevant airport departure tax.* [Am. 23]
- (18b) *The service providers should ensure that persons with reduced mobility and people with disabilities have the right, at all times, to use safety-approved respiratory devices on aircraft, free of charge. The Commission should draw up a list of approved medical oxygen equipment in cooperation with the industry and organisations representing people with disabilities and PRMS, taking due account of safety requirements.* [Am. 24]

- (19) The reasons behind the current level of long delays and cancelled flights in the EU are not attributable solely to air carriers. In order to incentivise all actors in the aviation chain to seek efficient and timely solutions to minimise the inconvenience that long delays and cancellations cause to passengers, air carriers should have the right to seek redress from any third party which contributed to the event triggering compensation or other obligations.
- (20) Passengers should not only be correctly informed about their rights in cases of flight disruption, *change of schedule and denied boarding*, 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 *by the air carrier* where the passenger has acquired the ticket through an intermediary established in the Union. *Passengers should also be informed as to the simplest and most rapid procedures for making claims and complaints, in order to enable them to exercise their rights.* [Am. 25]

- (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.
- (21a) *To assist National Enforcement Bodies in fulfilling their role regarding the enforcement of this Regulation, air carriers should provide them with relevant compliance documentation that demonstrates their proper compliance with all relevant Articles of this Regulation. [Am. 26]*
- (21b) *As commercial aviation is an integrated Union market, measures to guarantee enforcement of this Regulation will be more effective at Union level with increased involvement of the European Commission. Specifically, the European Commission should increase awareness among the flying public of compliance by air carriers with passenger rights requirements by publishing a list of carriers that systematically fail to comply with this Regulation. [Am. 27]*

- (22) Passengers should be adequately informed about the relevant procedures for submitting claims and complaints to air carriers, ***should have their attention drawn to the time limits applicable in this connection, particularly those laid down in Article 16a(2)*** and should receive a reply within ~~a reasonable time period~~ ***the shortest period possible***. Passengers should also have the option to complain about air carriers via out-of-court measures. ***Member States should provide for well equipped-mediation services, where it was not possible for a conflict between the passenger and the airline to be solved.*** 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. ***For this purpose, they should always be given the addresses and contact details of all bodies responsible for completion of the relevant formalities in each country. In order to enable claims to be processed 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.*** [Am. 28]

- (22a) ***Before a claim is submitted, a complaint should always be lodged.*** [Am. 29]
- (23) In case C-139/11 (Moré vs KLM), the European Court of Justice clarified that the time-limits for bringing actions for compensation are determined in accordance with the national rules of each Member State.***As regards out-of-court settlements, time-limits are determined in accordance with Directive 2013/11/EU of the European Parliament and of the Council¹.*** [Am. 30]
- (24) A regular flow of information between the Commission and enforcement bodies would enable the Commission to better fulfil its monitoring and coordinating role of the national bodies and to support them.
- (25) In order to ensure uniform conditions for the implementation of Regulation (EC) No 261/2004, implementing powers should be conferred to the Commission. These powers should be exercised in accordance with Regulation (EC) No 182/2011 of the European Parliament and of the Council².

¹ ***Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) (OJ L 165, 18.6.2013, p. 65).***

² Regulation (EC) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (26) The advisory procedure should be used for adopting implementing decisions with regard to the content of the activity reports provided by the Member States to the Commission.
- (26a) *In order to increase legal certainty for passengers and air carriers, it should be possible to clarify the concept of ‘extraordinary circumstances’ on the basis of the work of the National Enforcement Bodies and Court Judgments. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work with the National Enforcement Bodies. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council. [Am. 31]*

- (27) In order to ensure that the damage to or loss of mobility equipment is compensated to its full value, air carriers ~~should offer free of charge to persons~~ **and airport assistance services shall inform disabled passengers or passengers** with reduced mobility **at the time of booking and again at check-in of** the opportunity to make a special declaration of interest, which pursuant to the Montreal Convention, allows them to seek full compensation for loss or damage. **Air carriers should inform passengers of this declaration and the rights attaching to it whenever they make a ticket booking.** [Am. 32]
- (28) Passengers are sometimes confused about the baggage they are allowed to take on board, in terms of dimensions, weight or number of items. In order to ensure that passengers are fully aware of the baggage allowances included in their ticket, both for cabin and hold baggage, air carriers should clearly indicate these allowances at booking and at the airport.
- (29) Musical instruments should ~~as far as possible~~ be accepted as baggage within the passenger cabin and, where this is not possible, should ~~where possible~~ be carried under the appropriate conditions in the cargo compartment of the aircraft. **In order to allow the passengers concerned to assess whether their instrument can be stored in the cabin, air carriers should inform them about the size of storage facilities.** Regulation (EC) No 2027/97 should be amended accordingly. [Am. 33]

- (30) In order to ensure the correct and consistent application of the rights conferred to passengers by Regulation (EC) No 2027/97, the National Enforcement Bodies designated under Regulation (EC) No 261/2004 should also monitor and enforce the rights under Regulation (EC) No 2027/97.
- (31) Given the short deadlines for the submission of complaints for lost, damaged or delayed baggage, ~~air carriers should give passengers~~ ***a special baggage claim service should be set up at all airports where passengers have*** the possibility to submit a complaint ~~by providing upon arrival. For this purpose, air carriers should provide~~ a complaint form ~~at the airport~~ ***in all EU official languages to passengers***. This could also take the form of the common Property Irregularity Report (PIR). ***The Commission should lay down the form of the standardised claim form through implementing acts.*** [Am. 34]
- (32) Article 3(2) of Regulation (EC) No 2027/97 has become obsolete as insurance matters are now regulated by Regulation (EC) No 785/2004 of the European Parliament and of the Council¹. It should accordingly be deleted.

¹ Regulation (EC) No 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators (OJ L 138, 30.4.2004, p. 1).

- (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.
- (34) In order to ensure the continued correspondence between Regulation (EC) No 2027/97 and the Montreal Convention, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. This power will allow the Commission to amend the monetary limits expressed in Regulation (EC) No 2027/97 in case they are adapted by the International Civil Aviation Organization (ICAO) pursuant to Article 24(2) of the Montreal Convention.
- (35) This Regulation should respect fundamental rights and observe the principles recognised in particular by the Charter of Fundamental Rights of the European Union, notably consumer protection, the right to protection of personal data, the prohibition of any form of discrimination and the integration of persons with disabilities, the right to an effective remedy and to a fair trial.

- (35a) *In order to improve passenger protection beyond Union borders, passenger rights should be addressed in bilateral and international agreements. [Am. 35]*
- (35b) *Specific facilities for severely disabled passengers requiring changing and toilet facilities (so-called 'changing places') should be provided at no cost to the passenger at all Union airports with an annual throughput of more than 1 million passengers. [Am. 36]*
- (35c) *The national enforcement bodies set up by the Member States ('NEBs') do not always have sufficient power to ensure the effective protection of passenger rights. Member States should therefore give NEBs sufficient power to sanction infringements and to resolve disputes between passengers and industry, and all NEBs should fully investigate all complaints received, [Am. 37]*

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 261/2004 is amended as follows:

-1. *In Article 1(1) the following point is added:*

***'(d) in case of downgrading;'* [Am. 38]**

-1a. *In Article 1(1) the following point is added:*

***'(e) they miss a connecting flight;'* [Am. 39]**

-1b. *In Article 1, paragraph 3 is deleted.* [Am. 174/rev]

1. Article 2 is amended as follows:

(a) The definition in point (c) is replaced by the following:

""Community air carrier" means an air carrier with a valid operating licence granted by a Member State in accordance with the provisions of Regulation (EC) No 1008/2008 of the European Parliament and of the Council*.

* Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L 293, 31.10.2008, p. 3).'

