

**Final Compromise Amendments on “Air Passenger Rights” 2013/0072(COD)**  
**Rapporteur: Andrey NOVAKOV (EPP)**

**COMPROMISE AMENDMENT 1**

**Definitions**

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 254

Article 1

Regulation (EC) No 261/2004

Article 2 and corresponding Recitals

**Council position**

**Article 1 – paragraph 1 – point 2 – point a**

Regulation (EC) No 261/2004

Article 2 – paragraph 1 – point c b (new)

*Council position*

*Amendment*

***(cb) "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;***

**Council position**

**Article 1 – paragraph 1 – point 2 – point a**

Regulation (EC) No 261/2004

Article 2 – paragraph 1 – point f a (new)

*Council position*

*Amendment*

*(fa) “cost of the air ticket” means final price to be paid at the end of the reservation process that includes the air fare and all applicable taxes, charges, surcharges and fees paid for all optional and non-optional services included in the ticket, excluding intermediation fees, regardless whether those extras and fees have been paid together with the fares for the transport service or separately at a later stage;*

**Council position**

**Article 1 – paragraph 1 – point 2 – point a**

Regulation (EC) No 261/2004

Article 2 – paragraph 1 – point f b (new)

*Council position*

*Amendment*

*(fb) “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;*

**Council position**

**Article 1 – paragraph 1 – point 2 – point b**

Regulation (EC) No 261/2004

Article 2 – paragraph 1 – point g

*Council position*

*Amendment*

*(b) point (g) is deleted;*

*deleted*

**Council position**

**Article 1 – paragraph 1 – point 2 – point c**

Regulation (EC) No 261/2004

Article 2 – paragraph 1 – point i

*Council position*

*Amendment*

*(i) “person with disabilities” and “person with reduced mobility” mean any person who has a permanent or temporary physical, mental, intellectual or sensory impairment which, in interaction with*

*(i) “person with disabilities” and “person with reduced mobility” mean any person whose mobility when using transport is reduced due to any physical disability (sensory or locomotor,*

*various barriers, may hinder that person's full and effective use of transport on an equal basis with other passengers or whose mobility when using transport is reduced due to age;*

*permanent or temporary), intellectual disability or impairment, or any other cause of disability, or age, and whose situation needs appropriate attention and the adaptation to his or her particular needs of the service made available to all passengers;*

#### **Council position**

**Article 1 – paragraph 1 – point 2 – point c**

Regulation (EC) No 261/2004

Article 2 – paragraph 1 – point j

#### *Council position*

(j) “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 4(1), or where they were informed in advance that they will be denied boarding against their will, ***except where there are reasonable grounds to deny them boarding, such as health, safety, security or inadequate travel documentation;***

#### *Amendment*

(j) “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 4(1), or where they were informed in advance that they will be denied boarding against their will.

#### **Council position**

**Article 1 – paragraph 1 – point 2 – point c**

Regulation (EC) No 261/2004

Article 2 – paragraph 1 – point 1 – point i

#### *Council position*

(i) the aircraft took off but, for whatever reason, either diverted to an airport other than the airport of arrival indicated on the ticket, or returned to the airport of departure, and could not continue to the airport of arrival indicated on the ticket, ***unless the actual airport of arrival and the airport of arrival indicated on the ticket serve the same town, city or region and the air carrier provided transport to the passenger to the airport of arrival indicated on the ticket, or***

#### *Amendment*

(i) the aircraft took off but, for whatever reason, either diverted to an airport other than the airport of arrival indicated on the ticket, or returned to the airport of departure, and could not continue to the airport of arrival indicated on the ticket, ***or***

### Council position

#### Article 1 – paragraph 1 – point 2 – point c

Regulation (EC) No 261/2004

Article 2 – paragraph 1 – point 1 – point ii

#### *Council position*

(ii) a passenger has been issued a ticket for a flight and the time of departure indicated on the passenger's ticket has been brought forward by more than one hour, ***unless the check-in and boarding times remain unchanged, or unless the passenger has taken the rescheduled flight;***

#### *Amendment*

(ii) a passenger has been issued a ticket for a flight and the time of departure indicated on the passenger's ticket has been brought forward by more than one hour.

### Council position

#### Article 1 – paragraph 1 – point 2 – point d

Regulation (EC) No 261/2004

Article 2 – paragraph 1 – point o

#### *Council position*

(o) “delay at arrival” means the difference in time between the time of arrival indicated on the passenger's ticket and the actual time of arrival of the flight;

#### *Amendment*

(o) “delay at arrival” means the difference in time between the time of arrival indicated on the passenger's ticket and the actual time of arrival of the flight; ***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 delayed at arrival;***

### Council position

#### Article 1 – paragraph 1 – point 2 – point d

Regulation (EC) No 261/2004

Article 2 – paragraph 1 – point p

#### *Council position*

(p) “class of transport” means a part of the passenger cabin of the aircraft characterised by different seats, a different seat configuration ***or any other difference*** in the service provided to passengers compared to other parts of the cabin;

#### *Amendment*

(p) “class of transport” means a part of the passenger cabin of the aircraft characterised by ***either a specific code indicated in the air transport contract or a combination of*** different seats, a different seat configuration ***and other differences*** in the service, ***such as specific catering,*** provided to passengers compared to other parts of the cabin;

### Council position

#### Article 1 – paragraph 1 – point 2 – point d

Regulation (EC) No 261/2004

Article 2 – paragraph 1 – point q

#### *Council position*

(q) “air transport contract” means a contract of carriage concluded between an air carrier or its authorised agent and a passenger, for the provision of one or more flights;

#### *Amendment*

(q) “air transport contract” means a contract of carriage concluded between an air carrier or its authorised agent and a passenger **or passengers**, for the provision of one or more flights;

### Council position

#### Article 1 – paragraph 1 – point 2 – point d

Regulation (EC) No 261/2004

Article 2 – paragraph 1 – point r

#### *Council position*

(r) “**extraordinary circumstances**” **deleted**  
**means circumstances which by their nature or origin are not inherent in the normal exercise of the activity of the air carrier concerned and are beyond its actual control, such as the circumstances in the non-exhaustive list of extraordinary circumstances set out in point 1 of the Annex, but excludes the circumstances in the non-exhaustive list of circumstances set out in point 2 of the Annex;**

#### *Amendment*

### Council position

#### Article 1 – paragraph 1 – point 2 – point d

Regulation (EC) No 261/2004

Article 2 – paragraph 1 – point t

#### *Council position*

(t) “connecting flight” means a flight which, as part of a journey, is intended to enable the passenger to depart from the initial point of departure and to arrive at a transfer point in order to depart on another flight, or is intended to enable the passenger to depart from a transfer point to enable the passenger to reach another transfer point or the passenger’s final

#### *Amendment*

(t) “connecting flight” means a flight **under a single contract of carriage or a single booking reference, or both**, which, as part of a journey, is intended to enable the passenger to depart from the initial point of departure and to arrive at a transfer point in order to depart on another flight, or is intended to enable the passenger to depart from a transfer point to enable the

destination;

passenger to reach another transfer point or the passenger's final destination;

**Council position**

**Article 1 – paragraph 1 – point 2 – point d**

Regulation (EC) No 261/2004

Article 2 – paragraph 1 – point za a (new)

*Council position*

*Amendment*

**(zaa) "unaccompanied child" means a child travelling without an adult guardian and where the air carrier has accepted responsibility for care in accordance with its published rules;**

**Council position**

**Article 1 – paragraph 1 – point 2 – point d**

Regulation (EC) No 261/2004

Article 2 – paragraph 1 – point zf a (new)

*Council position*

*Amendment*

**(zfa) "personal item" means a piece of unchecked baggage, which complies with security and safety requirements, and either with maximum dimensions of 40x30x15cm or on condition that it fits under the seat in front of the seat in which the passenger is sitting;**

**Council position**

**Article 1 – paragraph 1 – point 2 – point d**

Regulation (EC) No 261/2004

Article 2 – paragraph 1 – point zf b (new)

*Council position*

*Amendment*

**(zfb) "hand baggage" means a piece of unchecked baggage which is not a personal item and which complies with security and safety requirements.'**

## COMPROMISE AMENDMENT 2

### Scope

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 7, 8, 9, 47, 50, 51, 73, 74, 75, 76, 77, 252, 253

Article 1

Regulation (EC) No 261/2004

Article 3 and corresponding Recitals

### Council position

#### Article 1 – paragraph 1 – point 3

Regulation (EC) No 261/2004

Article 3 – paragraph 1 – point b

#### *Council position*

(b) to passengers departing from an airport located in a third country to an airport situated in the territory of a Member State to which the Treaties apply, unless they received benefits or compensation and were given assistance in that third country, ***if the operating air carrier of the flight concerned is a Union air carrier.***

### Council position

#### Article 1 – paragraph 1 – point 3

Regulation (EC) No 261/2004

Article 3 – paragraph 3

#### *Council position*

***3. This Regulation shall not apply to passengers travelling free of charge or at a reduced fare not available, directly or indirectly, to the public. However, it shall apply to passengers having tickets issued under a frequent flyer programme or other commercial programme by an air carrier or intermediary.***

#### *Amendment*

(b) to passengers departing from an airport located in a third country to an airport situated in the territory of a Member State to which the Treaties apply, unless they received ***equivalent*** benefits or compensation and were given assistance in that third country.

#### *Amendment*

***deleted***

**Council position**

**Article 1 – paragraph 1 – point 3**

Regulation (EC) No 261/2004

Article 3 – paragraph 7

*Council position*

*Amendment*

**7. Article 7 of this Regulation shall not apply, if the disruption occurs on a connecting flight that both departs from and arrives at an airport in Greenland.** *deleted*

**Council position**

**Article 1 – paragraph 1 – point 3**

Regulation (EC) No 261/2004

Article 3 – paragraph 8 – subparagraph 1

*Council position*

*Amendment*

**This Regulation is without prejudice to the legal position of the Kingdom of Spain regarding the territory of Gibraltar, as well as the isthmus and the airport constructed thereon.** *deleted*

**Council position**

**Article 1 – paragraph 1 – point 3**

Regulation (EC) No 261/2004

Article 3 – paragraph 8 – subparagraph 2

*Council position*

*Amendment*

**It shall apply to Gibraltar airport when, following a settlement of its dispute with the United Kingdom, the Kingdom of Spain is in a position to exercise effective control over that airport and to ensure the application of this Regulation to that airport. The Kingdom of Spain shall notify the Commission when these conditions are met and the Commission shall publish a notification regarding the resolution of the dispute in the Official Journal of the European Union. This Regulation shall apply to that airport from the first day of the month following the date of the publication of that notification in the Official Journal of the** *deleted*

*European Union.;*

**Council position**  
**Recital 10**

*Council position*

(10) In its judgment in Case C-537/17 (Claudia Wegener v Royal Air Maroc SA)<sup>12</sup> on the interpretation of Regulation (EC) No 261/2004, the Court of Justice held that Regulation (EC) No 261/2004 applied to a part of any flight which was part of one journey, regardless of where the flight took place, including flights fully operated outside the Union. When either the initial point of departure is located in the territory of a Member States to which the Treaties apply, or, when the ***operating air carrier is a Union operating air carrier, when the*** final destination of the journey is located in the territory of a Member State to which the Treaties apply, this Regulation should apply.

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<sup>12</sup> Judgment of the Court (Eighth Chamber) of 31 May 2018, Claudia Wegener v Royal Air Maroc SA, Case C-537/17, ECLI:EU:C:2018:361.

**Council position**  
**Recital 11 a (new)**

*Council position*

*Amendment*

(10) In its judgment in Case C-537/17 (Claudia Wegener v Royal Air Maroc SA)<sup>12</sup> on the interpretation of Regulation (EC) No 261/2004, the Court of Justice held that Regulation (EC) No 261/2004 applied to a part of any flight which was part of one journey, regardless of where the flight took place, including flights fully operated outside the Union. ***Building on this judgement and with the aim of establishing a level playing field,*** when either the initial point of departure is located in the territory of a Member States to which the Treaties apply, or, when the final destination of the journey is located in the territory of a Member State to which the Treaties apply, this Regulation should apply.

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<sup>12</sup> Judgment of the Court (Eighth Chamber) of 31 May 2018, Claudia Wegener v Royal Air Maroc SA, Case C-537/17, ECLI:EU:C:2018:361.

***(11 a) In the interest of fair international competition and in order to ensure that passengers are protected by a uniform and coherent framework of rights, Regulation (EC) No 261/2004 should apply to all journeys within the Union, as well as to all journeys departing from or arriving in the Union.***

## Council position

### Recital 52

#### *Council position*

(52) The Draghi report emphasised the critical role of transport for Union competitiveness. It also outlined the risk of business diversion, resulting from asymmetric regulations, from transport hubs in the Union to hubs in the Union's neighbourhood. Regulation (EC) No 261/2004 applies to passengers departing from an airport located in a third country to an airport situated in the territory of a Member State to which the Treaties apply, only if the operating air carrier of the flight concerned is a Union air carrier. ***Within three years of the application of Regulation (EC) No 261/2004, the Commission should assess the feasibility of revising the scope of that Regulation with a view to further enhancing the level of passengers' protection and the level playing field between Union and third country air carriers.***

## Council position

### Recital 54

#### *Council position*

***(54) Greenland is subject to particularly harsh meteorological conditions, and is characterised by very low population density and the remoteness of its populated places. To ensure connectivity and to maintain the availability of flights within Greenland, flights within Greenland should not be covered by the obligations regarding compensation, including where those flights are connecting flights which arrive at or depart from the territory of a Member State to which the Treaties apply.***

## Council position

### Recital 55

#### *Amendment*

(52) The Draghi report emphasised the critical role of transport for Union competitiveness. It also outlined the risk of business diversion, resulting from asymmetric regulations, from transport hubs in the Union to hubs in the Union's neighbourhood. Regulation (EC) No 261/2004 applies to passengers departing from an airport located in a third country to an airport situated in the territory of a Member State to which the Treaties apply, only if the operating air carrier of the flight concerned is a Union air carrier. ***These findings support the Union legislator's decision to revise the scope of this Regulation with a view to further enhancing the level of passengers' protection and the level playing field between Union and third country air carriers.***

#### *Amendment*

***deleted***

*Council position*

*Amendment*

**(55) Regulation (EC) No 261/2004 should be without prejudice to the status of and sovereignty over the isthmus of Gibraltar in which the airport of Gibraltar is located and the legal position of the Kingdom of Spain in that regard. Taking into account the current circumstances and in order to provide legal certainty, it should be specified that the rules in Regulation (EC) No 261/2004 should only apply to Gibraltar airport when, following a settlement of the dispute between the Kingdom of Spain and the United Kingdom, the Kingdom of Spain is in a position to exercise effective control over the airport of Gibraltar and to ensure the application of the rules set out in Regulation (EC) No 261/2004 to that airport and a notification of the resolution of the dispute has been published in the Official Journal of the European Union.**

*deleted*

### **COMPROMISE AMENDMENT 3**

#### **Denied boarding**

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 11, 12, 78, 79, 80, 81, 82, 83, 84, 85

Article 1

Regulation (EC) No 261/2004

Article 4 and corresponding Recitals

#### **Council position**

**Article 1 – paragraph 1 – point 4**

Regulation (EC) No 261/2004

Article 4 – paragraph 2 – subparagraph 1

*Council position*

*Amendment*

When an operating air carrier reasonably

When an operating air carrier reasonably

expects to deny boarding on a flight, it shall immediately inform the passengers concerned. The operating air carrier shall, at the same time, specify to the passengers concerned their specific rights under this Regulation applicable to the case, in particular as regards the right to reimbursement *or* rerouting **under Article 8** and the right to assistance under **Article 9**.

expects to deny boarding on a flight, it shall immediately inform the passengers concerned. The operating air carrier shall, at the same time, specify to the passengers concerned their specific rights under this Regulation applicable to the case, in particular as regards the right to reimbursement, rerouting **and compensation** and the right to assistance under **this Regulation**.

Or. en

### Council position

#### Article 1 – paragraph 1 – point 4

Regulation (EC) No 261/2004

Article 4 – paragraph 2 – subparagraph 2

#### *Council position*

The operating air carrier shall call for volunteers under conditions to be agreed between each volunteer and the operating air carrier. **This** agreement with each volunteer regarding the benefits shall only replace the volunteer's right to compensation as laid down in Article 7(1) if the volunteer explicitly approves of it by means of a signed document or any digital means on a durable medium. In absence of such an approval, the volunteer shall be, **without undue delay and at the latest within seven calendar days of the denied boarding**, compensated by the operating air carrier denying boarding in accordance with Articles 7(1).

### Council position

#### Article 1 – paragraph 1 – point 4

Regulation (EC) No 261/2004

Article 4 – paragraph 4 – subparagraph 2

#### *Council position*

The operating air carrier denying boarding shall, without undue delay, offer to the

#### *Amendment*

The operating air carrier shall call for volunteers under conditions to be agreed between each volunteer and the operating air carrier. **The air carrier shall inform the volunteers of their rights in accordance with this Regulation.** The agreement with each volunteer regarding the benefits shall only replace the volunteer's right to compensation as laid down in Article 7(1) if the volunteer explicitly approves of it by means of a signed document or any digital means on a durable medium. In absence of such an approval, the volunteer shall be **immediately** compensated by the operating air carrier denying boarding in accordance with Articles 7(1).

#### *Amendment*

The operating air carrier denying boarding shall, without undue delay, offer to the

passengers concerned, in a clear manner, the choice between reimbursement and rerouting in accordance with Article 8. By way of derogation from Article 8(1), point (a), when the passengers who were denied boarding are entitled to reimbursement it shall be granted ***without undue delay and at the latest within seven calendar days of the denied boarding.***

passengers concerned, in a clear manner, the choice between reimbursement and rerouting in accordance with Article 8. By way of derogation from Article 8(1), point (a), when the passengers who were denied boarding are entitled to reimbursement it shall be granted ***immediately.***

#### **Council position**

##### **Article 1 – paragraph 1 – point 4**

Regulation (EC) No 261/2004

Article 4 – paragraph 4 – subparagraph 4

#### *Council position*

The operating air carrier denying boarding to passengers against their will shall compensate the passengers concerned in accordance with Article 7(1), ***without undue delay and at the latest within seven calendar days of the denied boarding.***

#### *Amendment*

The operating air carrier denying boarding to passengers against their will shall ***immediately*** compensate the passengers concerned in accordance with Article 7(1).