- (b) The definition in point (d) is replaced by the following:

*"Organiser" means a **the** person within the meaning of Article 2(2) of Council Directive 90/314/EEC of 13 June 1990 on **who, other than occasionally, organises** packages ~~package holidays and package tours~~¹; **and sells or offers them for sale, whether directly or through a retailer;** [Am. 40]*

- (ba) *Point (g) is replaced by the following:*

***"reservation" means the fact that the passenger has a ticket, or other proof, which indicates that the reservation has been accepted and registered by the air carrier or organiser;'** [Am. 41]*

¹ ~~OJ L158, 23.6.1990, p. 59~~

- (c) The definition in point(i) is replaced by the following:

''disabled person or 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 whose mobility when using transport is reduced due to any physical disability (sensory or locomotor, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or due to age, and whose situation needs appropriate attention and the adaptation to his or her particular needs of the service made available to all passengers;' [Am. 42]

- (ca) Point (j) is replaced by the following:

''denied boarding'' means a refusal to carry passengers on a flight, although they have presented themselves for boarding under the conditions laid down in Article 3(2), except where there are reasonable grounds to deny them boarding, such as reasons of health, safety or security, or inadequate travel documentation. A flight for which the scheduled time of departure has been brought forward with the consequence that the passenger misses that flight shall be considered a flight for which the passenger has been denied boarding.' [Am. 43]

- (d) The following sentence is added to the definition of "cancellation" in point (l):

'A flight where the aircraft took off but, ~~for whatever reason,~~ was subsequently forced to land at an airport other than the airport of destination or to return to the airport of departure ***and where the passengers of the aircraft concerned were transferred to departure on other flights,*** shall be considered a cancelled flight.'

[Am. 44]

- (e) The following definitions are added:

'(m) "extraordinary circumstances" means circumstances ~~which, by their nature or origin, are not inherent~~ ***beyond the control of the air carrier concerned*** in the normal exercise of the ~~its~~ activity of the air carrier concerned and are beyond ~~its actual control~~ ***and outside the obligations imposed by the relevant safety and security rules to be observed.*** For the purposes of this Regulation, extraordinary circumstances ~~shall include set out in the Annex~~ ***are limited to the circumstances set out in Annex I;*** **[Am. 45]**

- (n) "flight" means an air transport operation between two airports; intermediate stops for technical and operational purposes only shall not be taken into consideration;
- (o) "connecting flight" means a flight which, under a single contract of carriage ***or a single booking reference, or both***, is intended to enable the passenger to arrive at a transfer point in order to depart on another flight, or, where appropriate in the context ***of Article 6a***, means that other flight departing from the transfer point; [**Am. 46**]
- (p) "journey" means a flight or a continued series of connecting flights transporting the passenger from an airport of departure to his final destination in accordance with the contract of carriage;
- (q) "airport" means any area specifically adapted for the landing, taking-off and manoeuvring of aircraft, including the ancillary installations which these operations may involve for the requirements of aircraft traffic and services, including the installations needed to assist commercial air services;

- (r) "airport managing body" means a body which, in conjunction with other activities or not as the case may be, has as its objective under national laws, regulations or contracts the administration and management of the airport or airport network infrastructures and the coordination ~~and control of the activities~~ of the different operators present in the airports or airport network concerned ***in accordance with its powers***; [Am. 47]
- (s) " ticket price" means the full price paid for a ticket and including the air fare, and all applicable taxes, charges, surcharges and fees paid for all optional and non-optional services included in the ticket, ***such as all costs for the check-in, the provision of the tickets and the issuing of the boarding cards and for the carrying a minimum amount of luggage, including an item of hand luggage, an item of checked-in luggage and essential items, as well as all costs related to payment, such as charges for paying by credit card; the ticket price published in advance always reflects the final ticket price to be paid***; [Am. 48]

- (t) "flight price" means the value obtained by multiplying the ticket price by the ratio between the distance of the flight and the total distance of the journey(s) covered by the ticket; *where a ticket price is not known, the value of any refund shall be the supplement paid for a premium seat on the flight*; **[Am. 49]**
- (u) "time of departure" means the time when the aircraft leaves the departure stand, pushed back or on its own power (off-block time);
- (v) "time of arrival" means the time when the aircraft reaches the arrival stand and the parking brakes are engaged (in-block time);
- (w) "tarmac delay" means, at departure, the time the aircraft remains on the ground between the ~~start~~ **end** of boarding of the passengers and the take-off time of the aircraft or, at arrival, the time between the touch-down of the aircraft and the start of disembarkation of the passengers; **[Am. 50]**
- (x) "night" means the period between midnight and 6 a.m.;

- (y) "unaccompanied child" means a child who travels without an accompanying parent or guardian and where the air carrier has accepted responsibility for care in accordance with its published rules;
- (ya) *"delay in arrival" means the difference between the arrival time for the flight indicated on the passenger's ticket and the time at which the flight actually arrives. A flight where the aircraft took off but was subsequently forced to return to the airport of departure and took off again at a later time is considered to be a subject to a delay in arrival. Equally, a flight which is deviated but ultimately reaches its final destination or an airport in the neighbourhood of the final destination is considered to be subject to a delay in arrival; [Am. 51]*
- (yb) *"re-routing" means an offer of alternative transport at no additional price that enables the passenger to reach his or her final destination;'. [Am. 52]*

2. Article 3 is amended as follows:

(a) Paragraph 2 is replaced by the following:

'Paragraph 1 shall apply on the condition that passengers:

- (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 *or in the case of a connecting flight as referred to in Article 6a*, present themselves for boarding, [Am. 53]
 - 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,
or, if no time is indicated,
 - not later than 45 minutes before the scheduled departure time; or
- (b) have been transferred by an air carrier or organiser from the flight for which they held a reservation to another flight, irrespective of the reason.';

(aa) *In Paragraph 3, the following point is added:*

'3. *This Regulation shall not apply to passengers who travel free of charge or at a reduced fare which is not available directly or indirectly to the public, including children aged under the age of two for whom no separate seat has been booked. However, it shall apply to passengers that have tickets issued under a frequent flyer programme or other commercial programme by an air carrier or tour operator.*' [Am. 54]

(b) Paragraph 4 is replaced by the following:

'4. Without prejudice to Article 8(6), this Regulation shall only apply to passengers transported by motorised fixed wing aircraft. However, where a part of the journey is carried out, in accordance with a **single** contract of carriage **and on the basis of a single reservation**, by another mode of transport or by helicopter, ~~this Regulation~~ **Article 6a** shall apply ~~for~~ **to** the whole journey ~~and the part of the journey carried out by another mode of transport shall be considered as a connecting flight for the purposes of this Regulation~~ **provided that that other mode of transport was indicated in the contract of carriage. The air carrier shall be responsible for ensuring that this Regulation applies for the whole journey.**' [Am. 55]

(c) Paragraph 6 is replaced by the following:

'6. This Regulation shall also apply to *air* passengers transported according to package travel contracts but shall not affect the rights of passengers under Directive 90/314/EEC. The passenger shall be entitled to present claims under this Regulation *to the air carrier* and under Directive 90/314/EEC *to the organiser*, 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.' [Am. 56]

3. Article 4 is amended as follows:

(-a) Article 4(1) is replaced by the following:

'1. When an operating air carrier reasonably expects to deny boarding on a flight, it shall first call for volunteers to surrender their reservations in exchange for benefits under conditions to be agreed between the passenger concerned and the operating air carrier. Volunteers shall be informed of their rights in accordance with Article 14(2) and assisted in accordance with Article 8, and, where the agreed departure time is at least two hours after the initial departure time, the operating carrier shall offer the passenger care in accordance with Article 9, such assistance and care being additional to the benefits mentioned in this paragraph.' [Am. 57]

(a) ~~Paragraph 3 is replaced by the following:~~

~~'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.'~~ [Am. 58]