#### **Council position**

##### **Article 1 – paragraph 1 – point 4**

Regulation (EC) No 261/2004

Article 4 – paragraph 5

#### *Council position*

***5. Paragraphs 3 and 4 shall also apply to return flights where the passenger is denied boarding on the ground that the passenger did not take an outbound flight covered by the same air transport contract.***

#### *Amendment*

***deleted***

## **Council position**

### **Article 1 – paragraph 1 – point 4**

Regulation (EC) No 261/2004

Article 4 – paragraph 5 a (new)

*Council position*

*Amendment*

**5a. Passenger shall not be denied boarding at the return journey, including one which consists of multiple flights, on the grounds that the passenger did not take the outbound flight 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, this Article 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.**

## **Council position**

### **Article 1 – paragraph 1 – point 4**

Regulation (EC) No 261/2004

Article 4 – paragraph 6

*Council position*

*Amendment*

6. Where the passenger, or an intermediary, demands the correction of a spelling mistake in the name or given name(s) of one or several passengers or in case of administrative change to those names, the operating air carrier shall correct or change **this** at least once up until 48 hours before departure without any additional charge to the passenger or the intermediary.;

**deleted**

## **Council position**

### **Recital 14**

*Council position*

*Amendment*

(14) In its judgment in Case C-22/11 (Finnair Oyj v Timy Lassooy)<sup>13</sup> on the interpretation of Regulation (EC) No

(14) In its judgment in Case C-22/11 (Finnair Oyj v Timy Lassooy)<sup>1</sup> on the interpretation of Regulation (EC) No

261/2004, the Court of Justice held 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 for operational reasons. Passengers who have presented themselves for boarding and are denied boarding or who have been informed in advance that they would be denied boarding against their will should be reimbursed without undue delay.

261/2004, the Court of Justice held 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 for operational reasons. Passengers who have presented themselves for boarding and are denied boarding, or who have been informed in advance that they would be denied boarding, against their will, should be reimbursed **and compensated** without undue delay.

**Council position**  
**Recital 15**

*Council position*

***(15) At the same time, there are reasonable grounds to deny passengers boarding, such as health, safety, security or inadequate travel documentation. Air carriers have also reasonable grounds to deny boarding to passengers displaying unruly behaviour threatening the safety or security of a flight, as referred to in the amended Convention on Offences and Certain Other Acts Committed on Board Aircraft signed in Tokyo on 14 September 1963. In those cases, the operating air carrier should bear the burden of proof.***

*Amendment*

***deleted***

**COMPROMISE AMENDMENT 4**

**Cancellation**

Supported by: EPP, S&D, PfE, ECR, Renew, Greens, The Left

The following AMs are replaced: 13, 14, 48, 49, 86, 87, 88, 89, 90

Article 1

Regulation (EC) No 261/2004

Article 5 and corresponding Recitals

## Council position

### Article 1 – paragraph 1 – point 5

Regulation (EC) No 261/2004

Article 5 – paragraph 1 – subparagraph 2

#### *Council position*

The operating air carrier shall, ***without undue delay, specify to*** the passengers concerned the reasons for the cancellation. ***The passengers shall be entitled, upon request, to receive in writing the reasons for the cancellation. The operating air carrier shall provide such*** information in a clear manner within seven calendar days of the submission of the request.

#### *Amendment*

The operating air carrier shall ***inform*** the passengers concerned ***by electronic means of*** the reasons for the cancellation ***as soon as this*** information is available, and in any event no later than 30 minutes after the scheduled departure time.

Or. en

## Council position

### Article 1 – paragraph 1 – point 5

Regulation (EC) No 261/2004

Article 5 – paragraph 4

#### *Council position*

4. Passengers shall have the right to receive compensation from the operating air carrier of the cancelled flight in accordance with Articles 7(1) and 7(3) when they choose a reimbursement in accordance with Article 8(1), point (a) or rerouting in accordance with Article 8(1), point (c), ***or***, when they reach their final destination with a delay at arrival exceeding the ***thresholds*** set out in Article 7(2) after they choose rerouting in accordance with Article 8(1), point (b). To that end, the air carrier shall systematically provide the passenger with a pre-filled form in an accessible format and on a durable medium. The air carrier shall provide a reply within the deadline set out in Article 7(5).

#### *Amendment*

4. Passengers shall have the right to receive compensation from the operating air carrier of the cancelled flight in accordance with Articles 7(1) and 7(3) when they choose a reimbursement in accordance with Article 8(1), point (a) or rerouting in accordance with Article 8(1), point (c), ***and/or*** when they reach their final destination with a delay at arrival exceeding the ***threshold*** set out in Article 7(2) after they choose rerouting in accordance with Article 8(1), point (b). To that end, the air carrier shall systematically provide the passenger with a pre-filled form in an accessible format and on a durable medium ***in accordance with Article 16aa of Regulation [2023/0437(COD)] on enforcement of passenger rights in the Union.*** The air carrier shall provide a reply within the deadline set out in Article 7(5).

Council position

**Article 1 – paragraph 1 – point 5**

Regulation (EC) No 261/2004

Article 5 – paragraph 5

*Council position*

5. An operating air carrier shall not be obliged to pay compensation in accordance with Article 7 if it can prove that the cancellation was caused by extraordinary circumstances and the cancellation could not have been avoided even if the air carrier had taken all reasonable measures. Such extraordinary circumstances may only be invoked in so far as they affect the flight concerned or ***at least one of the three preceding flights in the rotation sequence planned to be*** operated by the same aircraft, and provided that there is a direct causal link between the occurrence of that circumstance and the cancellation of the flight. The burden of proof regarding the existence of that direct causal link shall rest with the operating air carrier.

*Amendment*

5. An operating air carrier shall not be obliged to pay compensation in accordance with Article 7 if it can prove that the cancellation was caused by extraordinary circumstances and the cancellation could not have been avoided even if the air carrier had taken all reasonable measures. Such extraordinary circumstances may only be invoked in so far as they affect the flight concerned or ***the preceding flight*** operated by the same aircraft, and provided that there is a direct causal link between the occurrence of that circumstance and the cancellation of the flight. The burden of proof regarding the existence of that direct causal link shall rest with the operating air carrier. ***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.***

Council position

**Article 1 – paragraph 1 – point 5**

Regulation (EC) No 261/2004

Article 5 – paragraph 6 a (new)

*Council position*

***6a. 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***

*Amendment*

*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.*

**Council position**  
**Recital 18**

*Council position*

(18) In the case of a cancellation, the choice between receiving reimbursement, continuation of travel by rerouting or travel at a later date should be the decision of the passenger and not that of the air carrier.

*Amendment*

(18) In the case of a cancellation, the choice between receiving reimbursement, continuation of travel by rerouting or travel **later on the same day or** at a later date should be the decision of the passenger and not that of the air carrier.

**Council position**  
**Recital 18 a (new)**

*Council position*

*Amendment*

**(18a) Where a passenger cancels a flight, air carriers should be obliged to refund, free of charge, taxes which have already been paid.**

**Council position**  
**Recital 53**

*Council position*

*Amendment*

**(53) A mechanism to safeguard passengers in the event of air carrier insolvency should be assessed in the context of the revision of Regulation (EC)**

**(53) The financial protection of passengers in the event of airline failure is a key component of an effective passenger rights regime. In order to**

*No 1008/2008.*

*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.*

**Council position**  
**Recital 53 a (new)**

*Council position*

*Amendment*

*(53a) The creation of a guarantee fund or a compulsory insurance scheme should 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*

**COMPROMISE AMENDMENT 5**

**Delay**

Supported by: EPP, S&D, PflE, ECR, Renew, Greens, The Left

The following AMs are replaced: 91, 92, 93, 94, 95, 96, 255

Article 1  
Regulation (EC) No 261/2004  
Article 6 and corresponding Recitals

**Council position**  
**Article 1 – paragraph 1 – point 6**  
Regulation (EC) No 261/2004  
Article 6 – paragraph 1 – subparagraph 2

*Council position*

The operating air carrier shall, ***without undue delay***, specify to the passengers concerned the reasons for the delay of the flight. The passengers are entitled, upon request, to receive in writing the reasons for the delay at arrival. The operating air carrier of the delayed flight shall ***provide such information in a clear manner*** within ***7 calendar days of the submission of the request***.

*Amendment*

The operating air carrier shall, ***as soon as this information is available, and in any event no later than 30 minutes after the scheduled departure time***, specify to the passengers concerned the reasons for the delay of the flight. The passengers are entitled, upon request, to receive in writing the reasons for the delay at arrival. The operating air carrier of the delayed flight shall ***send to passengers the pre-filled common form*** within ***48 hours following travel disruption for the purpose of reimbursement and compensation in accordance with Article 6c***.

**Council position**

**Article 1 – paragraph 1 – point 6**

Regulation (EC) No 261/2004

Article 6 – paragraph 3

*Council position*

3. When the delay reaches the ***thresholds*** set out in Article 7(2) calculated from the time of departure indicated on the passenger's ticket, the operating air carrier shall, without undue delay, offer the passengers concerned the choice between reimbursement and rerouting in accordance with Article 8.

*Amendment*

3. When the delay reaches the ***threshold*** set out in Article 7(2) calculated from the time of departure indicated on the passenger's ticket, the operating air carrier shall, without undue delay, offer the passengers concerned the choice between reimbursement and rerouting in accordance with Article 8.

**Council position**

**Article 1 – paragraph 1 – point 6**

Regulation (EC) No 261/2004

Article 6 – paragraph 3 a (new)

*Council position*

***3 a. Passengers shall have the right to compensation from the operating carrier in accordance with Article 7 where they depart no more than one hour before the scheduled time of departure and reach their final destination with a delay of 2 hours or more after the scheduled time of arrival, provided that the total time lost by***

*Amendment*

*the passenger before departure and following the delay at arrival is equal to or exceeds the threshold set out in Article 7(2).*

### **Council position**

#### **Article 1 – paragraph 1 – point 6**

Regulation (EC) No 261/2004

Article 6 – paragraph 4 – subparagraph 1

#### *Council position*

Passengers shall have the right to receive, ***upon request***, compensation from the operating air carrier of the delayed flight in accordance with Articles 7(1) and 7(3) when they reach their final destination with a delay at arrival exceeding the ***thresholds*** set out in Article 7(2).

#### *Amendment*

Passengers shall have the right to receive compensation from the operating air carrier of the delayed flight in accordance with Articles 7(1) and 7(3) when they reach their final destination with a delay at arrival exceeding the ***threshold*** set out in Article 7(2). ***To that end, the operating air carrier shall, systematically within 48 hours following the delay, provide the passenger with a pre-filled form in accordance with Article 16aa of Regulation [2023/0437(COD)] on enforcement of passenger rights in the Union.***

### **Amendment 95**

### **Council position**

#### **Article 1 – paragraph 1 – point 6**

Regulation (EC) No 261/2004

Article 6 – paragraph 4 – subparagraph 2

#### *Council position*

Passengers shall have the right to receive, ***upon request***, compensation from the operating air carrier of the delayed flight in accordance with Articles 7(1) and 7(3) when they choose a reimbursement in accordance with Article 8(1), point (a) or rerouting in accordance with Article 8(1), point (c), or, when they reach their final destination with a delay at arrival exceeding the ***thresholds*** set out in Article 7(2) after they choose rerouting in accordance with Article 8(1), point (b).

#### *Amendment*

Passengers shall have the right to receive compensation from the operating air carrier of the delayed flight in accordance with Articles 7(1) and 7(3) when they choose a reimbursement in accordance with Article 8(1), point (a) or rerouting in accordance with Article 8(1), point (c), or, when they reach their final destination with a delay at arrival exceeding the ***threshold*** set out in Article 7(2) after they choose rerouting in accordance with Article 8(1), point (b).

## Amendment 96

### Council position

#### Article 1 – paragraph 1 – point 6

Regulation (EC) No 261/2004

Article 6 – paragraph 6

#### *Council position*

6. An operating air carrier shall not be obliged to pay compensation in accordance with Article 7, if it can prove that the delay at arrival was caused by extraordinary circumstances and the delay could not have been avoided even if the air carrier had taken all reasonable measures. Such extraordinary circumstances can only be invoked in so far as they affect the flight concerned or at least ***one of the three preceding flights in the rotation sequence planned to be*** operated by the same aircraft and provided that there is a direct causal link between the occurrence of that circumstance and the delay at departure of the subsequent flight. The burden of proof regarding the existence of that direct causal link shall rest with the operating air carrier.;

#### *Amendment*

6. An operating air carrier shall not be obliged to pay compensation in accordance with Article 7, if it can prove that the delay at arrival was caused by extraordinary circumstances and the delay could not have been avoided even if the air carrier had taken all reasonable measures. Such extraordinary circumstances can only be invoked in so far as they affect the flight concerned or at least ***the preceding flight*** operated by the same aircraft and provided that there is a direct causal link between the occurrence of that circumstance and the delay at departure of the subsequent flight. The burden of proof regarding the existence of that direct causal link shall rest with the operating air carrier. ***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 9.***

### COMPROMISE AMENDMENT 6

#### Tarmac Delay

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 97

Article 1

Regulation (EC) No 261/2004

Article 6a and corresponding Recitals

## Council position

### Article 1 – paragraph 1 – point 7

Regulation (EC) No 261/2004

Article 6a – paragraph 3

#### *Council position*

3. Where a tarmac delay reaches **three** hours in an airport situated in a territory of a Member State to which the Treaties apply, the aircraft shall proceed to the gate or another suitable disembarkation point where passengers shall be allowed to disembark. Beyond that deadline, a tarmac delay can only be prolonged if there are safety, immigration, air traffic control or security-related reasons why the aircraft cannot leave its position on the tarmac.

#### *Amendment*

3. Where a tarmac delay reaches **two** hours in an airport **with commercial passenger traffic** situated in a territory of a Member State to which the Treaties apply, the aircraft shall proceed to the gate or another suitable disembarkation point where passengers shall be allowed to disembark. Beyond that deadline, a tarmac delay can only be prolonged if there are safety, immigration, air traffic control or security-related reasons why the aircraft cannot leave its position on the tarmac.

## COMPROMISE AMENDMENT 7

### Missed connecting flight

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 35, 98, 99, 100, 256

Article 1

Regulation (EC) No 261/2004

Article 6b and corresponding Recitals

## Council position

### Article 1 – paragraph 1 – point 7

Regulation (EC) No 261/2004

Article 6b – paragraph 3 – subparagraph 1

#### *Council position*

Passengers shall also have a right to receive, **upon request**, compensation from the air carrier operating the disrupted flight in accordance with Articles 7(1) and 7(3), if they reach their final destination with a delay at arrival exceeding the **thresholds** set out in Article 7(2).

#### *Amendment*

Passengers shall also have a right to receive compensation from the air carrier operating the disrupted flight in accordance with Articles 7(1) and 7(3), if they reach their final destination with a delay at arrival exceeding the **threshold** set out in Article 7(2).

## **Council position**

### **Article 1 – paragraph 1 – point 7**

Regulation (EC) No 261/2004

Article 6b – paragraph 3 – subparagraph 2

#### *Council position*

Passengers shall have the right to receive, **upon request**, compensation from the air carrier operating the disrupted flight in accordance with Articles 7(1) and 7(3) when they choose a reimbursement in accordance with Article 8(1), point (a) or rerouting in accordance with Article 8(1), point (c), or, when they reach their final destination with a delay at arrival exceeding the **thresholds** set out in Article 7(2) after they choose rerouting in accordance with Article 8(1), point (b).

#### *Amendment*

Passengers shall have the right to receive compensation from the air carrier operating the disrupted flight in accordance with Articles 7(1) and 7(3) when they choose a reimbursement in accordance with Article 8(1), point (a) or rerouting in accordance with Article 8(1), point (c), or, when they reach their final destination with a delay at arrival exceeding the **threshold** set out in Article 7(2) after they choose rerouting in accordance with Article 8(1), point (b).

## **Council position**

### **Article 1 – paragraph 1 – point 7**

Regulation (EC) No 261/2004

Article 6b – paragraph 3 – subparagraph 3a (new)

#### *Council position*

Agence Europe

#### *Amendment*

***Where paragraphs 2 and 3 of this Article apply, the operating air carrier shall, systematically within 48 hours following the missed connecting flight, provide the passenger with a pre-filled form in accordance with Article 16aa of Regulation [2023/0437(COD)] on enforcement of passenger rights in the Union.***

## **Council position**

### **Article 1 – paragraph 1 – point 7**

Regulation (EC) No 261/2004

Article 6b – paragraph 4

#### *Council position*

***4. Where a passenger plans, and makes, a stopover, the airport where the stopover is made shall be regarded as the***

#### *Amendment*

***deleted***

*final destination of the passenger.;*

**Council position**  
**Recital 36**

*Council position*

*Amendment*

**(36) In its judgment in Case C-502/18 (CS and Others v České aerolinie a.s.)<sup>17</sup> on the interpretation of Regulation (EC) No 261/2004, the Court of Justice held that, in the case of connecting flights, within the scope of that Regulation, any operating air carrier which participated in the performance of at least one of those connecting flights is liable to compensate the passenger under that Regulation whether or not the flight which that air carrier operated was disrupted. Even if Regulation (EC) No 261/2004 provides that operating carriers fulfilling duties under it may seek compensation from any third party, the Study has shown poor effectiveness of the right of redress provided for in that Regulation. As a result, Union air carriers bear a disproportionate financial burden compared to third country air carriers. With a view to restoring Union air carriers' competitiveness in accordance with the recommendations of the report entitled 'Future of European competitiveness' of September 2024 ('Draghi report'), and to maintaining, in the long run, connectivity, the revision of Regulation (EC) No 261/2004 should therefore limit the liability of an air carrier to the flights it operates as operating air carrier.**

*deleted*

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<sup>17</sup> Judgment of the Court (Ninth Chamber) of 11 July 2019, *CS and Others v České aerolinie a.s.*, Case C-502/18, ECLI:EU:C:2019:604.

## COMPROMISE AMENDMENT 8

### Extraordinary Circumstances

Supported by: EPP, S&D, PflE, ECR, Renew, Greens, The Left

The following AMs are replaced: 2, 3, 4, 5, 6, 101, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 242, 247, 248, 249, 251, 291, 292, 293

Article 1

Regulation (EC) No 261/2004

Article 6c, corresponding Recitals and Annex I

### Council position

Article 1 – paragraph 1 – point 7

Regulation (EC) No 261/2004

Article 6 c (new)

*Council position*

*Amendment*

#### *Article 6c*

##### *Extraordinary circumstances*

*1. Extraordinary circumstances shall be considered to be events which, by their nature or origin, are not inherent in the normal exercise of the activity of the air carrier concerned and are outside that air carrier's actual control. For the purposes of this Regulation, extraordinary circumstances are limited to the circumstances set out in the Annex;*

*2. When a passenger has a right to compensation from the air carrier in accordance with Articles 4, 5 and 6, the air carrier shall send to the passenger in a written form, within 48 hours, the information about the presence or absence of extraordinary circumstances and provide access to a pre-filled common form in accordance with [16aa of Regulation [2023/..] on enforcement of passenger rights in the Union].*

*3. Where an unusual event outside the control of one or more Member States has occurred, which has a major impact*

*on air travel with major unfavourable consequences for the aviation sector and which is not covered under Annex to this Regulation, the Commission is empowered to adopt a delegated act in accordance with Article 16h in order to amend the exhaustive list set out in that Annex by adding the relevant extraordinary circumstance, provided that this is strictly necessary to respond to such an unusual event.*

**Council position**

**Annex I**

Regulation (EC) No 261/2004

Annex I – title

*Council position*

*Non-exhaustive* lists of circumstances considered as extraordinary circumstances **and circumstances not to be considered as extraordinary** for the purposes of this Regulation

*Amendment*

*Exhaustive* list of circumstances **capable of being** considered as extraordinary circumstances for the purposes of this Regulation

**Council position**

**Annex I**

Regulation (EC) No 261/2004

Annex I – paragraph 1

*Council position*

1. The following circumstances shall be considered as extraordinary:

*Amendment*

1. The following circumstances shall be **capable of being** considered as extraordinary:

**Council position**

**Annex I**

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

*Council position*

(a) ***circumstances not connected with the operation of the aircraft, such as:***

*Amendment*

(a) ***deleted***

Council position

**Annex I**

Regulation (EC) No 261/2004  
Annex I – paragraph 1 – point a – point i

*Council position*

(i) natural ***or environmental*** disasters which are incompatible with the safe operation of the flight;

*Amendment*

(i) natural disasters which are incompatible with the safe operation of the flight;

Council position

**Annex I**

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

*Council position*

(ii) meteorological conditions ***and damage to the aircraft linked to meteorological events which are*** incompatible with the safe operation of the flight (***such as lightning strikes, hailstones, thunderstorms, severe turbulence or strong wind***);

*Amendment*

(ii) 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***;

Council position

**Annex I**

Regulation (EC) No 261/2004  
Annex I – paragraph 1 – point a – point iii

*Council position*

(iii) war ***or insurrection which are incompatible with*** the safe operation of the flight;

*Amendment*

(iii) war, ***political unrest, acts of sabotage or terrorism rendering*** the safe operation of the flight ***impossible***;

## Council position

### Annex I

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point a – point iv

#### *Council position*

(iv) ***cross-border threats to health falling within the scope of Articles 2(1) or 2(4) of Regulation (EU) 2022/2371 of the European Parliament and of the Council<sup>1</sup> which are incompatible with the safe operation of the flight; and***

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<sup>1</sup> ***Regulation (EU) 2022/2371 of the European Parliament and of the Council of 23 November 2022 on serious cross-border threats to health and repealing Decision No 1082/2013/EU (OJ L 314, 6.12.2022, p. 26, ELI: <http://data.europa.eu/eli/reg/2022/2371/oj>).***

#### *Amendment*

(iv) health ***risks or medical emergencies necessitating the interruption or deviation*** of the flight concerned;

## Council position

### Annex I

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point a – point v

#### *Council position*

(v) ***collisions between the aircraft and a bird or another foreign object which are incompatible with the safe operation of the flight;***

#### *Amendment*

(v) ***damage to an aircraft caused by a foreign object lying on an airport runway***

## Council position

### Annex I

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point b

*Council position*

*Amendment*

- (b) ***incidents related to a passenger, including:*** ***deleted***

**Council position**

**Annex I**

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point b – point i

*Council position*

*Amendment*

- (i) unruly passenger ***incidents within the meaning of the Montreal Protocol 2014 which are incompatible with the safe operation of the flight or which delay the flight departure;***
- (i) unruly ***behaviour of a*** passenger ***which causes the pilot in command of the aircraft to divert the flight concerned to an airport other than the airport of arrival in order to disembark this passenger or passengers and their baggage;***

**Council position**

**Annex I**

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point b – point ii

*Council position*

*Amendment*

- (ii) ***health risks or medical emergencies (such as serious illness) discovered at short notice before the flight departure, or necessitating the interruption or deviation of the flight;*** ***deleted***

**Council position**

**Annex I**

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point c

*Council position*

*Amendment*

- (c) ***other incidents, such as:*** ***deleted***

**Council position**

**Annex I**

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point c – point i

*Council position*

(i) **security risks, damage caused by acts of sabotage or terrorism, or unlawful acts, which are incompatible with the safe operation of the flight;**

*Amendment*

**deleted**

**Council position**

**Annex I**

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point c – point ii

*Council position*

(ii) hidden manufacturing or design defects revealed, by the manufacturer or a competent authority, and which are incompatible with the safe operation of the flight;

*Amendment*

(ii) hidden manufacturing or design defects, revealed by the manufacturer or a competent authority, and which are incompatible with the safe operation of the flight;

**Council position**

**Annex I**

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point c – point iii

*Council position*

(iii) air traffic management or airport capacity restrictions, or closure of airspace;

*Amendment*

(iii) **unforeseen** air traffic management or airport capacity restrictions, or **unforeseen** closure of airspace, **including runway closures by the authorities;**

**Council position**

**Annex I**

Regulation (EC) No 261/2004  
Annex I – paragraph 1 – point c – point iv

*Council position*

*Amendment*

**(iv) partial or full unscheduled closure of an airport, including a general airport system failure, a power outage and an electronic communications collapse, or the activation of the contingency plan by the airport managing body;**

**deleted**

**Council position**

**Annex I**

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point c – point v

*Council position*

*Amendment*

**(v) strikes at essential service providers such as *airport managing body*, Air Navigation Service Providers, *groundhandling service providers*, or at *the operating air carrier* where strikes are linked to demands outside the remit of the operating carrier;**

**(v) *unforeseen labour disputes at the operating air carrier* or at essential service providers such as *airports and* Air Navigation Service Providers, *excluding strikes by airline staff unless originating from* demands *that only public authorities can satisfy*;**

**Council position**

**Annex I**

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point c – point vi

*Council position*

*Amendment*

**(vi) unexpected absence of a crew member essential to the operation of the flight, due to illness or death, when it occurs outside the operating air carrier's home bases or due to a pandemic;**

**deleted**

**Council position**

**Annex I**

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point c – point vii

*Council position*

(vii) **damage to the aircraft** caused **while** the aircraft **is on the ground by third parties for whom the air carrier is not responsible and which is incompatible with the safe operation** of the **flight**;

*Amendment*

(vii) **a collision of an aircraft in a parking position with an aircraft of another airline** caused **by the movement of** the aircraft of the **other airline**;

**Council position**

**Annex I**

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point c – point viii

*Council position*

(viii) **damage to an aircraft tyre caused by a foreign object which is incompatible with the safe operation of the flight**;

*Amendment*

**deleted**

**Council position**

**Annex I**

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point c – point ix

*Council position*

(ix) **contaminated runway of an airport which is incompatible with the safe operation of** the flight;

*Amendment*

(ix) **the presence of petrol on a runway resulting in the closure of the airport and, consequently, the significant delay of a flight to or from this airport, provided the petrol does not come from an aircraft of the air carrier operating** the flight

**Council position**

**Annex I**

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point c – point x

*Council position*

*Amendment*

**(x) unexpected flight safety shortcomings on aircraft equipment not within acceptable levels of operation as defined in the Master Minimum Equipment List or the minimum equipment operating conditions established therein and that could not have been remedied during preventive maintenance (as provided for under paragraph 2, point (a)); and**

**deleted**

**Council position**

**Annex I**

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point c – point xi

*Council position*

*Amendment*

**(xi) after departure, health risks or medical emergencies (such as serious illness) of a crew member necessitating the interruption or deviation of the flight.**

**deleted**

Council position

**Annex I**

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point c – point xi a (new)

*Council position*

*Amendment*

**(xia) collision between an aircraft and a bird and any damage caused by such a collision ;**

**Council position**

**Annex I**

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point c – point xi b (new)

*Council position*

*Amendment*

***(xib) shortage of staff at the airport providing baggage loading services;***

**Council position**

**Annex I**

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point c – point xi c (new)

*Council position*

*Amendment*

***(xic) airport congestion due to meteorological conditions, resulting in an obligation on the aircraft operator to delay or cancel the flight;***

**Council position**

**Annex I**

Regulation (EC) No 261/2004

Annex I – paragraph 1 – point c – point xi d (new)

*Council position*

*Amendment*

***(xid) a generalised breakdown of the aircraft refuelling system, where the airport of origin of the flight or aircraft concerned is responsible for the aircraft refuelling system***

**Council position**

**Annex I**

| <i>Council position</i>   | <i>Amendment</i>  |
|---|---|
| <p><b>2.</b> <i>The following list of circumstances shall not be considered as extraordinary circumstances:</i></p> <p><i>(a) technical problems that could have been remedied during preventive maintenance in accordance with Union rules and procedures for the continuing airworthiness management of aircraft;</i></p> <p><i>(b) operational decisions and late crew, check-in and boarding procedures; and</i></p> <p><i>(c) unavailability of flight crew or cabin crew (unless caused by strikes referred to in paragraph 1, point (c)(v) or unexpected absences due to illness or death referred to in paragraph 1, point (c)(vi)).</i></p>  | <p><i>deleted</i></p>   |
| <p><b>Council position</b><br/><b>Recital 5</b></p>   |   |
| <p><i>Council position</i></p> <p><b>(5)</b> <i>In order to increase legal certainty for air carriers and passengers, a definition of the concept of ‘extraordinary circumstances’ is needed, which takes into account the judgment of the Court of Justice in Case C-549/07 (Friederike Wallentin-Hermann v Alitalia – Linee Aeree Italiane SpA)<sup>5</sup> (‘judgment in Case C-549/07’) on the interpretation of Regulation (EC) No 261/2004. The concept of ‘extraordinary circumstances’ should be clarified through non-exhaustive lists of circumstances that constitute extraordinary circumstances or that do not constitute extraordinary circumstances. The Commission should review the list of extraordinary circumstances every three years and propose, as appropriate, to the European</i></p> | <p><i>Amendment</i></p> <p><b>(5)</b> <i>The concept of ‘extraordinary circumstances’ has been subject to abundant case law of the Court of Justice. Greater clarity should be provided on what constitutes extraordinary circumstances to allow air passenger rights to be effectively and consistently enforced. In the light of the case law, events whose origin is ‘internal’ should be distinguished from those whose origin is ‘external’ to the operating air carrier. Events should be considered external when they arise from circumstances beyond the air carrier’s control and result from a natural event or an act of a third party. Such external events should be generally qualified as extraordinary circumstances. Events that do not meet these criteria should be deemed internal</i></p> |

Parliament and the Council *to update that list.*

*and should not be qualified as extraordinary circumstances. Such distinction should be further clarified by means of an exhaustive list of circumstances that are clearly identified as capable of being considered as extraordinary. In order to amend the list of extraordinary circumstances, 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 in respect of making additions, where necessary, to that list. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>5a</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.*

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<sup>5</sup> *Judgment of the Court (Fourth Chamber) of 22 December 2008, Friederike Wallentin-Hermann v Alitalia – Linee Aeree Italiane SpA, Case C-549/07, ECLI:EU:C:2008:771.*

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<sup>5a</sup> *Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1.)*

**Council position**  
**Recital 5 a (new)**

*Council position*

*Amendment*

**(5a) In accordance with the Montreal Convention, obligations on operating air carriers should be limited or excluded in**

*cases where an event has been caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken. The Court of Justice has provided more details on the meaning and limits of the obligation to take “reasonable measures” in its case-law.*

**Council position**  
**Recital 6**

| <i>Council position</i>   | <i>Amendment</i>      |
|---|-----------------------|
| <b>(6) <i>In its judgment in Case C-549/07 the Court of Justice held that an unexpected technical problem did not constitute an extraordinary circumstance, except when the unexpected technical problem arose from a hidden manufacturing defect revealed by the manufacturer of the aircraft or by a competent authority, or damage to the aircraft caused by acts of sabotage or terrorism. However, in the light of experience gained and given the overriding importance of ensuring that the rights granted to passengers under this Regulation are not detrimental to safety, in certain conditions technical issues with certain equipment should constitute extraordinary circumstances.</i></b> | <b><i>deleted</i></b> |

**Council position**  
**Recital 7**

| <i>Council position</i>  | <i>Amendment</i>      |
|--|-----------------------|
| <b>(7) <i>In its judgment in Joined Cases C-156/22, C-157/22 and C-158/22 (TAP Portugal v flightright GmbH and Myflyright GmbH)<sup>6</sup> on the interpretation of Regulation (EC) No 261/2004, the Court of Justice held that an unexpected absence due to illness or even an unexpected death, shortly before the departure of a flight, of a crew member whose presence is essential to its operation did not constitute an</i></b> | <b><i>deleted</i></b> |

*extraordinary circumstance. Nonetheless, even though air carriers have the duty to take all reasonable measures to ensure replacement of the pilot, co-pilot or minimum required cabin crew, ensuring compliance with that obligation in practice outside the air carrier's home bases requires considerable time and high financial cost. Therefore, it is appropriate to provide that the unexpected illness or death of a crew member whose presence is essential, for example when it occurs the day before the departure of the flight, outside the home bases of an air carriers should constitute an extraordinary circumstance.*

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<sup>6</sup> *Judgment of the Court (Third Chamber) of 11 May 2023, TAP Portugal v flightright GmbH and Myflyright GmbH, Joined Cases C-156/22 to C-158/22, ECLI:EU:C:2023:393.*

**Council position**  
**Recital 8**

*Council position*

*Amendment*

**(8)** *In its judgments in Cases C-28/20 (Airhelp Ltd v Scandinavian Airlines System Denmark – Norway – Sweden)<sup>7</sup>, C-195/17 (Helga Krüsemann and Others v TUIfly GmbH)<sup>8</sup>, C-613/20 (CS v Eurowings GmbH)<sup>9</sup> and in its order in Case C-287/20 (EL and CP v Ryanair DAC)<sup>10</sup> on the interpretation of Regulation (EC) No 261/2004, the Court of Justice held that strikes by staff of the air carrier did not constitute extraordinary circumstances. Nonetheless, when a strike occurs, certain demands made by airline staff do not fall within the remit of the air carrier and are outside its control, such as changes to the retirement age or to financial*

*deleted*

*contributions that can only be addressed by public authorities. Therefore, it is appropriate to provide that certain strikes by airline staff should constitute extraordinary circumstances.*

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<sup>7</sup> *Judgment of the Court (Grand Chamber) of 23 March 2021, Airhelp Ltd v Scandinavian Airlines System Denmark – Norway – Sweden, Case C-28/20, ECLI:EU:C:2021:226.*

<sup>8</sup> *Judgment of the Court (Third Chamber) of 17 April 2018, Helga Krüsemann and Others v TUIfly GmbH, Case C-195/17, ECLI:EU:C:2018:258.*

<sup>9</sup> *Judgment of the Court (Ninth Chamber) of 6 October 2021, CS v Eurowings GmbH, Case C-613/20, ECLI:EU:C:2021:820.*

<sup>10</sup> *Order of the Court (Eighth Chamber) of 10 January 2022, EL and CP v Ryanair DAC, Case C-287/20, ECLI:EU:C:2022:1.*

## COMPROMISE AMENDMENT 9

### Compensation

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 19, 20, 21, 22, 23, 25, 26, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 246, 257, 258, 259, 260, 261, 262, 263

Article 1

Regulation (EC) No 261/2004

Article 7 and corresponding Recitals

### Council position

#### Article 1 – paragraph 1 – point 8

Regulation (EC) No 261/2004

Article 7 – paragraph 1 – subparagraph 1 – point a

*Council position*

*Amendment*

(a) **300** EUR for all *intra-Union journeys and for* journeys of **3 500**

(a) EUR **300** for all journeys of **1 500**

kilometres or less;

kilometres or less;

**Council position**

**Article 1 – paragraph 1 – point 8**

Regulation (EC) No 261/2004

Article 7 – paragraph 1 – subparagraph 1 – point b

*Council position*

*Amendment*

(b) **500 EUR for journeys above 3 500 kilometres.**

(b) **EUR 400 for all journeys above 1 500 km and up to 3 500 km;**

**Council position**

**Article 1 – paragraph 1 – point 8**

Regulation (EC) No 261/2004

Article 7 – paragraph 1 – subparagraph 1 – point b a (new)

*Council position*

*Amendment*

**(ba) EUR 600 for all journeys above 3 500 km;**

**Council position**

**Article 1 – paragraph 1 – point 8**

Regulation (EC) No 261/2004

Article 7 – paragraph 1 – subparagraph 2

*Council position*

*Amendment*

***By way of derogation from point (a), for journeys between outermost regions and another territory of a Member State to which the Treaties apply, the compensation amounts shall be determined on the basis of the actual distance of the journeys.***

***deleted***

## **Council position**

### **Article 1 – paragraph 1 – point 8**

Regulation (EC) No 261/2004

Article 7 – paragraph 1 a (new)

*Council position*

*Amendment*

***1a. Every three years, the Commission shall adopt a delegated act automatically adjusting the amounts of compensation referred to in this paragraph to the combined overall inflation rate of the three preceding years based on the European Index of Consumer prices published by Eurostat pursuant to Regulation (EU) 2016/792<sup>1</sup>.***

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<sup>1</sup> ***Regulation (EU) 2016/792 of the European Parliament and of the Council of 11 May 2016 on harmonised indices of consumer prices and the house price index, and repealing Council Regulation (EC) No 2494/95 (OJ L 135, 24.5.2016, pp. 11).***

## **Council position**

### **Article 1 – paragraph 1 – point 8**

Regulation (EC) No 261/2004

Article 7 – paragraph 2

*Council position*

*Amendment*

2. In the case of a delay at arrival after rerouting following a cancellation under Article 5, a delay at arrival under Article 6 or a delay at arrival after a missed connecting flight under Article 6b, the right to compensation shall arise for delays at arrival ***of more than:***

2. In the case of a delay at arrival after rerouting following a cancellation under Article 5, a delay at arrival under Article 6 or a delay at arrival after a missed connecting flight under Article 6b, the right to compensation shall arise for delays at arrival, ***or following a loss of time under Article 6, paragraph 3a, of three hours or more, regardless of the distance of the journey.***

**Council position**

**Article 1 – paragraph 1 – point 8**

Regulation (EC) No 261/2004

Article 7 – paragraph 2 – point a

*Council position*

*Amendment*

**(a) four hours for all intra-Union journeys and for journeys of 3 500 kilometres or less;**

**deleted**

**Council position**

**Article 1 – paragraph 1 – point 8**

Regulation (EC) No 261/2004

Article 7 – paragraph 2 – point b

*Council position*

*Amendment*

**(b) six hours for journeys above 3 500 kilometres.**

**deleted**

**Council position**

**Article 1 – paragraph 1 – point 8**

Regulation (EC) No 261/2004

Article 7 – paragraph 4

*Council position*

*Amendment*

4. Where the passengers have chosen to continue **the** journey pursuant to Article 8(1), **point (b)**, and a further disruption occurs during rerouting, the passenger's right to compensation **can only arise once** during **the journey to the** final destination.