(aa) *The following paragraph is inserted:*

'3a. Air carriers or their agents may not deny boarding on domestic flights on grounds of invalid documentation if the passenger proves his identity by means of the documents required under the national law of the State where boarding takes place.' [Am. 169]

(b) The following two paragraphs are added:

- '4. ~~Paragraphs 1, 2 and 3 shall also apply to return tickets where the passenger is~~ ***Passengers shall not be*** denied boarding at the return journey, ***including one which consists of multiple flights***, on the grounds that he/she did not take the outward journey ***of a return ticket*** or did not pay an additional charge for this purpose. ***If boarding is denied to passengers against their will on such grounds, paragraphs 1 and 2 shall apply. In addition, the operating air carrier shall immediately compensate the passengers concerned in accordance with Article 7 and shall assist them in accordance with Articles 8 and 9.***

The first subparagraph of this paragraph shall not apply where the ticket includes multiple coupon flights and passengers are denied boarding on the grounds that carriage per journey is not used on all individual flights or not used in the agreed sequence as indicated in the ticket. [Am. 59]

5. Where the passenger, or an intermediary acting on behalf of the passenger, reports a spelling ~~mistake~~ **mistakes** 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~~ **those mistakes** 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.' [Am. 60]

(ba) The following paragraph is added:

'5a. Paragraphs 1, 2 and 4 shall also apply where the passenger misses the flight because:

- (a) the flight took off before the scheduled departure time, the passenger having arrived on time at the airport in accordance with Article 3(2); or*

(b) the scheduled time of departure of the flight was brought forward and the passenger was not informed of this at least 24 hours in advance; the burden of proving that the passenger was informed in due time of the change of the scheduled time of departure shall rest with the operating air carrier.

In addition, the operating air carrier shall immediately compensate the passenger concerned in accordance with Article 7 and shall assist him in accordance with Article 8 and 9. ' [Am. 61]

4. Article 5 is amended as follows:

(a) Paragraph 1, points (a) and (b) are replaced by the following:

- '(a) be offered by the operating air carrier the choice between reimbursement, continuation of their travel by rerouting or travel *later on the same day or* at a later date, in accordance with Article 8; and **[Am. 63]**
- (b) 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'

(aa) *Paragraph 2 is replaced by the following:*

- '2. When passengers are informed of the cancellation of the flight, they shall be fully informed by the operating air carrier or organiser of their rights in accordance with Article 5(1) and of possible alternative modes of transport.'**

[Am. 64]

(b) Paragraph 3 is replaced by the following:

- '3. An operating air carrier shall not be obliged to pay compensation in accordance with Article 7 if it can prove that the cancellation is caused by extraordinary circumstances ~~and that the cancellation could not have been avoided even if all reasonable measures had been taken~~. Such extraordinary circumstances can only be invoked in so far *as* they affect the flight concerned or the ~~previous~~ flight *preceding it* operated by the same aircraft. *Where no proof of the existence of extraordinary circumstances is provided by the air carrier in a written form, the compensation referred to in Article 7 shall be paid by the air carrier.***

The first subparagraph does not exempt air carriers from the requirement to provide passengers with assistance, in accordance with Article 5(1)(b) of this Regulation.' [Am. 65]

(c) The following paragraph is added:

- '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~~ *In view of possible situations of multiple cancellations and/or delays of flights leading to a considerable number of passengers being stranded at the airport, including in cases of airline insolvency or revocation of operating licences, airport management bodies should ensure adequate coordination of airport users by means of a proper contingency plan, at Union airports whose annual traffic has been not less than one and a half million passengers for at least three consecutive years* ~~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~~ *by the airport management body in cooperation with the airport users, in particular the air carriers, the suppliers of ground handling services, the air navigation service providers, the airport retail outlets, and special assistance providers for disabled passengers or passengers with reduced mobility, and with the participation of the relevant national, regional or local authorities and organisations when appropriate.*

The airport managing body shall communicate the contingency plan and any amendments to it to the National Enforcement Body designated pursuant to Article 16. *Member States shall ensure that the National Enforcement Body have both the capability and resources to act effectively in connection with the contingency plans and to adapt them, if necessary.*

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.' [Am. 66]

(ca) *The following paragraph is added:*

'5a. While air carriers may not reduce their obligations as defined under this Regulation, the contingency plan provided for by paragraph 5 shall be set up to define coordinated action where this is necessary in order to ensure the provision of adequate information and assistance to stranded passengers and in particular to disabled persons and persons with reduced mobility, notably with regard to:

- *the provision of information to passengers stranded at or heading towards the airport to begin their air journey;*
- *the provision of on-the-spot accommodation where large numbers of stranded passengers exceed the availability of hotel accommodation;*
- *the provision of information and assistance to passengers affected by the limitations laid down in Article 9(4) and (5);*
- *re-routing of stranded passengers by alternative carriers and transport modes, at limited or no cost for passengers, where the operating carrier has ceased operations.’ [Am. 67]*

(cb) *The following paragraph is added:*

‘5b. Air carriers shall develop and put in place detailed procedures which allow them to comply in an effective and consistent way with this Regulation, especially in cases of delays, cancellations, denied boarding, mass disruptions and insolvency. Those procedures shall clearly indicate the contact person of the airline at each airport who is responsible for providing reliable information concerning care, assistance, re-routing or reimbursement and for taking the necessary immediate measures. The air carrier shall define the processes and conditions for the provision of those services in such a way that this representative is able to fulfil this obligation without delay. The air carrier shall communicate those procedures and any changes thereto to the National Enforcement Body designated pursuant to Article 16.’ [Am. 68]

(cc) *The following paragraph is added:*

‘5c. In the event of cancellation of a flight owing to insolvency, bankruptcy, or the suspension or cessation of the activities of an air carrier, passengers who are stranded shall be entitled to a reimbursement, the return flight to the point of departure or re-routing, and to care, as provided for in Articles 8 and 9 of this Regulation. Equally, air passengers who have not yet started their journey shall be entitled to reimbursement. Air carriers shall prove that they have taken all necessary measures, such as taking out an insurance policy or creating guarantee funds, to provide for the care, reimbursement or re-routing of stranded passengers where applicable. These rights shall apply to all passengers concerned irrespective of their place of residence, point of departure or where they bought their ticket.’ [Am. 69]

5. Article 6 is replaced by the following:

‘Article 6

Long delay

1. When an operating air carrier reasonably expects a flight to be delayed, or an operating *air* carrier postpones the scheduled time of departure, beyond its originally scheduled time of departure, passengers shall be offered by the operating air carrier:

[Am. 70]

- (i) when the delay is of at least two hours, the assistance specified in Article 9(1)(a) and 9(2); and
- (ii) when the delay is of at least ~~five~~ *three* hours and includes ~~one or several nights~~ *night-time hours*, the assistance specified in Article 9(1)(b) and 9(1)(c); and

[Am. 71]

- (iii) when the delay is of at least ~~five~~ *three* hours, the assistance specified in Article 8(1) ~~(a)~~. **[Am. 72]**

- 1a. Where an operating air carrier brings forward the scheduled time of departure by more than three hours, it shall offer passengers the reimbursement specified in point (a) of Article 8(1) or the re-routing specified in point (b) of Article 8(1). The passenger may organise his or her own re-routing and may claim reimbursement of the corresponding costs if the operating air carrier fails to offer the choice of re-routing under point (b) of Article 8(1). [Am. 73]***
2. Passengers shall have a right to compensation from the operating air carrier in accordance with Article 7 where the passenger arrives at its final destination:
- (a) ~~five~~ ***three*** 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;

- (b) ~~nine~~ **five** hours or more after the scheduled time of arrival for *intra-Community journeys of more than 3 500 km or for* journeys to/from third countries between 3 500 and ~~6 000 kilometres~~ **6 000 km**;
 - (c) ~~twelve~~ **seven** hours or more after the scheduled time of arrival for journeys to/from third countries of ***more than*** 6 000 kilometres or more. **[Am. 74]**
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.

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 *as* they affect the flight concerned or the ~~previous~~ flight *preceding it* operated by the same aircraft.

Where no proof of the existence of extraordinary circumstances is provided by the air carrier in a written form, the compensation referred to in Article 7 shall be paid by the air carrier. The above does not exempt air carriers from the requirement to provide passengers with assistance in accordance with Article 5(1)(b). [Am. 75]

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~~ *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,~~ *unless there are safety-related or security-related reasons why the aircraft cannot leave its position on the tarmac. After a total delay of more than three hours from the initial departing time, passengers benefit from the same assistance as specified in paragraph 1, including the option of reimbursement, return flight and rerouting, as specified in Article 8(1) and they shall be informed accordingly.'*

[Am. 76]

6. The following Article is inserted:

‘Article 6a

Missed connecting flight

1. Where a passenger misses a connecting flight *for which he has a reservation, including when he has been booked on an alternative flight in case of a re-routing,* as a result of a delay or change of schedule to a preceding flight, the ~~Community~~ **Union** air carrier operating ~~the onward connecting~~ *that preceding flight which is responsible for that delay or that change of schedule* shall offer the passenger:

[Am. 77]

- (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
- (ii) re-routing as specified in Article 8(1)(b); and

(iii) when the scheduled time of departure of the alternative flight or other transport offered under Article 8 is at least ~~5~~ **3** hours after the scheduled time of departure of the flight missed and the delay includes ~~one or several nights~~ **night-time hours**, the assistance specified in Article 9(1)(b) and 9(1)(c).

[Am. 78]

2. Where a passenger misses a connecting flight as a result of a ***change of schedule or a*** delay to a preceding connecting flight ***of 90 minutes or more calculated by reference to the time of arrival at the transfer point***, the passenger shall have a right to compensation by the ~~Community~~ ***Union*** air carrier operating that preceding flight in accordance with Article 6(2). For these purposes, the ***overall*** delay shall be calculated by reference to the scheduled time of arrival at the final destination.

[Am. 79]

3. Paragraph 2 shall be without prejudice to any indemnity arrangements made between affected air carriers.

4. Paragraphs 1 and 2 *also* apply ~~also~~ to third country air carriers operating a connecting flight ~~to or~~ from an EU airport *within the Union to another airport within the Union, or from an airport within the Union to an airport outside the Union.*' [Am. 80]

7. Article 7 is amended as follows:

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

1. Where reference is made to this Article, passengers shall receive compensation amounting to:

- (a) EUR 300 for all journeys of 2 500 kilometres or less;*
- (b) EUR 400 for all journeys between 2 500 km and 6 000 km;*
- (c) EUR 600 for all journeys of 6 000 km or more;*

In determining the distance, the basis shall be the last destination at which the denial of boarding or cancellation will delay the passenger's arrival after the scheduled time. '[Am. 81]

(b) Paragraphs 2, 3, 4 and 5 are replaced by the following:

- '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.
3. ***In agreement with the passenger***, the compensation referred to in paragraph 1 shall be paid ~~in cash~~ by electronic bank transfer, ***credit card refund or*** bank ~~orders or bank cheques~~ ***order to the account indicated by the authorised passenger. The Commission shall increase the compensation amounts after consulting the Committee established under Article 16.*** [Am. 82]

4. The distances given in paragraph 1 shall be measured by the great circle route method.
5. The air carrier may reach a voluntary agreement with the passenger that replaces the compensation provisions *provided for set out* in paragraph 1 *with other, non-monetary, benefits of at least equivalent value (for example: air travel vouchers without expiration date to the value of 100% of the entitlement to compensation)*, provided that this agreement is confirmed by a document signed by the passenger which ~~reminds~~ *unambiguously informs* 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.* [Am. 83]

(c) *In Article 7 the following paragraph is added:*

5a The burden of proof of when and how the passenger accepted the form of payment of compensation or of reimbursement of ticket costs set out in Article 7(3), as well as if and when the passenger accepted the agreement referred to in paragraph 5, shall rest with the operating air carrier. [Am. 84]

8. Article 8 is replaced by the following:

‘Article 8

Right to reimbursement or re-routing

1. Where reference is made to this Article, passengers shall be offered, free of charge, the choice between three options:

- (a) – reimbursement within seven **working** days of the passenger's request, by the means provided for in Article 7(3), of the ~~flight~~ **ticket** 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, **[Am. 85]**
- a return flight to the first point of departure, at the earliest opportunity;

- (b) continuation of the passengers' travel plans by re-routing them, under comparable transport conditions, to their final destination at the earliest opportunity; or
 - (c) re-routing, under comparable transport conditions, to their final destination at a later date at the passenger's convenience, subject to availability of seats.
- 2. Paragraph 1(a) shall also apply to passengers whose flights form part of a package, except for the right to reimbursement where such right arises under Directive 90/314/EEC.
- 2a. *Paragraph 1(b) shall also apply in cases where the aircraft took off but was subsequently forced to land at an airport other than the airport of destination. Pursuant to paragraph 3, the air carrier shall bear the costs of transferring the passenger from that alternative airport to the airport in respect of which the reservation was made. [Am. 86]*

3. If an operating air carrier offers a passenger a flight to or from an airport alternative to that for which the reservation was made, the operating air carrier shall bear the cost of transferring the passenger from that alternative airport to that for which the reservation was made, ~~or, with regard to the destination airport, to another neighbouring destination agreed with the passenger.~~ **[Am. 87]**
4. Where agreed by the passenger, the return flight or flights referred to in paragraph 1(a) or the re-routing referred to in paragraph 1(b) or 1(c) may use services operated by another air carrier, involve a different routing, or use another mode of transport.

5. Where passengers choose the option referred to in *point (b) of* paragraph 1, they shall, subject to availability *and provided that comparable alternatives exist*, have the right to re-routing, *at the earliest opportunity*, 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~~ *eight* 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.~~ *The air carrier shall inform the passenger, within 30 minutes after the scheduled departure time, whether it will transport the passenger on its own services within the time limit. The passenger shall have the right to refuse the re-routing via another mode of transport, and, in such case, shall maintain his rights to care as specified in Article 9 while waiting for the re-routing.* [Am. 88]

[†] ~~OJ L293, 31.10.2008, p.3~~

6. Whenever passengers are offered, pursuant to paragraph 1, a total or partial re-routing by another mode of transport, ~~this Regulation~~ **Article 6a** shall apply to the transport carried out by that other mode of transport as if it were carried out by fixed wing aircraft *in accordance with the re-routing agreements in place between the operating airline and the other mode of transport. The air carrier shall continue to be responsible for application of this Regulation for the whole of the journey.'*
[Am. 89]

- 8a. *In Article 8 the following paragraph is added:*

'6a. The passenger may himself organise his own re-routing and claim reimbursement of the corresponding costs if the operating air carrier fails to offer the choice of re-routing under point (b) of paragraph 1.' [Am. 90]

9. Article 9 is amended as follows:

(-a) In Paragraph 1, point (a) is replaced by the following:

'(a) meals and refreshments. The air carrier shall automatically provide drinking water to accompany meals, as well as whenever passengers so request.'