4. Where the passengers have chosen to continue **their** journey pursuant to Article 8(1), **points (a), (b) or (c)**, and a further disruption occurs during rerouting, the passenger's right to compensation **shall be upheld** during **rerouting to their initial point of departure or to their** final destination.

**Council position**

**Article 1 – paragraph 1 – point 8**

Regulation (EC) No 261/2004

Article 7 – paragraph 4 a (new)

*Council position*

*Amendment*

**4 a.** *The compensation referred to in paragraph 1 shall be paid by electronic bank transfer to the account indicated by the passenger submitting the request. The operating air carrier and the passenger submitting the request may agree, on a durable medium, that the compensation be paid only by credit card or cash.*

**Council position**

**Article 1 – paragraph 1 – point 8**

Regulation (EC) No 261/2004

Article 7 – paragraph 4 b (new)

*Council position*

*Amendment*

**4 b.** *The burden of proof to establish when and how the passenger accepted the agreement concerning the form of payment of compensation set out in paragraph 4a of this Article shall rest with the operating air carrier.*

**Council position**

**Article 1 – paragraph 1 – point 8**

Regulation (EC) No 261/2004

Article 7 – paragraph 5 – subparagraph 1

*Council position*

*Amendment*

Requests for compensation under this Article shall be submitted by the passenger within ***six months of the actual date of departure indicated on the passenger's ticket.*** Within ***14 calendar*** days of the submission of the request, the operating air carrier shall either pay the compensation or provide the passenger with a justification for not paying the compensation in accordance with Article 5(5) or Article 6(6), including, if applicable, a clear and substantiated explanation on extraordinary circumstances. ***Where the airport***

Requests for compensation under this Article shall be submitted by the passenger ***using the pre-filled common form sent by the operating air carrier*** within ***one year from the date on which the flight was performed or was scheduled to be performed.*** Within ***seven working*** days of the submission of the request, the operating air carrier shall either pay the compensation or provide the passenger with a justification for not paying the compensation in accordance with Article 5(5) or Article 6(6) ***and Article 6c,***

*managing body activates its contingency plan, that deadline may be extended to 30 calendar days.*

including, if applicable, a clear and substantiated explanation on extraordinary circumstances.

#### **Council position**

##### **Article 1 – paragraph 1 – point 8**

Regulation (EC) No 261/2004

Article 7 – paragraph 6

#### *Council position*

#### *Amendment*

**6. The compensation shall be paid in cash or, if agreed by the passenger in a signed document or any digital means on a durable medium, by other means.;**

*deleted*

#### **Council position**

##### **Recital 20**

#### *Council position*

#### *Amendment*

(20) Regulation (EC) No 261/2004 **should explicitly include the right to compensation for passengers experiencing long delays, in accordance with the judgment of the Court of Justice** in joined Cases C-402/07 (Christopher Sturgeon, Gabriel Sturgeon and Alana Sturgeon v Condor Flugdienst GmbH) and C-432/07 (Stefan Böck and Cornelia Lepuschitz v Air France SA)<sup>14</sup> ('judgment in Joined cases C-402/07 and C-432/07'). **In accordance with** the principle of equal treatment **referred to in** that judgment, the same rules should apply for **reimbursement, rerouting and compensation.**

(20) **The objective of** Regulation (EC) No 261/2004 **is to strengthen the rights of consumers by ensuring a high level of protection for air passengers within the internal market, in line with Article 38 of the Charter of Fundamental Rights.** In joined Cases C-402/07 (Christopher Sturgeon, Gabriel Sturgeon and Alana Sturgeon v Condor Flugdienst GmbH) and C-432/07 (Stefan Böck and Cornelia Lepuschitz v Air France SA)<sup>14</sup> ("judgment in Joined cases C-402/07 and C-432/07"), **the Court of Justice reflected this objective by recognizing that passengers experiencing flight delays of three hours or more suffer damage in the form of irreversible loss of time that must be compensated promptly and in a standardized manner. Relying on** the principle of equal treatment, **the Court confirmed that such long delays cause harm comparable to cancellations and that a difference in treatment could not be objectively justified. Specifically, the**

***Court considered that, when the delay in arrival of a flight is equal to, or in excess of, three hours, the passengers concerned are entitled to compensation, like passengers whose original flight has been cancelled and to whom an air carrier is not able to offer re-routing in accordance with the conditions laid down in Article 5(1)(c)(iii) of the regulation, that is, on a flight which departs no more than one hour before the scheduled time of departure and reaches their final destination less than two hours after the scheduled time of arrival.***

***In line with the principle of equal treatment, such compensation rights should also extend to passengers whose flights have not been cancelled but who suffer an equivalent loss of time due to the flight being both brought forward before departure and subject to a delay at arrival.***

***Accordingly, in order to maintain robust safeguards for passengers in line with Article 38 of the Charter, as well as to ensure uniform protection, legal certainty and effective enforcement across Member States, Regulation (EC) No 261/2004 should explicitly set out a common three-hour threshold for compensation where passengers suffer an irreversible loss of time that is equal to or exceeds three hours in relation to the duration originally planned by the air carrier.***

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<sup>14</sup> Judgment of the Court (Fourth Chamber) of 19 November 2009, Christopher Sturgeon, Gabriel Sturgeon and Alana Sturgeon v Condor Flugdienst GmbH (C-402/07), and Stefan Böck and Cornelia Lepuschitz v Air France SA (C-432/07), Joined Cases C-402/07 and C-432/07, ECLI:EU:C:2009:716.

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<sup>14</sup> Judgment of the Court (Fourth Chamber) of 19 November 2009, Christopher Sturgeon, Gabriel Sturgeon and Alana Sturgeon v Condor Flugdienst GmbH (C-402/07), and Stefan Böck and Cornelia Lepuschitz v Air France SA (C-432/07), Joined Cases C--402/07 and C--432/07, ECLI:EU:C:2009:716.

**Council position  
Recital 21**

*Council position*

*Amendment*

**(21) *The judgment in joined Cases C-402/07 and C-432/07 referred to a one-trigger time threshold of three hours for compensation in cases of delay. However, experience gained since the adoption of Regulation (EC) No 261/2004 shows that many delays cannot be resolved within the three hours referred to in that judgment and that a short threshold may increase the number of flight cancellations where air carriers reduce the knock-on effects of delayed flights on the subsequent flights by cancelling one or several flights to reposition the aircraft for a next flight. In most circumstances, the passenger would still prefer a delay over a cancellation because the passenger has more certainty as to the arrival at the relevant destination at the earliest opportunity. On many routes, the frequency of flights is limited, and, in cases of cancellation, the passenger cannot be immediately rerouted. Increasing the time threshold therefore presents an advantage for the passenger.***

*deleted*

**Council position  
Recital 22**

*Council position*

*Amendment*

**(22) *With a view to maintaining connectivity, the thresholds above which delays give rise to a right to compensation should be increased to take account of the financial and competitiveness impact on the sector. In this way, it will be possible to avoid incentivising any increase in the frequency of cancellations or restrictions in the number of routes operated or reductions in connectivity offered to passengers in the long term. To ensure that passengers travelling within the Union face homogenous conditions for compensation, the threshold should be the same for all travel within the Union.***

*deleted*

**Council position**  
**Recital 23**

*Council position*

(23) The standardised compensation in Regulation (EC) No 261/2004 serves to compensate for a loss of time which is common to all passengers. ***The amounts fixed in Regulation (EC) No 261/2004 could, in many cases, go beyond the value of the damage incurred by passengers as established by economic studies.*** It is therefore appropriate to define ***different thresholds for*** compensation according to the distance of the flight disrupted and the delay at arrival.

*Amendment*

(23) The standardised compensation in Regulation (EC) No 261/2004 serves to compensate for a loss of time which is common to all passengers. It is therefore appropriate to define compensation ***levels*** according to the distance of the flight disrupted and the delay at arrival.

**Council position**  
**Recital 24**

*Council position*

(24) ***In accordance with the Union's efforts to promote climate-neutral and environmentally friendly mobility, it is also appropriate to ensure that regulatory frameworks for passenger rights of transport modes converge to the extent possible and that the compensation provided between different modes of transport is levelled.***

*deleted*

*Amendment*

**Council position**  
**Recital 25**

*Council position*

(25) 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 cancellations ***or*** delays and should therefore give rise to the same rights.

*Amendment*

(25) 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 cancellations, delays ***or denied boarding*** and should therefore give rise to the same rights.

**Council position**  
**Recital 26**

*Council position*

(26) Passengers who miss a connecting flight which is part of a journey as a result of a disruption on a previous flight should be properly assisted while waiting for rerouting. In such cases, in accordance with the principle of equal treatment, passengers should be entitled to compensation upon reaching the final destination of their alternative flight or transportation, on a similar basis to passengers experiencing disruptions on direct flights.

*Amendment*

(26) Passengers who miss a connecting flight which is part of a journey as a result of a disruption, ***a change of schedule or a delay*** on a previous flight should be properly assisted while waiting for rerouting. In such cases, in accordance with the principle of equal treatment ***and with the judgement of the Court of Justice in Case C-11/11 (Air France v. Folkerts)***<sup>1a</sup>, passengers should be entitled to compensation upon reaching the final destination of their alternative flight or transportation, on a similar basis to passengers experiencing disruptions on direct flights ***in light of the delay upon reaching the final destination of their journey.***

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<sup>1a</sup> ***Judgment of the Court (Grand Chamber), 26 February 2013, Air France v Heinz-Gerke Folkerts and Luz-Tereza Folkerts, Case C-11/11, ECLI:EU:C:2013:106.***

**COMPROMISE AMENDMENT 10**

**Reimbursement or Rerouting**

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 27, 28, 29, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 250, 264, 265, 266

Article 1

Regulation (EC) No 261/2004

Article 8 and corresponding Recitals

**Council position**

**Article 1 – paragraph 1 – point 9**

Regulation (EC) No 261/2004

Article 8 – paragraph 1 – introductory part

*Council position*

In the case of a disruption, **passengers** shall **be offered, free of charge, the choice between the following options** under the conditions **defined** in Articles 4, 5, 6, or 6b and in this Article:

*Amendment*

In the case of a disruption, **the operating air carrier** shall, **without any further consideration and** under the conditions **set out** in Articles 4, 5, 6, or 6b and in this Article, **offer the passengers a choice between the following options, to be provided free of charge:**

**Council position**

**Article 1 – paragraph 1 – point 9**

Regulation (EC) No 261/2004

Article 8 – paragraph 1 – subparagraph 1 – point a

*Council position*

(a) automatic reimbursement within **14 calendar** days from the **date of departure** of the disrupted flight indicated on the passenger's ticket, **in cash**, or, **if agreed** by the passenger **in a signed document or any other digital means on a durable medium, by other means**, of the full cost of the tickets, for the part or parts of the journey or journeys not made, and for the part or parts of the journey or journeys already made if the flight is no longer serving any purpose in relation to the **passenger's** original travel plans, together with, where relevant, a return flight to the initial point of departure, at the earliest opportunity after the time of departure indicated on the passenger's ticket or, in agreement with the passenger, before that time.

*Amendment*

(a) automatic reimbursement **following the completion via the pre-filled common form** within **seven working** days from the **passenger's request** of the disrupted flight indicated on the passenger's ticket, **only by electronic bank transfer, credit card refund or bank order to the account indicated** by the **authorised** passenger of the full cost of the tickets, for the part or parts of the journey or journeys not made, and for the part or parts of the journey or journeys already made if the flight is no longer serving any purpose in relation to the **passenger's** original travel plans, together with, where relevant, a return flight to the initial point of departure, at the earliest opportunity after the time of departure indicated on the passenger's ticket or, in agreement with the passenger, before that time.

**Council position**

**Article 1 – paragraph 1 – point 9**

Regulation (EC) No 261/2004

Article 8 – paragraph 1 – subparagraph 1 – point b

*Council position*

(b) continuation of the passenger's

*Amendment*

(b) continuation of the passenger's

journey by rerouting the passenger to his or her final destination at the earliest opportunity after the time of departure indicated on the passenger's ticket or, in agreement with the passenger, before that time; or

Council position

**Article 1 – paragraph 1 – point 9**

Regulation (EC) No 261/2004

Article 8 – paragraph 1 – subparagraph 1 – point c

*Council position*

(c) rerouting to their final destination at a later date at the passenger's convenience, subject to availability of seats.

**Council position**

**Article 1 – paragraph 1 – point 9**

Regulation (EC) No 261/2004

Article 8 – paragraph 1 – subparagraph 1 a (new)

*Council position*

Council position

**Article 1 – paragraph 1 – point 9**

Regulation (EC) No 261/2004

Article 8 – paragraph 1 – subparagraph 2

*Council position*

***Where the airport managing body activates its contingency plan in accordance with Article 10a, the deadline referred to in point (a) of this paragraph may be extended to 30 calendar days.***

journey ***under comparable transport conditions***, by rerouting the passenger to his or her final destination at the earliest opportunity after the time of departure indicated on the passenger's ticket or, in agreement with the passenger, before that time; or

*Amendment*

(c) rerouting, ***under comparable transport conditions***, to their final destination at a later date at the passenger's convenience, subject to availability of seats.

*Amendment*

***The operating air carrier shall provide the information to the passengers pursuant to this Article in a clear and unambiguous manner by electronic means, and at the passenger's request by other means, such as in a paper form.***

*Amendment*

***deleted***

Council position

**Article 1 – paragraph 1 – point 9**

Regulation (EC) No 261/2004

Article 8 – paragraph 2

*Council position*

2. In order for the passenger to reach his or her destination as determined under paragraph 1 at the earliest opportunity, the operating air carrier shall, subject to availability and provided that these are under comparable transport conditions as set out in the air transport contract, offer at least one of the following alternative options for the passenger's consideration and agreement in a signed document or any other digital means on a durable medium:

*Amendment*

2. In order for the passenger to reach his or her destination as determined under paragraph 1 at the earliest opportunity **and with a total travel time as close as reasonably possible to the scheduled total travel time of the original flight**, the operating air carrier shall, subject to availability and provided that these are under comparable transport conditions as set out in the air transport contract, offer at least one of the following alternative options for the passenger's consideration and agreement in a signed document or any other digital means on a durable medium:

Council position

**Article 1 – paragraph 1 – point 9**

Regulation (EC) No 261/2004

Article 8 – paragraph 2 – point b

*Council position*

(b) a different routing, **including to or from alternative airports to the airport** stated in the air transport contract, **in which case, the operating air carrier shall bear the cost of transferring the passenger from the airport stated in the air transport contract to the alternative airport or to the airport stated in the air transport contract from the alternative airport;**

*Amendment*

(b) a different routing **between the same airports of departure and of arrival as** stated in the air transport contract;

Council position

**Article 1 – paragraph 1 – point 9**

Regulation (EC) No 261/2004  
Article 8 – paragraph 2 – point b a (new)

*Council position*

*Amendment*

***(ba) rerouting to or from alternative airports to the airports stated in the air transport contract, in which case, the operating air carrier shall bear the cost of transferring the passenger between the airport stated in the air transport contract and the alternative airport;***

**Council position**

**Article 1 – paragraph 1 – point 9**

Regulation (EC) No 261/2004

Article 8 – paragraph 2 – subparagraph 2 b (new)

*Council position*

*Amendment*

***In the event of rerouting via another mode of transport or with another air carrier, the operating air carrier shall remain responsible for information, assistance and rerouting only until the departure of that rerouting service. The operating air carrier shall remain responsible for compensation for delay at arrival at the final destination in accordance with Article 7. The carrier operating the rerouting service shall be responsible for all other rights connected to that service in accordance with the applicable Union law on passenger rights for that mode of transport.***

**Council position**

**Article 1 – paragraph 1 – point 9**

Regulation (EC) No 261/2004  
Article 8 – paragraph 3 – subparagraph 1

*Council position*

Where a passenger informed the operating air carrier of his or her choice to continue his or her journey in accordance with paragraph 1, point (b) and paragraph 4, and if the operating air carrier has not offered within three hours a rerouting, the passenger may arrange his or her own rerouting in accordance with paragraph 2.