[Am. 91]

(a) Paragraph 1, point c is replaced by the following:

'(c) transport ~~between~~ *from* the airport ~~and~~ *to the* place of accommodation (hotel, place of residence of the passenger or other) *and back*.' [Am. 92]

(aa) Paragraph 2 is replaced by the following:

'2. In addition, passengers shall be offered free of charge two telephone calls and fax messages or e-mails.' [Am. 93]

(ab) Paragraph 3 is replaced by the following:

‘3. When applying this Article, the operating air carrier shall pay particular attention to the needs of disabled persons, persons with reduced mobility and all persons accompanying them, as well as to the needs of mothers or fathers travelling with small children and of children travelling without adult guardians.’; [Am. 94]

(ac) The following paragraph is inserted:

‘3a. Airport management bodies shall provide specific facilities for severely disabled passengers requiring changing and toilet facilities at no cost to the passenger, at all Union airports with an annual throughput of more than one million passengers.’ [Am. 95]

(b) The following paragraphs are added:

- '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 *correctly*, it may limit the ~~total cost~~ **total duration** of accommodation provided according to *in accordance with* paragraph 1(b) to ~~EUR 100 per night and per passenger and to a maximum of 3 nights~~ **a maximum of five nights. If the passenger decides to arrange his own accommodation, it may further limit the cost of accommodation to EUR 125 per night, per passenger.** If the operating air carrier chooses to apply this limitation, it shall nevertheless provide the passengers with information about available accommodation after the ~~three~~**five** nights, in addition to the continued obligations for information specified in Article 14.

This limitation shall in any events be without prejudice to the obligation of operating air carriers to provide accommodation, and the carrier shall comply with this obligation as a priority. This limitation shall not apply where the air carrier has failed to provide the accommodation. [Am. 96]

~~5. The obligation to offer accommodation under paragraph 1(b) shall not apply 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. [Am. 97]~~

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. *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.* [Am. 98]

-10 *The introductory wording of Article 10(2) is replaced by the following:*

'2. If an operating air carrier places a passenger in a class lower than that for which the ticket was purchased, it shall within seven working days, by the means provided for in Article 7(3), reimburse' [Am. 99]

10. In paragraph 2, points (a), (b) and (c) of Article 10, the term 'price of the ticket' is replaced by 'flight price'.

11. ~~The~~ *In Article 11, the following paragraph is* ~~paragraph is~~ *paragraphs are* added to Article 11:

'3. The operating air carrier shall not apply the limitations set out in Article 9(4) and 9(5) if the passenger is a person with *a disability or* 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 *operating* 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~~ *are shown on the same ticket*.

Air carriers shall also endeavour to ensure good care is taken of guide dogs and assistance dogs. Information about assistance and the arrangements available shall be made known through various accessible means of communication.

[Am. 100]

3a. *Flight crews shall be trained to help passengers who are disabled or who have reduced mobility, so as to make it easier for them to board and disembark from aircraft.* **[Am. 101]**

3b. *An airline may not refuse boarding to a passenger with a disability or reduced mobility on the grounds that he/she is unaccompanied and may not insist on another person systematically accompanying him/her.'* **[Am. 102]**

11a. *In Article 12, paragraph 2 is replaced by the following:*

'2. *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.'* **[Am. 103]**

12. Article 13 is replaced by the following:

‘Article 13

Right of redress

In cases where an operating air carrier pays compensation or meets the other obligations incumbent on it under this Regulation, ~~or of national law~~, ***and without prejudice to contracts of disclaimer with third parties in force at the time of the dispute***, no provision of this Regulation may be interpreted as restricting its right to seek compensation for, ***or to recover in their entirety***, the costs incurred under this Regulation from any ***person, including any*** third parties, which contributed to the event triggering compensation or other obligations, ***in accordance with the applicable law. In particular, this Regulation shall in no way restrict the right of the operating air carrier to seek compensation or to recover its costs from an airport or other third party with whom the operating air carrier has a contract.***’ [Am. 104]

13. Article 14 is replaced by the following:

‘Article 14

Obligations to inform passengers

1. The airport managing body and the operating air carrier shall ensure that at the check-in desks (including at self-service check-in machines) and at the boarding gate, a clearly legible notice containing the following text is displayed in a manner clearly visible to passengers: "If you are denied boarding or if your flight is cancelled or delayed for at least two hours *or if the schedule time of departure of your flight has been put forward by at least two hours in relation to the initial schedule time indicated on your ticket*, ask at the check-in counter or boarding gate for the notice stating your rights, particularly with regard to assistance and possible compensation. **[Am. 105]**

- 1a. Air carriers shall set up, at each airport where they operate, contact points at which they shall ensure the presence of contact personnel or a third parties commissioned by the air carrier concerned, to provide passengers with the necessary information regarding their rights, including complaint procedures, to assist them and to take immediate action in the event of cancelled or delayed flights, denied boarding and lost or delayed baggage. During the air carriers operating hours and until the last passengers disembark from the last plane, those contact points shall be available for the purpose of assisting passengers inter alia concerning reimbursement, re-routing, rebooking and of accepting the lodging of their complaints. [Am. 106]***
- 1b. The operating air carrier shall provide the passengers with clearly legible and transparent information about passenger rights and contacts for help and assistance on electronic tickets and electronic and printed versions of a boarding card. [Am. 107]***

2. ~~An operating air carrier denying boarding or cancelling a flight,~~ *In the event of denied boarding or cancellation, flight cancellation, delay or change of schedule of at least two hours, the operating air carrier shall provide each as soon as possible fully inform the passenger affected and provide him with a written notice or a notice in electronic form* 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,~~ *and shall inform him of possible alternative transport modes.* The *address of the carrier to which complaints may be submitted and the* contact details of the competent complaint handling bodies designated under Article 16a shall also be given to the passenger in written form. [Am. 108]
3. In respect of *disabled persons or persons with reduced mobility, in particular* blind and visually impaired persons, the provisions of this Article shall be applied using appropriate ~~alternative~~ means *and in the appropriate formats.* [Am. 109]

4. The airport managing body shall ensure that general information on passenger rights is clearly and visibly displayed within the passenger areas of the airport. ***On the basis of the information received,*** it shall also ensure that passengers present at the airport are informed about ***the causes and their rights in cases of delays and flight disruptions, such as*** the cancellation of their flight and about their rights in ~~case~~ ***the event that*** the airline unexpectedly ceases operations ~~as in the case, for example in the event of its~~ insolvency or revocation of its operating licence. [Am. 110]
5. In the event of cancellation or delay in departure, passengers shall be informed by the operating air carrier of the situation, ***including the cause of the disruption,*** as soon as possible ***this information is available,*** 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 ***that*** 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. [Am. 111]

- 5a. *The air carrier shall have documents available at the check-in counter and the boarding gate containing the European Air Passengers Charter, which its staff shall give to air passengers on request. The European Commission shall update such documents Charter every time there is a substantial change to air passengers' rights. [Am. 112]***
- 5b. *Air carriers shall provide accessible, effective telephone assistance for all passengers once a flight has been booked; this service shall provide information and alternative proposals in the event of disruption and shall under no circumstances exceed the cost of a local call. [Am. 113]***

6. Where the passenger does not acquire a ticket directly from the operating air carrier, but via an intermediary established within the Union, ~~this~~ **that** 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~~ **consent. That consent** may only be given on an "opt-in" basis. The air carrier may use ~~these~~ **those** 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 **passenger's consent to the transfer of his/her contact details to the air carrier and to** processing, access and storage of ~~these~~ **those** data shall be undertaken in accordance with Directive 95/46/EC of the European Parliament and of the Council*. [Am. 114]

7. An intermediary shall be exempted from *its obligations under* paragraph 6 if it can prove the existence of an alternative system that ensures that the passenger is informed without the transmission of the relevant contact details *or where the passenger has opted not to provide his contact details*. [Am. 115]
- 7a. *The service provider shall provide easy access to accurate and objective information detailing the environmental (including climate) impact and energy efficiency of their travel. That information shall be published and clearly visible both on the websites of air carriers, tour operators and on tickets; the Commission shall support on-going work in this direction.* [Am. 116]
- 7b. *Without prejudice to obligations under paragraph 2, any electronic communication to the passenger notifying him or her of cancellation, long delay, or change of schedule shall state prominently that the passenger may be entitled to compensation and/or assistance under this Regulation.*

* Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p.31).' [Am. 117]

14. Article 16 is replaced by the following:

‘Article 16

Enforcement

1. Each Member State shall designate a National Enforcement Body responsible for the enforcement of this Regulation as regards ***infringements of this Regulation at airports situated on its territory***, flights from airports situated on its territory and flights from a third country to such airports. The Member States shall inform the Commission of the body that has been designated in accordance with this paragraph.
[Am. 118]
2. The National Enforcement Body shall closely monitor compliance with the requirements of this Regulation and take the measures necessary to ensure that the rights of passengers are respected. For this purpose, air carriers and airport managing bodies shall provide the relevant documents to the National Enforcement Body ~~at its request~~ ***within one month of its request, without prejudice to the obligations of air carriers under Article 14a***. In order to carry out its functions, the National Enforcement Body shall also take account of the information submitted to it by the body designated under Article 16a. It ~~may also decide on~~ ***shall take*** enforcement actions based on individual complaints transmitted by the body designated under Article 16a. ***Member States shall ensure that their respective National Enforcement Bodies are given sufficient power to penalise effectively with infringements.***
[Am. 119]

- 2a. *Air carriers shall proactively provide the National Enforcement Body with comprehensive information as regards the advent of technical problems, in particular on the reasons therefore. The National Enforcement Body shall share this information with the bodies responsible for out-of-court dispute resolution referred to in Article 16a. [Am. 120]***
- 3. *The sanctions laid down by Member States for infringements of this Regulation shall be effective, proportionate, ~~and~~ dissuasive *and sufficient to provide carriers with a financial incentive to comply consistently with this Regulation.* [Am. 121]***

4. ~~Where the bodies designated under Articles 16 and 16a differ, reporting~~ ***In accordance with Directive 2013/11/EU, cooperation*** mechanisms shall be set up ~~to ensure the exchange of information between the various bodies~~ ***between the National Enforcement Body and the body designated under Article 16a. Those cooperation mechanisms shall include mutual information exchanges*** in order to help the National Enforcement Body to carry out its tasks of supervision and enforcement and for the body designated under Article 16a to collect the information ***and acquire the technical expertise*** necessary ~~to examine~~ ***for the handling of*** individual complaints. [Am. 122]
5. For each year, at the latest at the end of April of the following calendar year, the National Enforcement Bodies shall publish statistics on their activity, including on sanctions applied. ***The National Enforcement Bodies shall at the same time publish, on the basis of data which air carriers and airport managing bodies are required to keep and supply, statistics concerning the number and nature of complaints, the number of cancellations, denied boardings and delays and their duration and data on lost, delayed or damaged baggage.*** [Am. 123]

6. ~~Air carriers shall communicate their contact details, for matters covered by this Regulation, to the National Enforcement Bodies of the Member States in which they operate~~ *Pending the transposition by Member States of the provisions of Directive 2013/11/EU, each passenger may, at any airport situated on the territory of a Member State, complain to any National Enforcement Body about an alleged infringement of this Regulation which occurs at any airport situated on the territory of a Member State, or concerning flights from any airport situated on the territory of a Member State or flights from a third country to such airports.'*

[Am. 124]

14a. *The following Article is added:*

'Article 16 -a

Compliance documents

- 1. Community air carriers shall prepare and submit to the National Enforcement Body of the Member State that issued their operating licence pursuant to Regulation (EC) No 1008/2008 and to the Commission by 1 January 2016 a document that demonstrates in reasonable detail that their operating procedures are sufficient to ensure that they consistently comply with all relevant Articles of this Regulation.***
- 1a. The Commission may adopt implementing acts, laying down the minimum contents of such compliance documents. The minimum contents shall at least contain contingency plans for major disruptions, identify those responsible for providing assistance and other rights, the practical arrangements and procedures by which complaints are handled and assistance and compensation are provided, and procedures and templates for communication with passengers. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 16c (2).***

2. *Any other carrier providing services from a Union airport shall submit a compliance document to the NEBs of all Member States in which they operate and to the Commission.*
3. *Air Carriers shall review their compliance documents and submit updated versions to the relevant NEB(s) and to the Commission every three years starting on 1 January 2019.*
4. *The National Enforcement Body shall take account of the compliance documents submitted by air carriers, checking, where possible, the validity of compliance documents against complaints information.'* [Am. 125]

15. The following Articles are inserted:

‘Article 16a

Passenger claims and complaints

1. ~~At the time of reservation,~~ Air carriers, *organisers or ticket sellers within the meaning of point (d) of Article 2 of Regulation (EC) No 2111/2005*, shall provide information to passengers on ~~their~~ *the air carriers'* claim and complaint handling processes *and the relevant time-limits under paragraph 2 of this Article*, 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 *and, if relevant, the organiser* shall also inform passengers of the body or bodies competent for handling passenger complaints, *as designated by Member States under this Article and Article 16. The relevant information shall be given at the time of booking, shall be accessible to all, shall be clearly indicated in the passenger's ticket and on the air carrier's websites, shall be handed out at the air carrier's desks at airports and shall be communicated in the e-mail message that notifies them of their flight being cancelled or delayed. A complaint form shall be provided to passengers on request.* [Am. 126]

1a. *The burden of proof regarding the provision of the requisite information to passengers shall be on the air carrier. [Am. 127]*

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. *The submission of a complaint within three months and after the expiry of that three-month period shall be without prejudice to his right to enforce his claims under this Regulation within the framework of the judicial system and an out-of-court resolution.* Within ~~7~~ **seven working 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. *Where the air carrier does not provide that full answer within that two-month period, it shall be deemed to have accepted the passenger's claims.***

Where the air carrier invokes extraordinary circumstances, it shall, in its answer, inform the passenger of the specific circumstances responsible for the cancellation or delay. The air carrier shall also show that it took all reasonable measures to avoid the cancellation or delay.

With the full answer, the air carrier shall also communicate to the passenger concerned the relevant contact details of the designated body referred to in paragraph 3, including its postal address, phone number, email address and website address. [Am. 128]

3. *In accordance with relevant EU and national law, Member States shall ensure that air passengers are able to submit disputes with air carriers concerning rights and obligations established by this Regulation to independent, efficacious and efficient out-of-court resolution mechanisms. To that end, 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. Those bodies should be other than the Enforcement Body referred to in Article 16(1). Member States shall ensure that those bodies have the power to resolve the underlying dispute between passengers and air carriers by means of a decision which is legally binding on both parties and enforceable. In respect of disputes falling within the scope of Directive 2013/11/EU, only that Directive shall apply. All air carriers which are involved in flights from an airport within the territory of a Member State or of a third country to these airports shall abide by the alternative dispute resolution system referred to in Directive 2013/11/EU, which will ensure simple, swift and cheap out-of-court resolution of disputes between passengers and air carriers. [Am. 129]*

4. ~~Each~~ *On receipt of the full answer from the air carrier, the* passenger concerned may complain to any national *out-of-court dispute resolution* body designated under paragraph 3, about an alleged infringement of this Regulation at any airport situated on the territory of a Member State or concerning any flight from *any airport situated on the territory of a Member State or of* a third country to ~~an airport situated on that territory~~ *such airports*. Such complaints may be submitted ~~at the earliest two months after a complaint was submitted to the concerned carrier unless the carrier has already provided a final reply to such complaint~~ *within a time-limit, which shall be set in advance at not less than one year from the date on which the passenger submitted the complaint or claim to the carrier concerned.* [Am. 130]
- 4a. *If the airline is found to be at fault the complaints handling body shall inform the National Enforcement Body, which, in accordance with Article 16a, paragraph 2, shall take action to ensure enforcement.* [Am. 131]