*Amendment*

Where a passenger informed the operating air carrier of his or her choice to continue his or her journey in accordance with paragraph 1, point (b) and paragraph 4, and if the operating air carrier has not offered within three hours a rerouting ***under comparable transport conditions***, the passenger may arrange his or her own rerouting in accordance with paragraph 2. ***If the passenger chooses to arrange his or her own rerouting, the passenger shall inform the operating air carrier accordingly. The passenger shall have the right to refuse re-routing options if those re-routing options are not under comparable transport conditions, and, in such case, shall maintain his or her rights to assistance in accordance with Article 9 while waiting for the re-routing.***

**Council position**

**Article 1 – paragraph 1 – point 9**

Regulation (EC) No 261/2004  
Article 8 – paragraph 3 – subparagraph 3

*Council position*

When arranging their own rerouting, the passengers shall limit the expenses to those that are necessary, reasonable and appropriate. The operating air carrier shall reimburse the expenses not exceeding 400 % of the full cost of the ticket or tickets incurred by the passenger within ***14 calendar*** days of the submission of the request. ***Where the airport managing body activates its contingency plan, that deadline may be extended to 30 calendar days.***

*Amendment*

When arranging their own rerouting, the passengers shall limit the expenses to those that are necessary, reasonable and appropriate. The operating air carrier shall reimburse the expenses not exceeding 400 % of the full cost of the ticket or tickets incurred by the passenger within ***seven working*** days of the submission of the request

## Council position

### Article 1 – paragraph 1 – point 9

Regulation (EC) No 261/2004

Article 8 – paragraph 4 a (new)

*Council position*

*Amendment*

***4a. The operating air carrier shall provide the information to the passengers pursuant to this Article in a clear and unambiguous manner by electronic means, and at the passenger's request by other means, such as in a paper form. The burden of proof concerning the passenger's choice shall rest with the operating air carrier. To that end, the operating air carrier shall also ensure that the choice made by the passenger pursuant to this Article is confirmed by means of a signed document or any digital means on a durable medium.***

## Council position

### Recital 29

*Council position*

*Amendment*

(29) Where a passenger has opted for rerouting at the earliest opportunity, the air carrier often makes the rerouting conditional upon the availability of seats on its own services, thereby denying its passengers the option of being rerouted more quickly by alternative services. Therefore, the carrier should also propose other options for rerouting, including to an alternative airport, by a different route, 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. ***If the air carrier has not offered a rerouting and the cumulated waiting time is prolonged by at least three hours, the***

(29) Where a passenger has opted for rerouting at the earliest opportunity, the air carrier often makes the rerouting conditional upon the availability of seats on its own services, thereby denying its passengers the option of being rerouted more quickly by alternative services. Therefore, the carrier should also propose other options for rerouting, including to an alternative airport, by a different route, 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. That rerouting should be, subject to certain conditions, at the air carrier's expenses and provided under comparable transport

*passenger should have the right to arrange his or her own rerouting in order to reach his or her final destination without further delay.* That rerouting should be, subject to certain conditions, at the air carrier's expenses and provided under comparable transport conditions.

conditions.

## Council position Recital 31

### *Council position*

(31) Whether transport conditions are comparable could depend on a number of factors and on the particular circumstances. Where possible and where it does not entail further delay, passengers should not be downgraded to transport services of a lower class compared with the one on the reservation. Rerouting should be offered at no additional cost to the passenger, even if passengers are rerouted with another air carrier or on a different transport mode or in a higher class or at a higher fare than the one paid for the original service. Reasonable efforts should be made to avoid additional connections. ***When using another air carrier or an alternative mode of transport for rerouting***, the total travel time should be as close as reasonably possible to the scheduled travel time of the original flight, in the same class of transport or a higher one if necessary. If several flights are available with comparable timings, passengers having the right to rerouting should accept the offer of rerouting made by the air carrier, including on those air carriers cooperating with the operating air carrier. If assistance for persons with disabilities or persons with reduced mobility was booked for the original flight, such assistance should also be available on the alternative route in accordance with Regulation (EC) No 1107/2006 of the European Parliament and of the Council<sup>15</sup>.

### *Amendment*

(31) Whether transport conditions are comparable could depend on a number of factors and on the particular circumstances. Where possible and where it does not entail further delay, passengers should not be downgraded to transport services of a lower class compared with the one on the reservation. Rerouting should be offered at no additional cost to the passenger, even if passengers are rerouted with another air carrier or on a different transport mode or in a higher class or at a higher fare than the one paid for the original service. Reasonable efforts should be made to avoid additional connections. ***Persons with disabilities or persons with reduced mobility should not be subject to any additional connecting flight when rerouted, unless otherwise agreed by the passenger.*** The total travel time should be as close as reasonably possible to the scheduled travel time of the original flight, ***taking into account the options available at the airport where the disruption occurred***, in the same class of transport or a higher one if necessary. If several flights are available with comparable timings, passengers having the right to rerouting should accept the offer of rerouting made by the air carrier, including on those air carriers cooperating with the operating air carrier. ***If the operating air carrier provides the passenger with rerouting under comparable transport conditions the passenger should accept such rerouting. If the operating air carrier***

***provides the passenger with rerouting options which are not under comparable transport conditions, the passenger could refuse such rerouting. The right to rerouting, including self-rerouting should be maintained.*** If assistance for persons with disabilities or persons with reduced mobility was booked for the original flight, such assistance should also be available on the alternative route in accordance with Regulation (EC) No 1107/2006 of the European Parliament and of the Council<sup>15</sup>.

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<sup>15</sup> 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, ELI: <http://data.europa.eu/eli/reg/2006/1107/oj>).

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<sup>15</sup> 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, ELI: <http://data.europa.eu/eli/reg/2006/1107/oj>).

#### **Council position Recital 31 a (new)**

*Council position*

*Amendment*

***(31a) Where a passenger informed the operating air carrier of his or her choice to continue his or her journey, and if the operating air carrier has not offered within three hours a rerouting, the passenger should have the right to arrange his or her own rerouting under comparable transport conditions in order to reach his or her final destination without further delay. However, the passenger should remain entitled to rerouting by the operating air carrier until the passenger has informed the operating air carrier of his or her decision, to arrange his or her own rerouting. When arranging their own rerouting, the passengers should limit the expenses to those that are necessary, reasonable and appropriate.***

## COMPROMISE AMENDMENT 11

### Assistance

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 30, 31, 32, 129, 130, 131, 132, 267

Article 1

Regulation (EC) No 261/2004

Article 9 and corresponding Recitals

### Council position

#### Article 1 – paragraph 1 – point 10

Regulation (EC) No 261/2004

Article 9 – paragraph 1 – subparagraph 1 – introductory part

#### *Council position*

***In the case of a disruption and subject to the conditions referred to in Articles 4, 5, 6, 6a and 6b and in this Article, and when the waiting time for their flight or alternative transportation is prolonged by at least two hours, passengers shall be offered, free of charge, the following:***

#### *Amendment*

***Where reference is made to this article, passengers shall be offered, free of charge, the following:***

### Council position

#### Article 1 – paragraph 1 – point 10

Regulation (EC) No 261/2004

Article 9 – paragraph 1 – subparagraph 1 – point c

#### *Council position*

(c) ***text messages***, internet access and two telephone calls.

#### *Amendment*

(c) internet access and two telephone calls.

### Council position

#### Article 1 – paragraph 1 – point 10

*Council position*

3. The operating air carrier may use vouchers to meet its obligations under paragraph 1, points (a) and (b) and paragraph 2. The vouchers provided in accordance with paragraph 1 shall be able to be used in all shops providing food and refreshments at the airport where the passengers concerned are stranded, on board their flight, and, as appropriate, at the accommodation provided pursuant to paragraph 2, point (a).

*Amendment*

3. The operating air carrier may use vouchers to meet its obligations under paragraph 1, points (a) and (b) and paragraph 2. The vouchers provided in accordance with paragraph 1 shall be able to be used in all shops providing food and refreshments at the airport where the passengers concerned are stranded, on board their flight, and, as appropriate, at the accommodation provided pursuant to paragraph 2, point (a). ***A voucher provided in accordance with paragraph 2, point (a) can only be issued if the operating air carrier has pre-booked a room for the passenger concerned.***

**Council position**

**Article 1 – paragraph 1 – point 10**

Regulation (EC) No 261/2004

Article 9 – paragraph 4

*Council position*

4. Where the operating air carrier does not meet its obligations under paragraphs 1, 2 and 3, the passengers concerned may make their own arrangements. The air carrier operating the disrupted flight shall reimburse the expenses incurred by the passengers within 14 calendar days of the submission of the request for reimbursement, to the extent those expenses are necessary, reasonable and proportionate to the duration of the waiting time and to the costs of refreshments and meals at the location of the airport or the location of the accommodation where the passengers are stranded. Where the airport managing body activates its contingency plan, that deadline may be extended to 30 calendar days.

*Amendment*

4. Where the operating air carrier does not meet its obligations under paragraphs 1, 2 and 3, the passengers concerned may make their own arrangements. The air carrier operating the disrupted flight shall reimburse the expenses incurred by the passengers within 14 calendar days of the submission of the request for reimbursement, to the extent those expenses are necessary, reasonable and proportionate to the duration of the waiting time and to the costs of ***accommodation, refreshments and meals*** at the location of the airport or the location of the accommodation where the passengers are stranded. ***In case the air carrier fails to provide hotel accommodation within three hours, the passenger shall have the right to arrange their own accommodation and be reimbursed by the air carrier upon the***

*presentation of the corresponding receipt, within seven working days. Where the airport managing body activates its contingency plan, that deadline may be extended to [...] calendar days. **The reimbursable amount shall be up to a hotel ceiling referred to in an index published by the Commission reflecting prices in Member States in line with Eurostat data multiplied by a coefficient of 2, in order to account for limited availability and peak-time pricing and to incentivise the provision of accommodation via the operating air carriers within the three-hour deadline. Where the ceiling multiplied by the coefficient is not sufficient to allow the concerned passenger to find appropriate accommodation, the right to self-arrangement of accommodation by the passenger shall not free the operating air carrier from its obligation to provide accommodation.***

### **Council position**

#### **Article 1 – paragraph 1 – point 10**

Regulation (EC) No 261/2004

Article 9 – paragraph 4

#### *Council position*

5. At all Union airports, the airport managing body shall put in place arrangements to ensure that drinking water and recharging stations for electronic devices can be made available, free of charge, regardless of the time of day, flight or terminal.

#### *Amendment*

5. At all Union airports **with commercial passenger traffic**, the airport managing body shall put in place arrangements to ensure that drinking water and recharging stations for electronic devices can be made available, free of charge, regardless of the time of day, flight or terminal.

### **Council position**

#### **Recital 31 b (new)**

*Council position*

*Amendment*

*(31b) Assistance could be limited or declined if its provision would itself cause further delay to passengers awaiting a delayed flight or the rerouting. If a flight is delayed late in the evening but can be expected to depart within a short period of time and if dispatching passengers to hotels and bringing them back to the airport in the middle of the night could lead to a much longer delay, the air carrier should be allowed to decline to provide hotel accommodation and corresponding transfers. Similarly, if an air carrier is about to provide food and drinks but is informed that the flight is ready for boarding, it should be allowed to decline to provide this assistance. Apart from these cases, this limitation should be applied only in very exceptional cases, as every effort should be made to reduce the inconvenience suffered by passengers.*

**Council position**  
**Recital 32**

*Council position*

*Amendment*

(32) Air carriers should offer assistance to passengers from the scheduled time of departure until the departure of their flight ***or alternative transportation***. Air carriers currently face unlimited liability for the accommodation of their passengers in the case where the extraordinary circumstances persist for a long period of time. ***This uncertainty linked with the absence of any foreseeable limit in time may risk endangering a carrier's financial stability, with consequential negative effects for passengers in terms of connectivity.*** An air carrier should therefore be able to limit the provision of accommodation to three nights. Moreover, contingency planning and speedy rerouting should lessen the risk of passengers being stranded for long

(32) Air carriers should offer assistance to passengers from the scheduled time of departure until the departure of their flight. Air carriers currently face unlimited liability for the accommodation of their passengers in the case where the extraordinary circumstances persist for a long period of time. An air carrier should therefore 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*** to three nights. Moreover, contingency planning and speedy rerouting should lessen the risk of passengers being stranded for long periods.

periods.

## **Council position**

### **Recital 33**

#### *Council position*

(33) Passengers with specific needs such as persons with disabilities, persons with reduced mobility, unaccompanied children, infants, pregnant women and persons in need of specific medical assistance such as people with severe diabetes or epilepsy, may require specific attention by the operating air carrier. In particular, it may be more difficult to arrange accommodation when flight disruptions occur. Therefore, any limitations on the right to be provided with accommodation in cases of extraordinary circumstances should **not** apply to these categories of passenger ***provided they have informed the operating air carrier in due time.***

#### *Amendment*

(33) Passengers with specific needs such as persons with disabilities, persons with reduced mobility, unaccompanied children, infants, pregnant women and persons in need of specific medical assistance such as people with severe diabetes or epilepsy, may require specific attention by the operating air carrier. In particular, it may be more difficult to arrange accommodation when flight disruptions occur. Therefore, any limitations on the right to be provided with accommodation in cases of extraordinary circumstances should ***on no account*** apply to these categories of passenger.

## **COMPROMISE AMENDMENT 12**

### **Downgrading**

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 133, 134, 135, 136, 137

Article 1

Regulation (EC) No 261/2004

Article 10 and corresponding Recitals

## **Council position**

### **Article 1 – paragraph 1 – point 11**

Regulation (EC) No 261/2004

Article 10 – paragraph 2 – introductory part

#### *Council position*

2. If an operating air carrier places a passenger in a class of transport lower than

#### *Amendment*

2. If an operating air carrier places a passenger in a class of transport lower than

that for which the ticket was purchased, it shall, without request, within **14 calendar** days of the downgrading, by the means provided for in Article 7(6), **provide the passenger with compensation at least equivalent to:**

that for which the ticket was purchased, it shall, without request, within **seven working** days of the downgrading, by the means provided for in Article 7(6), **reimburse:**

### **Council position**

#### **Article 1 – paragraph 1 – point 11**

Regulation (EC) No 261/2004

Article 10 – paragraph 2 – point a

#### *Council position*

(a) **40 %** of the flight price for flights of **3 500** kilometres or less; or

#### *Amendment*

(a) **30 %** of the flight price for **all** flights of **1 500** kilometres or less, or

### **Council position**

#### **Article 1 – paragraph 1 – point 11**

Regulation (EC) No 261/2004

Article 10 – paragraph 2 – point b

#### *Council position*

(b) **75 %** of the flight price for flights **above** 3 500 kilometres.

#### *Amendment*

(b) **50 %** of the flight price for **all intra-Union flights of more than 1 500 kilometres and for all other flights between 1 500 and 3 500 kilometres, or**

### **Council position**

#### **Article 1 – paragraph 1 – point 11**

Regulation (EC) No 261/2004

Article 10 – paragraph 2 – point b a (new)

#### *Council position*

#### *Amendment*

**(ba) 75 % of the cost of the flight price for all flights not falling under (a) or (b), including flights between the European territory of the Member States and the French outermost regions.**

### **Council position**

#### **Article 1 – paragraph 1 – point 11**

Regulation (EC) No 261/2004

Article 10 – paragraph 5

#### *Council position*

5. This Article shall not apply to ***advantages included in a higher fare within the same class of transport*** such as specific seating or catering.;

#### *Amendment*

5. This Article shall not apply to ***ancillary services***, such as specific seating or catering, ***which are independent from the class of transport and sold separately.***

### **COMPROMISE AMENDMENT 13**

#### **Airport contingency plans**

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 15, 138, 139, 140

Article 1

Regulation (EC) No 261/2004

Article 10a and corresponding Recitals

### **Council position**

#### **Article 1 – paragraph 1 – point 12**

Regulation (EC) No 261/2004

Article 10a – paragraph 1

#### *Council position*

1. At a Union airport ***which has*** annual passenger traffic ***of more than 5*** million passengers, the airport managing body shall ensure that the operations of the

#### *Amendment*

1. At a Union airport ***with an*** annual passenger traffic ***volume of not less than 4*** million passengers ***for at least three consecutive years***, the airport managing

airport managing body and of airport essential service providers, in particular the air carriers, and the suppliers of groundhandling services, are coordinated through a proper contingency plan in view of possible situations of multiple cancellations, of multiple delays of flights, or both, leading to a considerable number of passengers being stranded at the airport. The contingency plan shall be set up to ensure that adequate information is given to stranded passengers and shall contain arrangements in order to minimise their waiting time and discomfort.

Council position

**Article 1 – paragraph 1 – point 12**

Regulation (EC) No 261/2004

Article 10a – paragraph 3

*Council position*

3. The contingency plan shall be set up in particular with the participation of the Airport Users Committee referred to in Council Directive 96/67/EC\*, of the providers of groundhandling services, and of other airport essential service providers. The contingency plan shall also contain the contact data of the person or persons designated by the air carriers participating in the Airport Users Committee in order to represent them on the spot in the case of multiple cancellations, of multiple delays of flights, or both. The air carrier shall ensure that any designated person has the necessary means to assist passengers in accordance with the obligations arising from this Regulation in the case of a disruption.

body shall ensure that the operations of the airport managing body and of airport essential service providers, in particular the air carriers, and the suppliers of groundhandling services, are coordinated through a proper contingency plan in view of possible situations of multiple cancellations, of multiple delays of flights, or both, leading to a considerable number of passengers being stranded at the airport. The contingency plan shall be set up to ensure that adequate information is given to stranded passengers and shall contain arrangements in order to minimise their waiting time and discomfort.

*Amendment*

3. The contingency plan shall be set up in particular with the participation of the Airport Users Committee referred to in Council Directive 96/67/EC\*, of the providers of groundhandling services, and of other airport essential service providers, ***including special assistance providers for passengers with a disability or with reduced mobility. The contingency plan shall be set up with the participation of the relevant authorities where appropriate.*** The contingency plan shall also contain the contact data of the person or persons designated by the air carriers participating in the Airport Users Committee in order to represent them on the spot in the case of multiple cancellations, of multiple delays of flights, or both. The air carrier shall ensure that any designated person has the necessary means to assist passengers in accordance with the obligations arising from this Regulation in the case of a disruption.