5. ~~Within 7 days of receiving the complaint, the designated body shall confirm receipt of the complaint and~~ ***Where a designated body has received a complaint, it shall notify the parties to the dispute as soon as it has received all documents containing the information relating to the complaint. It shall send a copy of the documents relating to the complaint 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*** ***90 calendar days from the date on which the designated body has received the complete complaint file.*** A copy of the final reply shall also be provided to the National Enforcement Body. [Am. 132]
- 5a. ***In order for them to be contacted concerning matters covered by this Regulation, Air carriers shall communicate their contact details, to the bodies, designated under this Article, of the Member States in which they operate.*** [Am. 133]
- 5b. ***When reasons of security are invoked under this Regulation, the burden of proof shall be on the airline company concerned.*** [Am. 134]

Article 16aa

Member States shall provide for well-equipped, free of charge and independent mediation bodies to assist in finding solutions in case of conflicts between the passengers and the airlines and service providers of other transport modes. [Am. 135]

Article 16b

Cooperation between Member States and the Commission

1. The Commission shall support dialogue ***and promote cooperation*** between Member States concerning national interpretation and application of this Regulation through the Committee referred to in Article 16c. **[Am. 136]**
2. Member States shall provide annually a report on their activities, ***including the statistics referred to in Article 16(5)***, to the Commission, at the latest at the end of April of the following calendar year. The Commission may decide on the issues to be addressed in these reports via implementing acts. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 16c. **[Am. 137]**

3. The Member States shall regularly send relevant information concerning the national interpretation and application of the Regulation to the Commission, which will make this information available in electronic form to other Member States.
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.
5. At the request of the Commission, the National Enforcement Bodies shall investigate specific suspected practice by one or several air carriers and report its findings to the Commission within 4 months of the request.

- 5a. *The Commission and Member States shall set up a Union-wide mechanism consisting of all bodies designated under Article 16 and Article 16a to ensure the exchange between Member States of information about infringements, sanctions and best practices of enforcement between the Member States. The Commission shall make this information available in electronic form to all the Member States.* [Am. 138]
- 5b. *The National Enforcement Bodies shall provide, upon request, information and relevant documents on individual cases of infringement to the Commission.* [Am. 139]
- 5c. *The Commission shall publish on its website and regularly update, starting no later than 1 May 2015, a list of all air carriers operating in the Union that systematically fail to comply with the provisions of this Regulation. Irrespective of size or nationality, any carrier for whom the Commission has received evidence of infringements pursuant to Article 16b (5b) that occurred to passengers on more than 10 different flights in one calendar year, and that relate to more than one article of this Regulation, shall be considered to have systematically fail to comply with this Regulation.* [Am. 140]

Article 16c

Committee procedure

1. The Commission shall be assisted by the Passenger Rights Committee, composed of two representatives of each Member State and of which at least one will represent a National Enforcement Body. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.'

15a. *The following Article shall be inserted:*

'Article 16ca

Delegated acts

The Commission shall be empowered to adopt delegated acts, in accordance with Article 16cb, adding items to the exhaustive list of circumstances considered to be extraordinary circumstances resulting from the work of the National Enforcement Bodies and judgments of the European Court of Justice. ' [Am. 141]

15b. The following Article shall be inserted:

'Article 16cb

Exercise of delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.***
- 2. The power to adopt delegated acts referred to in Article 16ca shall be conferred on the Commission for a period of five years from ...⁺. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.***

⁺ ***The date of entry into force of this Regulation.***

3. *The delegation of powers referred to in Article 16ca may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*
4. *As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*
5. *A delegated act adopted pursuant to Article 16ca shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council. '[Am. 142]*

16. Article 17 is replaced by the following:

‘Article 17

Report

The Commission shall report to the European Parliament and the Council by 1 January 2017 on the operation and the results of this Regulation, in particular with regard to the impact of the compensation for long delays and the limitation of accommodation in extraordinary circumstances of long duration, *issues concerning the interpretation of extraordinary circumstances, the statistics published by the National Enforcement Bodies on their activities, including on sanctions and their findings regarding suspected infringing practices by air carriers, the progress made in establishing national bodies responsible for the out-of-court resolution of disputes and the activities of the latter*. The Commission shall also report on the enhanced protection of air passengers on flights from third countries operated by non-Community ~~Union~~ carriers, in the context of international air transport agreements. *In addition, the Commission shall report on the effectiveness of the measures taken and sanctions imposed by the bodies referred to in Article 16 and the possible need for a harmonised approach*; the report shall be accompanied where necessary by legislative proposals.’ [Am. 143]

17. Annex I to this Regulation is added as Annex I to Regulation (EC) No 261/2004.

Article 2

Regulation (EC) No 2027/97 is amended as follows:

1. Paragraph 2 of Article 3 is replaced by the following:
 - '2. ~~The Community air carrier~~ ***At all airports within the Union the Community air carrier and the ground handlers acting on its behalf shall provide a complaint form at the airport establish a service that provides passengers with complaint forms which allows the passenger allow them to immediately submit such a complaint about damaged or delayed baggage. Such a upon arrival. Likewise, the Community air carrier shall hand out such a complaint form at the passenger's request at their check-in desks or at their airport service desks, or both, and shall make the complaint form available on their websites. The*** 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 the deadlines ~~given~~ ***prescribed*** by the Montreal Convention.

2a. *The Commission may adopt implementing acts, lay down the form of the standardised claim form. Those implementing acts shall be adopted in accordance with the advisory/examination procedure referred to in Article 6f(2).*' [Am. 144]

2. Paragraph 2 of Article 5 is replaced by the following:

'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.'

2a. *In Article 5, the following paragraph is added:*

'3a. *If luggage is lost, delayed or damaged, airlines shall first compensate the passengers with whom they have concluded a contract before being able to bring any claim against the airports or service providers for the damage, for which they are not necessarily responsible.*' [Am. 145]

3. The following sentence is added to Article 6(1):

'The Commission shall be empowered, by means of a delegated act in accordance with Article 6c, to adjust the amounts mentioned in the Annex, with the exception of the amount mentioned in Article 5(2), in light of a decision by the International Civil Aviation Organization pursuant to Article 24(2) of the Montreal Convention.'

4. The following Articles are inserted:

‘Article 6a

1. Whenever carrying checked wheelchairs or other mobility equipment or assistive devices, the air carrier and its agents shall ***make passengers aware of their rights and*** offer each person with ***a disability or*** reduced mobility as defined in Article 2(a) of Regulation (EC) No 1107/2006 of the European Parliament and of the Council* the option to make, free of charge, a special declaration of interest pursuant to Article 22(2) of the Montreal Convention, at booking and at the latest when the equipment is handed to the carrier. ***The Commission shall adopt implementing acts laying down the model form to be used for such a declaration of interest. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 6f(2).***

[Am. 146]

2. In case of destruction, loss of or damage to mobility aids, the liability of the air carrier shall be limited to the sum declared by the person at the time when the checked mobility equipment is handed over to the Community air carrier.
3. In case of destruction, loss, damage or delay in the carriage of checked wheelchairs or other mobility equipment or assistive devices, the Community air carrier shall be liable to pay a sum not exceeding the sum declared by the passenger; unless it proves that the sum claimed is greater than the person's actual interest in delivery at destination.

3a. Airline companies shall ensure at no additional cost, that passengers are able to use their wheelchairs, including pushchairs for children, up to the boarding gate, and that these are returned to them at the aircraft door. If for safety reasons this is impossible, airline companies shall, at no additional cost, provide wheelchair users with an alternative means of mobility at the airport terminal until such time as they are able to collect their wheelchairs,. If such safety reasons relate directly to the terminal itself, the airport management authority shall be responsible for providing the alternative means of mobility referred to in this paragraph. [Am. 147]

Article 6b

1. The National Enforcement Body designated under Article 16 of Regulation (EC) No 261/2004 shall ensure compliance with this Regulation. For this purpose, it shall monitor:

- the terms and conditions of air transport contracts;

- the systematic offer of a special declaration of interest for checked mobility equipment, and of an appropriate level of compensation in case of damage caused to mobility equipment;
 - the payment of an advance payment under Article 5(1) when applicable;
 - the application of Article 6.
2. For the purpose of monitoring the protection of passengers with reduced mobility and disabled passengers in case of damage to their mobility equipment *or assistive devices*, the National Enforcement Body shall also examine and take account of the information on complaints concerning mobility equipment submitted to the bodies designated under Article 16a of Regulation *(EC) No* 261/2004. [**Am. 148**]
3. The sanctions laid down by Member States for infringements of this Regulation shall be effective, proportionate and dissuasive.