Council position

**Article 1 – paragraph 1 – point 12**

Regulation (EC) No 261/2004

Article 10a – paragraph 4

*Council position*

4. The airport managing body shall communicate the contingency plan to the Airport Users Committee referred to in Directive 96/67/EC and, upon request, to the national enforcement body ***entrusted with the enforcement of this Regulation under Article 16(1)*** of this ***Regulation***.

*Amendment*

4. The airport managing body shall communicate the contingency plan to the Airport Users Committee referred to in Directive 96/67/EC and, upon request, to the national enforcement body ***designated pursuant to Article 16. The national enforcement body shall monitor the compliance of the airport managing body with the requirements*** of this ***Article***.

Council position

**Recital 19**

*Council position*

(19) Airport managing bodies at airports ***that handle more than five*** million passengers ***per year***, and airport essential service providers, in particular air carriers and the suppliers of ground handling services, should ***cooperate*** to minimise the impact of multiple flight disruptions on passengers. To this end, airport managing bodies should ***prepare*** contingency plans for such occurrences and work together in the development of such plans. ***At all other airports, the airport managing body should make all reasonable efforts to coordinate and make arrangements with airport users in situations that could lead to a considerable number of passengers being stranded and to keep the stranded passengers informed.***

*Amendment*

(19) Airport managing bodies at airports ***with an annual passenger traffic volume of not less than four*** million passengers ***for at least three consecutive years*** and airport essential service providers, in particular air carriers and the suppliers of ground handling services, ***navigation service providers and assistance providers for disabled passengers and passengers with reduced mobility***, should ***take adequate measures to ensure coordination and cooperation between airport users in order*** to minimise the impact of multiple flight disruptions on passengers. To this end, airport managing bodies should ***ensure adequate coordination by means of proper*** contingency plans for such occurrences and work together ***with national, regional or local authorities*** in the development of such plans. ***Such plans should be assessed and, where necessary, adapted by the National Enforcement Bodies.***

## COMPROMISE AMENDMENT 14

### Passengers with specific needs

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 33, 54, 141, 142, 143, 144, 145, 268

Article 1

Regulation (EC) No 261/2004

Article 11 and corresponding Recitals

### Council position

**Article 1 – paragraph 1 – point 13**

Regulation (EC) No 261/2004

Article 11 – paragraph -1 (new)

*Council position*

*Amendment*

**-1. The rights of persons with disabilities and persons with reduced mobility laid down under this Article shall be without prejudice to the rights they enjoy under Regulation (EC) No 1107/2006.**

### Council position

**Article 1 – paragraph 1 – point 13**

Regulation (EC) No 261/2004

Article 11 – paragraph 3

*Council position*

*Amendment*

**3. At the latest at check-in, and subject to seat availability, any person accompanying the persons referred to in paragraph 2 or accompanying a child shall be offered, free of charge, the possibility of being seated in a seat adjacent to that person or child.**

**3. Any person accompanying the persons referred to in paragraph 2 or accompanying a child, under the same air transport contract, shall be offered by the air carrier, free of charge, the possibility of being seated in a seat adjacent to that person or child. Where adjacent seats are unavailable, the air carrier shall endeavour to assist the accompanying person(s) to find adjacent seats.**

### Council position

**Article 1 – paragraph 1 – point 13**

Regulation (EC) No 261/2004

Article 11 – paragraph 4

*Council position*

4. At boarding, operating air carriers shall give priority to persons referred to in paragraph 2 and any person or recognised assistance dogs accompanying them.

*Amendment*

4. At boarding, operating air carriers shall give priority to persons referred to in paragraph 2 and any person or recognised assistance dogs accompanying them, ***as well as to children in a pram or a pushchair with their accompanying person.***

**Council position**

**Article 1 – paragraph 1 – point 13**

Regulation (EC) No 261/2004

Article 11 – paragraph 4 a (new)

*Council position*

*Amendment*

***4 a. Operating air carriers shall ensure, at no additional cost, that infants and children in need of a pram or a pushchair can be transported in a pram or a pushchair up to the boarding gate or aircraft door, and that a pram or a pushchair is made available to them at the aircraft door, unless there are safety, security, capacity or operational constraints.***

**Council position**

**Article 1 – paragraph 1 – point 13**

Regulation (EC) No 261/2004

Article 11 – paragraph 4 b (new)

*Council position*

*Amendment*

***4 b. Where the airport does not fulfil its obligations under Articles 7 and 8 of Regulation 1107/2006 and, as a result, persons with disabilities and persons with reduced mobility or unaccompanied minors miss their flight, the air carrier shall be responsible for compensation, rerouting and assistance of those passengers in accordance with Articles 7, 8 and 9 of this Regulation. By ... [date of application of this amending Regulation],***

*the Commission shall define the detailed arrangements for the application of the respective responsibilities of the air carrier and the airport managing body and the means of redress, through an implementing act in accordance with Article 16bd of this Regulation. This implementing act shall not undermine the air carrier's responsibilities in relation to the compensation, rerouting and assistance of passengers under this paragraph.*

**Council position  
Recital 33 a (new)**

*Council position*

*Amendment*

*(33a) The service providers should ensure that persons with disabilities and persons with reduced mobility 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 persons with disabilities and persons with reduces mobility, taking due account of safety requirements.*

**Council position  
Recital 55 c (new)**

*Council position*

*Amendment*

*(55c) 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 passenger traffic volume of more than one million passengers.*

## COMPROMISE AMENDMENT 15

### Hand luggage

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 42, 43, 44, 146

Article 1

Regulation (EC) No 261/2004

Article 11a and corresponding Recitals

### Council position

**Article 1 – paragraph 1 – point 13 a (new)**

Regulation (EC) No 261/2004

Article 11 a (new)

*Council position*

*Amendment*

***(13a) the following Article is inserted:***

***‘Article 11a***

***Right to personal item and hand baggage***

***1. Passengers shall always have the right to carry on board one personal item, such as a small bag, handbag, backpack or laptop bag, provided that that it can be safely stowed under the seat in front of the passenger. Air carriers shall not charge the passenger any supplement or additional fees on top of the price of the flight ticket for this personal item. It is mandatory that carriers provide clear, transparent, and easily accessible information on the weight and dimension requirements for the personal item at the time of booking and after the booking is completed, ensuring passengers are fully informed before their journey.***

***2. Passengers shall always have the right to carry on board one piece of hand baggage. The hand baggage shall not be subject to price supplement on the price of the flight ticket within the maximum dimensions of 100 cm (sum of length, width, and height) and maximum weight of 7 kilos. Air carriers may apply different provisions regarding additional or larger***

*hand baggage.*

*The hand baggage may be stored either in the aircraft cabin (as carry-on baggage) or in the aircraft hold. The carrier may refuse to allow the hand baggage on board only on grounds of security connected with the weight or size of the hand baggage in relation to the characteristics of the aircraft.*

*Air carriers shall provide clear, transparent, and easily accessible information on the weight and dimension requirements for the hand baggage at the time of booking and after the booking is completed, ensuring passengers are fully informed before their journey.*

*3. For the event that a personal item or hand baggage is left behind in the aircraft cabin, the operating and contracting air carriers shall establish in advance which party is responsible for handling any subsequent requests. The designated responsible air carrier shall automatically inform the passengers, upon the completion of booking, regarding the procedure for retrieving forgotten personal items or hand baggage. This information shall be communicated in a clear and comprehensive manner and shall include electronic contact details, applicable forms, and any other pertinent details necessary for the passenger to initiate a request.*

**Council position  
Recital 46**

*Council position*

*(46) It is not always clear to passengers which baggage they are allowed to take on board an aircraft, in terms of dimensions, weight or number of items permitted. In order to ensure that passengers are fully aware of the baggage allowances included in their ticket, both for unchecked and checked baggage, air carriers should*

*Amendment*

*(46) Regulation (EC) No 261/2004 should ensure its objective of raising standards of protection and of information for passengers, strengthening their rights and ensuring that air carriers operate under harmonised conditions, including hand baggage dimensions. In accordance with the judgement of the*

*clearly indicate these allowances at booking and at the airport. In order to ensure sufficient personal comfort during passengers' travel, and as recognised by the Court of Justice in its judgment in Case C-487/12 (Vueling Airlines SA v Instituto Galego de Consumo de la Xunta de Galicia)<sup>21</sup>, passengers should be allowed to take personal items constituting a necessary aspect of their carriage into the cabin at no cost, provided that the personal items comply with applicable safety and security requirements and meet reasonable requirements in terms of weight and dimensions. Personal items constituting a necessary aspect of the carriage of passengers are understood to be those items that are essential for the duration of the journey and may include passports and other travel documents, essential medicines, personal devices and reading materials as well as food and beverage appropriate to the duration of the flight.*

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<sup>21</sup> Judgment of the Court (Fifth Chamber) of 18 September 2014, Vueling Airlines SA v Instituto Galego de Consumo de la Xunta de Galicia, Case C-487/12, ECLI:EU:C:2014:2232.

**Council position  
Recital 46 a (new)**

*Council position*

*Court of Justice in case C-487/12 (Vueling Airlines SA v Instituto Galego de Consumo de la Xunta de Galicia Vueling)<sup>21</sup>, hand baggage (i.e. baggage that is not checked in) should be considered as constituting a 'necessary aspect' of the carriage of passengers on condition that such baggage meets 'reasonable requirements' in terms of its weight and dimensions, and that its carriage should not, therefore, be made subject to a price supplement. Airlines should also communicate carry-on baggage dimensions clearly to passengers.*

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<sup>21</sup> Judgment of the Court (Fifth Chamber) of 18 September 2014, Vueling Airlines SA v Instituto Galego de Consumo de la Xunta de Galicia, Case C-487/12, ECLI:EU:C:2014:2232.

*Amendment*

*(46a) Greater clarity should be provided where a personal item or hand baggage is left behind or lost in the aircraft cabin in order to facilitate the handling of such requests, ensuring a streamlined process and preventing any additional burden or miscommunication for passengers.*

**Council position**  
**Recital 47**

*Council position*

*Amendment*

*(47) Passengers should be informed at booking, in clear and accessible format, of the maximum dimensions and weight of the baggage they can bring with them in the cabin. Without prejudice to the freedom of pricing principle, air carriers should define a reasonable policy in terms of dimensions of hand baggage which enables passengers to take a piece of hand baggage into the cabin, provided that it complies with applicable safety and security requirements. Given the diversity of the air carriers' policies, it is appropriate that in the review of Regulation (EC) No 1008/2008 of the European Parliament and of the Council<sup>22</sup>, the feasibility of setting up uniform minimal rules for hand baggage should be assessed.*

*deleted*

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<sup>22</sup> 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, ELI: <http://data.europa.eu/eli/reg/2008/1008/oj>).

## COMPROMISE AMENDMENT 16

### Transfer of tickets

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 269

Article 1

Regulation (EC) No 261/2004

Article 11aa and corresponding Recitals

### Council position

**Article 1 – paragraph 1 – point 13 a (new)**

Regulation (EC) No 261/2004

Article 11 aa (new)

*Council position*

*Amendment*

***(13 a) the following Article is inserted:***

***'Article 11aa***

***Right to transfer a ticket in the case of death of the passenger concerned or of a close family member***

***1. A transfer of a ticket to another person shall be permitted in the event of the death of the passenger concerned or of a close family member. The passenger concerned by the loss or the person handling the deceased passenger's affairs may request the transfer of the ticket upon presentation of appropriate supporting documentation on a durable medium.***

***2. Air carriers, operators or intermediaries shall be obliged to process such requests under transparent and fair conditions.***

***3. Where such a request is provided at least 72 hours prior to the flight and upon presentation of appropriate supporting documentation on a durable medium, it shall in all cases be considered reasonable and shall not be subject to any additional charge.***

***4. Where such a request is provided in the 72 hours prior to the flight departure and upon presentation of appropriate supporting documentation on a durable***

*medium, the air carrier or the intermediary shall inform the transferor of any possible charges that may be incurred. These charges must be reasonable and must not exceed the actual cost borne by the carrier or intermediary for transfer of the ticket.'*

## COMPROMISE AMENDMENT 17

### Check-in

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 147

Article 1

Regulation (EC) No 261/2004

Article 11b and corresponding Recitals

### Council position

**Article 1 – paragraph 1 – point 13 b (new)**

Regulation (EC) No 261/2004

Article 11 b (new)

*Council position*

*Amendment*

***(13b) the following article is inserted:***

***Article 11b***

***Check-in***

***1. Passengers shall have the right to check in either online or at the airport without incurring any additional charges. For this purpose, air carriers may provide self-service check-in stations at the airport to facilitate the check-in process.***

***2. Passengers shall have the right to choose, at their discretion, to use a boarding pass either in paper format or in digital format.***

## COMPROMISE AMENDMENT 18

### Correction of spelling mistakes

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 270

Article 1

Regulation (EC) No 261/2004

Article 12a and corresponding Recitals

### Council position

**Article 1 – paragraph 1 – point 14 a (new)**

Regulation (EC) No 261/2004

Article 12 a (new)

*Council position*

*Amendment*

*(14 a) the following Article is inserted:*

*'Article 12a*

*Correction of spelling mistakes*

*1. The operating air carrier shall, upon receipt of a request submitted at the latest 48 hours before the scheduled time of departure, correct spelling mistakes in a passenger's name or update a passenger's name in the case of an administrative change. Such a correction or update shall be made free of charge at least once.*

*2. The request referred to in paragraph 1 may be submitted by:*

*(a) a passenger in relation to that passenger's name or the name of any passenger whose ticket is part of the same air transport contract as the ticket of the passenger submitting the request;*

*(b) an intermediary in relation to the name of a passenger in respect of whom the intermediary has made the booking.*

*Any correction or update made pursuant to paragraph 1 may not constitute a transfer of ticket from the passenger to another person.'*

## COMPROMISE AMENDMENT 19

### Redress

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 148

Article 1

Regulation (EC) No 261/2004

Article 13 and corresponding Recitals

### Amendment 148

#### Council position

**Article 1 – paragraph 1 – point 15**

Regulation (EC) No 261/2004

Article 13 – paragraph 1

#### *Council position*

In cases where an operating air carrier pays compensation or meets the other obligations incumbent on it under this Regulation, no provision of this Regulation or of national law may be interpreted as restricting its right to seek compensation from any person, including third parties, in accordance with the applicable Union or national law.;

#### *Amendment*

In cases where an operating air carrier pays compensation or meets the other obligations incumbent on it under this Regulation, no provision of this Regulation or of national law may be interpreted as restricting its right to seek compensation from any person, including third parties, in accordance with the applicable Union or national 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.***

## COMPROMISE AMENDMENT 20

### Obligation to inform passengers

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 16, 17, 36, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 271, 272, 273, 274, 275, 276, 277, 278

Article 1

Regulation (EC) No 261/2004

Article 14 and corresponding Recitals

### Council position

#### Article 1 – paragraph 1 – point 16

Regulation (EC) No 261/2004

Article 14 – paragraph 1

#### *Council position*

1. The operating air carrier shall include on its website and mobile application an information notice specifying rights under this Regulation, including complaint handling process.

### Council position

#### Article 1 – paragraph 1 – point 16

Regulation (EC) No 261/2004

Article 14 – paragraph 2

#### *Council position*

2. When offering tickets for a flight or connecting flights and prior to the purchase, air carriers and intermediaries shall inform the passenger of the following:

(a) the type of ticket or tickets being offered, in particular whether the ticket or tickets are covered by a single air transport contract or a combination of separate air

#### *Amendment*

1. The operating air carrier **and the intermediary** shall include on its website and mobile application **in a clear, accessible and unambiguous manner** an information notice specifying rights under this Regulation, including **information on the** complaint handling process. **In order to comply with this requirement, the operating air carrier may use a summary of the provisions of this Regulation prepared and made available to the public by the Commission in all official languages of the Union.**

#### *Amendment*

2. When offering tickets for a flight or connecting flights and prior to the purchase **of such flights**, air carriers and intermediaries shall inform the passenger of the following:

(a) the type of ticket or tickets being offered, in particular whether the ticket or tickets are covered by a single air transport contract or a combination of separate air

transport contracts;

(b) the rights and obligations of the passenger, the operating air carrier and the intermediary under this Regulation, as attached to the air transport contract, including information on the reimbursement process;

(c) the deadline and the procedure by which passenger can request a change in name as specified in Article 4(6), without any additional charge; and

(d) the terms and conditions of the air transport contract.

***In order to comply with the information requirement set out in point (b) of the first subparagraph, the air carrier and the intermediary may use a summary of the provisions of this Regulation prepared and made available to the public by the Commission in all official languages of the Union.***

transport contracts;

(b) the rights and obligations of the passenger, the operating air carrier and the intermediary under this Regulation, as attached to the air transport contract, including information on the reimbursement process;

***(ba) on the core travel services and optional price supplements***

(c) the deadline and the procedure by which passenger can request a change in name as specified in Article 4(6), without any additional charge; and

(e) the terms and conditions of the air transport contract.