4. In their annual reports pursuant to Article 16(6) of Regulation (EC) No 261/2004, the National Enforcement Bodies shall also publish statistics on their activity and on the sanctions applied with regard to the application of this Regulation.

Article 6c

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The ~~delegation of power~~ **power to adopt delegated acts** referred to in Article 6(1) shall be conferred on the Commission for ~~an indeterminate~~ **a** period of time ~~from the date of entry into force of this Regulation~~ **five years from ...⁺. *The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.***
[Am. 149]

⁺ ***The date of entry into force of this Regulation.***

3. The delegation of power referred to in Article 6(1) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 6(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Article 6d

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~~ ***shall clearly indicate, at an early stage of the booking process, in all distribution channels that are used, including computerised reservation systems,*** 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~~ ***will*** be applied within a given maximum baggage allowance. ~~Where~~ ***and any restrictions on airport purchases. Details of*** additional charges ~~are applied~~ ***applicable*** for the carriage of baggage air carriers shall ~~clearly indicate details of those charges at~~ ***be communicated at an early stage of the*** booking ***process*** and on request at the airport ***in a clear, transparent and unambiguous manner. Core travel services and additional charges must be clearly identifiable and capable of being purchased separately from each other.*** [Am. 150]

- 1a. Passengers shall be permitted to carry on board into the cabin, free of charge, essential personal items or belongings such as coats and handbags, including at least one standardised bag of airport shopping, in addition to the prescribed maximum cabin baggage allowance. [Am. 151]***
- 1b. Without prejudice to Regulation (EC) No 1107/2006, carry-on baggage allowances may be expressed in maximum dimensions or maximum weights of the total carry-on allowance per passenger, or both, but without any restriction on the specific number of items carried. [Am. 152]***

2. ~~Where extraordinary circumstances, such as safety reasons or a change of the aircraft type since the booking was made, preclude the carriage in the cabin of items included in the carry-on baggage allowance, the air carrier may carry them in the hold of the aircraft, but at no extra cost to the passenger~~ *The air carrier may arrange for the above items to be carried in the hold of the aircraft in the case of exceptional conditions related to safety reasons and the specific characteristics of the aircraft preclude transportation in the cabin. No additional charges will apply in such cases.* [Am. 153]
- 2a. *If hand baggage is moved from the cabin of the aircraft to its hold before boarding or take-off, it must be returned to passengers as they disembark the aircraft, as hand baggage.* [Am. 154]
3. These rights do not affect the restrictions on carry-on baggage established by EU and international security rules such as Regulations (EC) No 300/2008 and (EC) No 820/2008

Article 6e

1. A ~~Community~~ **Union** 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~~ ***When accepted for carriage within the aircraft cabin,*** a musical instrument shall form part of a passenger's hand luggage allowance ~~and not~~. ***The air carrier may determine that additional charges are to apply for hand luggage to*** be carried in addition to that allowance. [Am. 155]

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. ***Such additional fare shall not be subject to the payment of the relevant airport departure tax.*** Where a second seat is purchased an air carrier ~~should~~ **shall** make 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. 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.'~~ [Am. 156]

- 2a. Where space is 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 shall provide special tags for clear display on musical instruments to ensure that they are handled with the necessary care. Only instruments that are properly packaged in a rigid and/or hard-shell container specifically designed for such items shall be allowed to be carried as aircraft cargo. [Am. 157]*
- 2b. An air carrier shall clearly indicate at booking and in its terms and conditions the basis on which musical instruments will be transported, including the applicable charges, the facilities for the carriage of musical instruments that are available on the aircraft concerned and the dimensions of these facilities. Where a second seat needs to be booked, passengers shall be offered the possibility of booking that second seat online. [Am. 158]*

Article 6f

- 1. The Commission shall be assisted by the Passengers Rights Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.*
- 2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.*

* Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (OJ L 204, 26.7.2006, p.1). '[Am. 159]

5. Article 7 is replaced by the following:

‘Article 7

The Commission shall report to the European Parliament and the Council by 1 January 2017 on the operation and the results of this Regulation. The report shall be accompanied where necessary by legislative proposals.’

6. The Annex to Regulation (EC) No 2027/97 is replaced by Annex II to the present Regulation.

Article 3

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

For the European Parliament

For the Council

The President

The President

ANNEX I

'Annex: ~~non-exhaustive~~ ***exhaustive*** list of circumstances considered as extraordinary circumstances for the purposes of this Regulation [Am. 160]

1. The following circumstances shall be considered as extraordinary:
 - i. natural disasters rendering impossible the safe operation of the flight;
 - ii. technical problems ***afflicting the aircraft*** 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 directly caused by*** a hidden manufacturing defect ~~revealed~~ ***formally acknowledged as such*** by the manufacturer or a competent authority ~~and arose during the maintenance check preceding the flight or after the aircraft has been released to service,~~ which impinges on flight safety;
[Am. 161]
 - ii.a. ***damage caused by bird strike***; [Am. 162]
 - iii. ~~security risks;~~ ***war, political unrest***, acts of sabotage or terrorism rendering impossible the safe operation of the flight; [Am. 163]

- iv. ~~life threatening~~ health risks or medical emergencies necessitating the interruption or deviation of the flight concerned; [Am. 164]
- v. *unforeseen* air traffic management restrictions or *the unforeseen* closure of *the* airspace ~~or an airport~~, *including runway closures by the authorities*; [Am. 165]
- vi. meteorological conditions incompatible with flight safety *or that have damaged the aircraft in flight or on the tarmac after service release and rendering the safe operation of the flight impossible*; and [Am. 166]
- vii. *unforeseen* labour disputes at the operating air carrier or at essential service providers such as airports and Air Navigation Service Providers.' [Am. 167]

~~2. The following circumstances shall not be considered as extraordinary:~~

- ~~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~~
- ~~ii. unavailability of flight crew or cabin crew (unless caused by labour disputes). [Am. 168]~~

ANNEX II

'ANNEX

AIR CARRIER LIABILITY FOR PASSENGERS AND THEIR BAGGAGE

This information notice summarises the liability rules applied by Community air carriers as required by EU legislation and the Montreal Convention.

COMPENSATION IN THE CASE OF DEATH OR INJURY

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.

ADVANCE PAYMENTS

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).

PASSENGER DELAYS

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).

BAGGAGE LOSS, DAMAGE OR DELAY

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.

HIGHER LIMITS FOR BAGGAGE

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.

TIME LIMIT FOR COMPLAINTS ON BAGGAGE

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.

LIABILITY OF CONTRACTING AND ACTUAL CARRIERS

If the air carrier actually performing the flight is not the same as the contracting air carrier, the passenger has the right to address a complaint or to make a claim for damages against either. This includes cases where a special declaration of interest at delivery has been agreed with the actual carrier.

TIME LIMIT FOR ACTION

Any action in court to claim damages must be brought within two years from the date of arrival of the aircraft, or from the date on which the aircraft ought to have arrived.

BASIS FOR THE INFORMATION

The basis for the rules described above is the Montreal Convention of 28 May 1999, which is implemented in the Community by Regulation (EC) No 2027/97 (as amended by Regulation (EC) No 889/2002 and Regulation (EC) No ...) and national legislation of the Member States.'