### **Council position**

#### **Article 1 – paragraph 1 – point 16**

Regulation (EC) No 261/2004

Article 14 – paragraph 3

*Council position*

***3. An intermediary or an air carrier which sells tickets covered by a combination of air transport contracts shall inform the passenger prior to the purchase, that the tickets are covered by separate air transport contracts and that the rights under Articles 7, 8 and 9 relating to compensation, reimbursement, rerouting or assistance in the case of a missed subsequent flight do not apply under the separate air transport contract. That information shall be provided in a***

*Amendment*

***deleted***

*clear manner when selling the tickets.*

*Air carriers and intermediaries shall provide the information pursuant to this paragraph in the language of the air transport contract and a language that is internationally used on a durable medium.*

### **Council position**

#### **Article 1 – paragraph 1 – point 16**

Regulation (EC) No 261/2004

Article 14 – paragraph 4

#### *Council position*

4. The airport managing body shall ensure that at the check-in desks (including at self-service check-in machines) and at the boarding gate, the following text is displayed in a **clear** manner: “If you are denied boarding or if your flight is cancelled or delayed for at least two hours, ask at the check-in counter or boarding gate for the information notice stating your rights, particularly with regard to reimbursement or rerouting, assistance and possible compensation”. That text shall be displayed at least in the language or languages of the location of the airport and in a language that is internationally used. To that end, airport managing bodies shall cooperate with operating air carriers.;

#### *Amendment*

4. The airport managing body **and operating air carrier** shall ensure that at the check-in desks (including at self-service check-in machines), **on website** and at the boarding gate, 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 **at departure, or of more than 3 hours at arrival at your final destination**, ask at the check-in counter or boarding gate for the information notice stating your rights, particularly with regard to reimbursement or rerouting, assistance and possible compensation”. That text shall be displayed at least in the language or languages of the location of the airport and in a language that is internationally used. **The airport managing body and operating air carrier shall also ensure that at the check-in desks, next to the text, a QR code or any other technical means is displayed to access the mobile application of the Commission on passenger rights containing a summary of this Regulation.** To that end, airport managing bodies shall cooperate with operating air carriers.;

**Council position**

**Article 1 – paragraph 1 – point 16**

Regulation (EC) No 261/2004

Article 14 – paragraph 4 a (new)

*Council position*

*Amendment*

**4 a. At the time of booking, the operating air carriers shall provide information to passengers on the complaint handling processes and the relevant time limits as defined in Article 15 aa. Information on complaint handling shall also be accessible on the air carriers' and intermediaries' websites and applications and shall be communicated in the email that notifies passengers of any event that could give rise to the rights enshrined in this Regulation.**

**Council position**

**Article 1 – paragraph 1 – point 16**

Regulation (EC) No 261/2004

Article 14 – paragraph 4 b (new)

*Council position*

*Amendment*

**4 b. 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 party commissioned by the air carrier concerned, to provide passengers with the necessary information regarding their rights, including complaint procedures, in order to assist them and to take immediate action in the event of cancelled or delayed flights, denied boarding or lost or delayed baggage. During the air carriers operating hours and until the last passenger disembarks from the last airplane and for the duration of time that can be reasonably expected to complete passport and customs formalities, retrieve any checked-in luggage and arrive at the designated contact point at an unhurried pace, those contact points shall be available for the purpose of assisting**

*passengers concerning inter alia, reimbursement, re-routing, rebooking and of accepting the lodging of their complaints.*

**Council position**

**Article 1 – paragraph 1 – point 16**

Regulation (EC) No 261/2004

Article 14 – paragraph 4 c (new)

*Council position*

*Amendment*

**4c. 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.**

**Council position**

**Article 1 – paragraph 1 – point 16**

Regulation (EC) No 261/2004

Article 14 – paragraph 4 d (new)

*Council position*

*Amendment*

**4 d. In the event of any travel disruption that would give rise to the rights set out in this Regulation, the operating air carrier shall, as soon as possible, fully inform the affected passengers and provide them with a notice setting out the rules for reimbursement, rerouting, compensation and assistance in line with this Regulation, including information on possible limitations pursuant to Article 9(4), where relevant, the operating air carrier shall also send the passenger the pre-filled common form pursuant to Article 15a. The contact details of the national enforcement body or other body designated under Article 16**

*shall also be given to the passenger in written form.*

**Council position**

**Article 1 – paragraph 1 – point 16**

Regulation (EC) No 261/2004

Article 14 – paragraph 4 e (new)

*Council position*

*Amendment*

*4 e. Air carriers and intermediaries, where relevant, shall provide the information pursuant to this Article in the language of the air transport contract and a in language that is used internationally and on a durable medium.*

**Council position**

**Article 1 – paragraph 1 – point 16**

Regulation (EC) No 261/2004

Article 14 – paragraph 4 f (new)

*Council position*

*Amendment*

*4 f. The information for, and the correspondence with, passengers under this Regulation shall be provided by electronic means, where technically possible. Where information is provided by such means, air carriers and intermediaries shall ensure that any written correspondence, including the date and time of such correspondence, can be kept for further reference. The burden of proof concerning the questions as to whether and when they have provided the necessary information to passengers shall rest with air carriers and intermediaries. All means of communication shall enable the passenger to contact air carriers and intermediaries quickly, free of charge and to communicate effectively.*

**Council position**

**Article 1 – paragraph 1 – point 16**

Regulation (EC) No 261/2004

Article 14 – paragraph 4 g (new)

*Council position*

*Amendment*

**4g.** *In respect of blind and visually impaired persons, persons with cognitive or intellectual disabilities, and persons with reduced mobility, this Article shall be applied using appropriate alternative and accessible means.*

**Council position**

**Article 1 – paragraph 1 – point 16**

Regulation (EC) No 261/2004

Article 14 – paragraph 4 h (new)

*Council position*

*Amendment*

**4h.** *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 in cases of delays and flight disruptions, such as the cancellation of their flight, and their rights in relation to those delays and disruptions, and about their rights in the event that the airline unexpectedly ceases operations, for example in the event of its insolvency or revocation of its operating licence.*

**Council position**

**Article 1 – paragraph 1 – point 16**

Regulation (EC) No 261/2004

Article 14 – paragraph 4 i (new)

*Council position*

*Amendment*

**4i.** *In the event of cancellation or delay at departure, passengers shall be*

*informed by the operating air carrier of the situation, including of the cause of the disruption, as soon as this information is available, and in any event no later than 30 minutes after the scheduled departure time, and of the estimated departure time, provided that the air carrier has received the passenger's contact details in accordance with [\*Enforcement Regulation] in case the ticket was acquired via an intermediary.*

**Council position**

**Article 1 – paragraph 1 – point 16**

Regulation (EC) No 261/2004

Article 14 – paragraph 4 j (new)

*Council position*

*Amendment*

*4j. Air carriers and intermediaries shall provide accessible and effective telephone assistance for all passengers once a flight has been booked; this telephone assistance service shall provide information and alternative proposals in the event of flight disruption and shall under no circumstances exceed the cost of a local call.*

**Council position**

**Article 1 – paragraph 1 – point 16 a (new)**

Regulation (EC) No 261/2004

Article 14 – paragraph 4 k (new)

*Council position*

*Amendment*

*4k. 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.*

**Council position**  
**Recital 19 a (new)**

*Council position*

*Amendment*

**(19a) 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 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.**

**Council position**  
**Recital 19 b (new)**

*Council position*

*Amendment*

**(19b) In order to assist passengers in the case of flight disruptions or delayed, damaged or lost baggage, 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.**

**Council position**  
**Recital 37**

*Council position*

*Amendment*

(37) Regulation (EC) No 2111/2005 of the European Parliament and of the Council<sup>18</sup> requires the air carriage contractor to inform the passenger of the identity of the operating air carrier and Council Directive 93/13/EEC<sup>19</sup> requires the seller or supplier to provide information to

(37) Regulation (EC) No 2111/2005 of the European Parliament and of the Council<sup>18</sup> requires the air carriage contractor to inform the passenger of the identity of the operating air carrier and Council Directive 93/13/EEC<sup>19</sup> requires the seller or supplier to provide information to

the consumer on the terms and conditions of the contract. Passengers should be informed in more detail about their rights in cases of flight disruption, and should also be adequately informed about the cause of the disruption itself, as soon as the information becomes available. That information should also be provided where the passenger has acquired the ticket through an intermediary established in the Union. That information should, at a minimum, be provided by the air carrier or the intermediary in an accessible format and, where appropriate, through so-called 'push' notifications from mobile applications or by other digital means.

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<sup>18</sup> Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC (OJ L 344, 27.12.2005, p. 15, ELI:  
<http://data.europa.eu/eli/reg/2005/2111/oj>).

<sup>19</sup> Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29, ELI:  
<http://data.europa.eu/eli/dir/1993/13/oj>).

the consumer on the terms and conditions of the contract. Passengers should be informed in more detail about their rights in cases of flight disruption, and should also be adequately informed about the cause of the disruption itself, as soon as the information becomes available. That information should also be provided *by the air carrier* where the passenger has acquired the ticket through an intermediary established in the Union. That information should, at a minimum, be provided by the air carrier or the intermediary in an accessible format and, where appropriate, through so-called 'push' notifications from mobile applications or by other digital means.

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<sup>18</sup> Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC (OJ L 344, 27.12.2005, p. 15, ELI:  
<http://data.europa.eu/eli/reg/2005/2111/oj>).

<sup>19</sup> Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29, ELI:  
<http://data.europa.eu/eli/dir/1993/13/oj>).

## COMPROMISE AMENDMENT 21

### Complaint-handling

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 161, 162, 163, 164, 165, 279, 280, 281, 282, 283, 284

Article 1

Regulation (EC) No 261/2004

Article 15a and corresponding Recitals

## Amendment 279

Andrey Novakov, Matteo Ricci, Kosma Zlotowski, Jan-Christoph Oetjen, Vicent Marzà Ibáñez, Arash Saeidi

### Council position

#### Article 1 – paragraph 1 – point 17

Regulation (EC) No 261/2004

Article 15a – paragraph 1

#### *Council position*

1. Each air carrier and *each* intermediary shall set up a complaint-handling mechanism for the rights and obligations covered by this Regulation in their respective fields of responsibility. *They shall make their contact details available in the language of the air transport contract and a language that is internationally used. Details of the complaint-handling procedure shall be accessible to the public, including in an accessible format for persons with disabilities and persons with reduced mobility. They shall also inform passengers in a clear manner of the contact details of the body or bodies designated by Member States pursuant to Article 16 and of the body or bodies responsible for the out-of-court resolution of disputes under Article 16a and, where relevant, their respective responsibilities. That information shall be available in the official language or languages of the Member States in which the air carrier and the intermediary are operating.*

### Council position

#### Article 1 – paragraph 1 – point 17

Regulation (EC) No 261/2004

Article 15a – paragraph 2

#### *Council position*

2. *When* passengers submit a complaint *using the mechanism* referred to in paragraph 1, such a complaint shall be submitted within *six months of the disruption concerned. Within 30 calendar days of the submission of the complaint, the air carrier, or the intermediary, to*

#### *Amendment*

1. Each air carrier and intermediary shall set up a complaint-handling mechanism for the rights and obligations covered by this Regulation in their respective fields of responsibility.

#### *Amendment*

2. Passengers *may* submit a complaint *to any air carriers or intermediaries regarding their respective fields of responsibility via the mechanisms* referred to in paragraph 1. Such a complaint shall be submitted within *one year from the date on* which the *flight departed or was*

which the *complaint is addressed shall either provide a reasoned reply or, in duly justified exceptional cases, inform the passenger that the passenger will receive a final reply within a period of less than two months of the date of submission of the complaint. The answer shall also contain, in a case where the dispute could not be resolved, the relevant contact details of the body or bodies designated under Articles 16 or of the body or bodies responsible for the out-of-court resolution of disputes under Article 16a, including postal address, website and e-mail address of such body or bodies.*

*scheduled to depart.*

#### **Council position**

**Article 1 – paragraph 1 – point 17**

Regulation (EC) No 261/2004

Article 15a – paragraph 2 a (new)

*Council position*

*Amendment*

**2a.** *Where the air carrier invokes extraordinary circumstances, it shall inform the passenger in its reply 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.*

#### **Council position**

**Article 1 – paragraph 1 – point 17**

Regulation (EC) No 261/2004

Article 15a – paragraph 2 b (new)

*Council position*

*Amendment*

**2b.** *The burden of proof regarding the provision of the requisite information to passengers shall be on the air carrier and the intermediary.*

### **Council position**

#### **Article 1 – paragraph 1 – point 17**

Regulation (EC) No 261/2004

Article 15a – paragraph 3

*Council position*

**3. The submission of complaints by passengers using the mechanism referred to in paragraph 1 shall be without prejudice to their right to submit disputes for out-of-court resolution in accordance with Article 16a, or to seek redress through court proceedings, subject to periods of limitation in accordance with national law.;**

### **Council position**

#### **Article 1 – paragraph 1 – point 17**

Regulation (EC) No 261/2004

Article 15a – paragraph 3a

*Council position*

### **Council position**

#### **Article 1 – paragraph 1 – point 17**

Regulation (EC) No 261/2004

Article 15a – paragraph 3b

*Council position*

### **Council position**

#### **Article 1 – paragraph 1 – point 17**

*Amendment*

**3. Within seven working days of receiving the complaint, the addressee shall confirm the receipt of the complaint to the passenger. Within two months of receiving the complaint, the addressee shall provide a reasoned answer to the passenger. Where the addressee does not provide such answer within that two-month period, it shall be deemed to have accepted the passenger's claims.**

*Amendment*

**3 a. With the reasoned answer, the addressee shall also inform the passenger in a clear manner of the contact details of the body or bodies designated by Member States pursuant to Article 16 and of the body or bodies responsible for the out-of-court resolution of disputes under Article 16a and, where relevant, their respective responsibilities.**

*Amendment*

**3 b. Where the air carrier invokes extraordinary circumstances, it shall inform the passenger in its answer of the specific circumstances that led to the cancellation or delay. The air carrier shall also demonstrate that it took all reasonable measures to avoid the cancellation or delay.**

Regulation (EC) No 261/2004  
Article 15a – paragraph 3c

*Council position*

*Amendment*

**3 c. The burden of proof regarding the provision of the requisite information to passengers shall rest with the air carrier and the intermediary.**

## COMPROMISE AMENDMENT 22

### Enforcement

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 37, 38, 39, 40, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 285, 286, 287, 288, 289, 290

Article 1

Regulation (EC) No 261/2004

Articles 16, 16-a, 16-aa, 16-ab, 16-ac, 16-ad and 16-ae, 16a, 16aa and corresponding Recitals

### Council position

#### Article 1 – paragraph 1 – point 18

Regulation (EC) No 261/2004

Article 16 – title

*Council position*

*Amendment*

Article 16  
Enforcement

Article 16  
**Designation of national enforcement bodies**

### Council position

#### Article 1 – paragraph 1 – point 18

Regulation (EC) No 261/2004

Article 16 – paragraph 1

*Council position*

*Amendment*

1. Each Member State shall designate

1. Each Member State shall designate

a *national enforcement* body or *national Enforcement* Bodies responsible for the enforcement of this Regulation *as regards journeys to and from airports situated on its territory. The Member States shall inform the Commission of the body or bodies that have been designated in accordance with this paragraph.*

a body or bodies responsible for the enforcement of *obligations laid down in* this Regulation

#### **Council position**

##### **Article 1 – paragraph 1 – point 18**

Regulation (EC) No 261/2004

Article 16 – paragraph 2

#### *Council position*

2. *The national enforcement* body shall *closely monitor the compliance with the requirements of this Regulation and take the measures necessary to ensure that the rights of passengers are respected.*

#### *Amendment*

2. *Each* body shall *be independent in its organisation, funding decisions, legal structure and decision-making of any air carrier, airport managing body and intermediary or other commercial interests.*

#### **Council position**

##### **Article 1 – paragraph 1 – point 18**

Regulation (EC) No 261/2004

Article 16 – paragraph 2 a

#### *Council position*

#### *Amendment*

2 a. *Member States shall inform the Commission of the body or bodies designated in accordance with this Article and of its or their respective responsibilities, including any changes thereof. The Commission and the body or bodies designated shall publish that information on their websites.*

#### **Council position**

##### **Article 1 – paragraph 1 – point 18**

Regulation (EC) No 261/2004

Article 16 – paragraph 3

#### *Council position*

#### *Amendment*

3. *Passengers may report alleged*

*deleted*

*infringements of this Regulation to the national enforcement body. The national enforcement body may investigate the alleged infringements reported and decide on enforcement actions based on information contained in those reports.*

**Council position**

**Article 1 – paragraph 1 – point 18**

Regulation (EC) No 261/2004

Article 16 – paragraph 4

*Council position*

*Amendment*

**4. The sanctions laid down by Member States for infringements of this Regulation shall be effective, proportionate and dissuasive. In particular, such sanctions shall be sufficient to provide carriers and intermediaries with a financial incentive to consistently comply with this Regulation.**

*deleted*

**Council position**

**Article 1 – paragraph 1 – point 18**

Regulation (EC) No 261/2004

Article 16 – paragraph 5

*Council position*

*Amendment*

**5. By ... [6 years from the date of entry into force of this amending Regulation] and every five years thereafter, the national enforcement bodies shall publish on their websites a report on their activity, on the enforcement action and its outcome, including on sanctions applied. These reports shall also be submitted to the Commission.**

*deleted*

**Article 1 – paragraph 1 – point 18 a (new)**

Regulation (EC) No 261/2004

Article 16 -a (new)

***(18 a) the following Article is inserted:***

***'Article 16 -a***

***Enforcement tasks***

***1. The national enforcement body shall closely monitor compliance with this Regulation and shall take the measures necessary to ensure that the rights of passengers are upheld.***

***2. The national enforcement bodies may request air carriers, airport management bodies and intermediaries to provide documents and information that are relevant for the purposes of carrying out their functions referred to in paragraph 1. Such documents and information shall be provided within one month from the receipt of the request, unless otherwise specified by the national enforcement body.***

***3. In carrying out their functions, the national enforcement bodies shall take account, where relevant, of the information submitted to them by the other body designated to handle complaints as defined in Article 16b paragraph 2.***

***4. Monitoring activities may be performed jointly by national enforcement bodies in the event of air services between two or several Member States.***

***5. Member States shall ensure that their respective national enforcement bodies are given sufficient power to take enforcement actions.***

***6. In the event that the air carrier invokes extraordinary circumstances as a justification for refusing compensation under this Regulation, the air carrier shall substantiate its claim by providing adequate evidence on those circumstances and related technical issues to the national enforcement bodies within 48 hours. Furthermore, the air carrier shall demonstrate that all reasonable measures were taken to prevent the cancellation or***

*delay of the flight in question.*

*7. The national enforcement body shall disseminate such information to the bodies designated for alternative dispute resolution pursuant to this Regulation, where available.*

*8. Every two years by 30 June, the national enforcement bodies shall publish reports with statistics on their activity, including, where relevant, on penalties applied during the two preceding calendar years.*

*9. On the basis of data which air carriers, airport managing bodies and intermediaries are required to provide on service quality standards as defined in Article 15a, the national enforcement body shall publish 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.*

*10. Air carriers and intermediaries shall give their contact details to the national enforcement body or bodies of the Member States in which they operate.'*

#### **Council position**

**Article 1 – paragraph 1 – point 18 b (new)**

Regulation (EC) No 261/2004

Article 16 -a a (new)

*Council position*

*Amendment*

*(18b) the following article is inserted:*

*Article 16 -aa*

*Complaint handling by national enforcement bodies and other bodies*

*1. Without prejudice to the rights of consumers to seek alternative redress pursuant to Directive 2013/11/EU of the European Parliament and of the Council<sup>1a</sup>, after having complained unsuccessfully to the air carrier or intermediary pursuant to Article 13a, the passenger may complain to the national*

*enforcement body or any other body designated under paragraph 2 of this Article no later than one year from receiving information on the rejection of the original complaint by the air carrier or the intermediary.*

*2. Any passenger may complain 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 such airports, either to the national enforcement body, or to any other body designated by a Member State for that purpose.*

*3. The national enforcement body or any other body designated under paragraph 2 shall acknowledge receipt of the complaint within two weeks of receiving it. The complaint-handling procedure shall take a maximum of three months from the date of the establishment of the complaint file. The complaint-handling procedure shall be made accessible to persons with disabilities and to persons with reduced mobility in accessible format.*

*4. Where a complaint relates to alleged infringements by airport managing body, the complaint shall be handled by the national enforcement body or any other body designated under paragraph 2 of the Member State on whose territory the incident occurred.*

*5. National Enforcement bodies or any other body designated under paragraph 2 of this Article shall be able to deal with individual passenger complaints and be granted, at least, with the minimum investigative and enforcement powers defined in article 9 of the Regulation (EU) 2017/2394 of the European Parliament and of the Council<sup>1b</sup>.*

*6. Decisions of national enforcement bodies or of any other body designated under paragraph 2 shall be binding on*

*both parties and enforceable, without prejudice to the right of parties to access the judicial system. ’*

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*<sup>1a</sup> 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. 63, ELI: <http://data.europa.eu/eli/dir/2013/11/oj>).*

*<sup>1b</sup> Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (OJ L 345, 27.12.2017, p. 1, ELI: <http://data.europa.eu/eli/reg/2017/2394/oj>).*

**Council position**

**Article 1 – paragraph 1 – point 18 b (new)**

Regulation (EC) No 261/2004

Article 16 b (new)

*Council position*

*Amendment*

*(18c) the following article is inserted:*

*Article 16 -ab*

*1. Where different bodies are designated by a Member State under Articles 16 and 16b of this Regulation by, those bodies shall ensure the exchange of relevant information between them, in accordance with Regulation (EU) 2016/679, in order to help the national enforcement body to carry out its tasks of supervision and enforcement, and so that the complaint-handling body designated under Article 16b can collect the information necessary to examine individual complaints.*

*2. National enforcement bodies of different Member States shall exchange information on their work and decision-*

*making principles and practices for the purpose of cross-border coordination. The Commission shall support them in that task.*

**Council position**

**Article 1 – paragraph 1 – point 18 d (new)**

Regulation (EC) No 261/2004

Article 16 -ac (new)

*Council position*

*Amendment*

*(18d) the following article is inserted:*

*Article 16 -ac*

*Inspections of national enforcement bodies*

*1. The Commission may conduct inspections of national enforcement bodies in order to monitor the application by Member States of the Regulation and to make recommendations to improve its enforcement.*

*2. The Commission shall in good time before an inspection inform the Member State concerned thereof.*

*3. Each Commission inspection report shall be communicated to the national enforcement authority of the Member State concerned, which shall, in its reply, set out the measures taken to remedy the non-compliances identified and address the recommendations.*

*4. The report, together with the reply of the national enforcement body, shall subsequently be communicated to the national enforcement bodies of the other Member States, where appropriate.*

**Council position**

**Article 1 – paragraph 1 – point 18 e (new)**

Regulation (EC) No 261/2004

Article 16 -a d (new)

*Council position*

*Amendment*

***(18e) the following article is inserted:***

***Article 16 -ad***

***Penalties***

***1. Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify the Commission of those rules and measures and shall notify it without delay of any subsequent amendment affecting them.***

***2. In the framework of cooperation referred to in Article 16c the national enforcement body which is competent for the purposes of Article 16 b (4) or (5) shall, at the request of the national enforcement body handling the complaint, investigate the infringement of this Regulation identified by that body and, if necessary, impose penalties.***

**Council position**

**Article 1 – paragraph 1 – point 18 f (new)**

Regulation (EC) No 261/2004

Article 16 -a e (new)

*Council position*

*Amendment*

***(18f) the following article is inserted:***

***Article 16 -ae***

***Cooperation between Member States and the Commission***

***1. The Member States shall regularly send relevant information concerning the application of this Regulation to the Commission, which will make this information available in electronic form to other Member States.***

***2. At the request of the Commission, the national enforcement bodies shall investigate specific suspected practices of***

*non-compliance with the obligations laid down in this Regulation by one or several air carriers, airport managing bodies and report its findings to the Commission within four months of the request.*

*3. 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 16a of [Enforcement Regulation].*

*4. At the request of a Member State, a national enforcement body, 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.*

*5. The Commission may, where appropriate, adopt guidelines with a view to promote common application of this Regulation.*

#### **Council position**

##### **Article 1 – paragraph 1 – point 19**

Regulation (EC) No 261/2004

Article 16 a – paragraph 1

#### *Council position*

Member States shall ensure that air passengers can submit individual disputes following complaints or requests under this Regulation to a body or bodies responsible for the out-of-court resolution of disputes. Member States shall inform the Commission of the body or bodies responsible for the handling of disputes under this Article. *Member States may decide to apply this Article to disputes between air carriers or intermediaries, on the one hand, and consumers only, on the other hand.;*

#### **Council position**

##### **Article 1 – paragraph 1 – point 19 a (new)**

#### *Amendment*

Member States shall ensure that air passengers can submit individual disputes following complaints or requests under this Regulation to a body or bodies responsible for the out-of-court resolution of disputes. Member States shall inform the Commission of the body or bodies responsible for the handling of disputes under this Article. *The participation of air carriers and intermediaries, under the scope of this Regulation in alternative dispute resolution procedures shall be mandatory and their decisions binding, without prejudice to the right of parties to access the judicial system.;*

**(19a) the following article is inserted:**

**Article 16aa**

**Compliance documents**

**1. Union 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 xxxx] 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.**

**2. 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).**

**3. Any other carrier providing services from a Union airport shall submit a compliance document to the national enforcement bodies of all Member States in which they operate and to the Commission.**

**4. Air Carriers shall review their compliance documents and submit updated versions to the relevant national enforcement body or bodies and to the Commission every three years starting on [1 January xxxx].**

5. *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.*

**Council position**  
**Recital 38**

*Council position*

*Amendment*

*(38) In order to ensure better enforcement of passenger rights, the national enforcement bodies should monitor the enforcement of Regulation (EC) No 261/2004 and decide on appropriate sanctions to incentivise compliance with that Regulation.*

*deleted*

**Council position**  
**Recital 38 a (new)**

*Council position*

*Amendment*

*(38a) The Special Report 15/2021 of the European Court of Auditors concluded that national enforcement bodies lack a good overview of operators' compliance with passenger rights. The Commission in its evaluations also concluded that the overall approach of national enforcement bodies toward monitoring the implementation of the Regulations varies significantly: while some national enforcement bodies tend to be very proactive, others seem only to react to complaints which they receive. To address these shortcomings and to ensure better enforcement of passenger rights, enforcement mechanisms should be strengthened by granting national enforcement bodies independence, establishing a cross-border cooperation mechanism, enhancing their power to obtain information from carriers, and implementing a more effective penalty regime.*

**Council position**  
**Recital 39**

*Council position*

(39) In order to ensure better enforcement of passenger rights, Member States should ensure that consumers have access to mechanisms for an out-of-court resolution of disputes after those consumers have unsuccessfully complained or submitted a request to the air carrier or the intermediary. ***Those mechanisms should be without prejudice to the right of the Member States to determine whether the participation of the air carriers or intermediaries should be mandatory.***

*Amendment*

(39) In order to ensure better enforcement of passenger rights, Member States should ensure that consumers have access to mechanisms for an out-of-court resolution of disputes after those consumers have unsuccessfully complained or submitted a request to the air carrier or the intermediary. ***The participation of air carriers and intermediaries under the scope of this Regulation in alternative dispute resolution procedures should be mandatory and their decisions binding.***

**Council position**  
**Recital 39 a (new)**

*Council position*

*Amendment*

***(39a) As commercial aviation is an integrated Union market, measures to guarantee enforcement of this Regulation should be more effective at Union level with increased involvement of the Commission. Specifically, the Commission should increase public awareness of compliance by air carriers with passenger rights requirements by publishing a list of carriers that systematically fail to comply with this Regulation.***

**COMPROMISE AMENDMENT 23**

**Review and report Airpax**

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 184, 185, 186, 187

Article 1

Regulation (EC) No 261/2004

Article 17 and corresponding Recitals

**Council position**

**Article 1 – paragraph 1 – point 20**

Regulation (EC) No 261/2004

Article 17 – paragraph 1

*Council position*

*Amendment*

**1. By ... [5 years from the date of entry into force of this amending Regulation] and every three years thereafter, the Commission shall report to the European Parliament and the Council on the list of extraordinary circumstances set out in the Annex, in the light of the events affecting the timely and effective operation of flights having occurred during the two years preceding each report.**

*deleted*

**The report shall be accompanied, where necessary, by a legislative proposal.**

**Council position**

**Article 1 – paragraph 1 – point 20**

Regulation (EC) No 261/2004

Article 17 – paragraph 2 – subparagraph 2

*Council position*

*Amendment*

**That report shall also include a review of the amounts set out in Article 7(1) and the percentages set out in Article 10(2), taking into consideration inter alia the evolution of air fares, the inflation rate and statistics on denied boarding, cancellations, delays and missed connecting flights imputable to air carriers, as well as statistics on downgrading, during the five preceding years.**

*deleted*

**Council position**

**Article 1 – paragraph 1 – point 20**

Regulation (EC) No 261/2004

Article 17 – paragraph 2 – subparagraph 3 – point a

*Council position*

*Amendment*

**(a) *the necessity and the feasibility of revising the scope of this Regulation with a view to further enhancing the protection of passengers and the level playing field between Union and third country air carriers, as well as connectivity aspects. In particular, the Commission shall assess the risks of conflict of jurisdictions and difficulties related to enforcement and shall recommend ways to mitigate those risks and address those difficulties;*** **deleted**

**Council position**

**Article 1 – paragraph 1 – point 20**

Regulation (EC) No 261/2004

Article 17 – paragraph 2 – subparagraph 3 – point b

*Council position*

*Amendment*

**(b) *the necessity of adjusting the thresholds set out in Article 7(2) on the basis of statistics regarding the evolution of delays and cancellations during the five years preceding the Commission assessment and every year from ... [2 years from the date of entry into force of this amending Regulation];*** **deleted**

## COMPROMISE AMENDMENT 24

### Airpax Horizontal provisions

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 1, 10, 24, 34, 52, 53, 182, 183, 207, 239, 240, 241, 243, 244, 245

Article 1

Regulation (EC) No 261/2004

Articles 16ab, 16ac and corresponding Recitals

Article 3 – paragraph 2

Regulation (EC) No 261/2004

Regulation (EC) No 2027/97

### Council position

**Article 1 – paragraph 1 – point 19 b (new)**

Regulation (EC) No 261/2004

Article 16a b (new)

*Council position*

*Amendment*

**(19b) the following article is inserted:**

**Article 16ab**

**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 6c and Article 7 shall be conferred on the Commission for a period of five years from [the date of entry into force of this amending Regulation]. 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.**

**3. The delegation of powers referred to in Article 6c and Article 7 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. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.*

*5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*

*6. A delegated act adopted pursuant to Article 6c and Article 7 shall enter into force only if no objection has been expressed by either the European Parliament or by 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.*

**Council position**

**Article 1 – paragraph 1 – point 19 c (new)**

Regulation (EC) No 261/2004

Article 16a c (new)

*Council position*

*Amendment*

*(19c) the following article is inserted:*

*Article 16ac*

*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.*

### **Council position**

#### **Article 3 – paragraph 2**

Regulation (EC) No 261/2004

Regulation (EC) No 2027/97

Article 3 – paragraph 2

*Council position*

*Amendment*

*It shall apply from ... [2 years from the date of entry into force of this amending Regulation].*

*deleted*

### **Council position**

#### **Recital 1 a (new)**

*Council position*

*Amendment*

*(1 a) The Union legislator confirms the aims expressed by Recitals 1 and 4 for EU legislation in the field of air transport to ensure a high level of protection for passengers, to fully take into account the requirements of consumer protection in general and to raise the standards of protection set by this Regulation. This should be done by strengthening the rights of air passengers, by improving legal certainty for both air passengers and air carriers and by codifying the main rulings of the Court of Justice in its interpretation of Regulation No 261/2004, as well as by ensuring that air carriers operate under harmonised conditions in a liberalised market. This also means that standards of protection set by Regulation (EC) No 261/2004 should in no way be downgraded. Accordingly, the full*

*potential of air passenger rights, as protected under Regulations (EC) No 261/2004 and (EC) No 2027/97, should be realised and a more effective, efficient and consistent application of such rights should be ensured across the Union, while taking into account the interests of air carriers and continuing to strike a balance between the interests of air passengers and those of air carriers.*

## Council position Recital 3

### *Council position*

(3) The Study on the current level of protection of air passenger rights in the EU mandated and published by the Commission in 2020 (*hereafter* ‘the Study’) **showed that passengers’** main priority is to be provided with assistance in the event of travel disruption and to be offered rerouting so that they arrive at their destination as soon as possible. **The Study showed** that the payment of compensation comes third in terms of the passengers’ priorities. **On the other hand, the Study also showed that the absolute and relative costs incurred by air carriers through the implementation of Regulation (EC) No 261/2004 have grown significantly since 2011 which could result in a restriction on the number of routes operated or a reduction in connectivity offered by air carriers to passengers in the long term.** The revision of Regulation (EC) No 261/2004 **should therefore focus particularly on** passengers’ rights to assistance and rerouting, **while taking into account** economic incentives of air carriers and **impacts** on connectivity.

### *Amendment*

(3) **The study on the current level of protection of air passenger rights in the EU mandated and published by the Commission in 2020 (the steer study) claims that the main priority of passengers** is to be provided with assistance in the event of travel disruption and to be offered rerouting so that they arrive at their destination as soon as possible. **To this end, the steer study shows** that the payment of compensation comes third **out of the three options provided** in terms of the **priorities of passengers. However, it cannot be inferred from this study that the payment of compensation would rank low in the priorities of passengers, for three reasons. First, the question design already carries a significant bias, narrowing down possible outcomes, as the three options given to the respondents are not comparable in their nature. While two of the options (assistance, rerouting) promise immediate relief from an urgent problem (flight disruption), the third option (compensation) is less immediate and less urgent by its nature. Compensation under this Regulation seeks to redress damage suffered as a consequence of a disruption, with a payment that helps the passenger in the long run, rather than solving the immediate problem (via assistance or rerouting). It is only natural that the**

*average respondent ranks as third the least urgent and immediate of the three options (compensation). However, it would be logically and statistically invalid to conclude from this ranking that receiving compensation would be of significantly lower importance to the passenger. Second, the question design of the Study creates an artificial obligation on the respondent of having to choose between three options and ranking them, while in the current reality of Regulation 261/2004, those three options co-exist without being mutually exclusive in any way. Third, the ranking of the steer study derives from interaction with consumers and passenger organisations and desk research, and is not based on a comprehensive passenger survey. Therefore, in order to escape the bias of the question design and the methodology of the steer study, it is worth consulting further representative polls on air passengers' opinions with regard to receiving compensation under this regulation. A statistical survey<sup>1a</sup> conducted by the European Court of Auditors (ECA) in 2018 of 10 350 randomly chosen citizens from ten Member States, showed the "right to compensation in the event of cancellations or denied boarding" in second place with 39.6% out of ten options out of which passengers were to select three rights which they "regard as most important", while the preferred option, being the "right to receive alternative transport in the event of long delays, cancellations or denied boarding", was only marginally higher, at 41.7%. Given this negligible difference, no real order of preference should be deduced from these two closely ranking options. In a YouGov poll commissioned by a claims agency, conducted in spring 2025, of 3059 citizens in Germany, Spain and Denmark, 70% of respondents insisted on keeping the current compensation rule, stressing that passengers should not lose rights for a marginal cost saving, while only 14%*

*preferred saving an assumed 1 EUR on the ticket price. Even the industry association Airlines for Europe (A4E) concludes from their own YouGov poll, reflecting the views of more than 6,000 consumers in five Member States, that “75% of passengers who have flown in the past 12 months support sticking to current compensation levels”<sup>1b</sup>. This evidence supports the decision of the Union legislator in the context of the revision of Regulation (EC) No 261/2004 not to downgrade any existing passengers’ rights to compensation, along with other equally important rights to assistance and rerouting. Both categories of rights examined in the above evidence, “compensation” and “assistance and rerouting”, have to be considered as whole and must not be artificially opposed one to the other. The economic incentives of air carriers and the impact on connectivity can be fully taken into account, while at the same time preserving existing air passengers’ rights and a high level of consumer protection.*

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<sup>1a</sup> Cf. page 22 of [https://www.eca.europa.eu/Lists/ECADocuments/SR18\\_30/SR\\_PASSENGER\\_RIGHTS\\_EN.pdf](https://www.eca.europa.eu/Lists/ECADocuments/SR18_30/SR_PASSENGER_RIGHTS_EN.pdf)

<sup>1b</sup> Cf. A4E Press release of 14 October 2025 <https://a4e.eu/publications/new-data-confirms-that-eu-passenger-rights-reform-is-out-of-sync-with-passenger-priorities/>

**Council position  
Recital 3 a (new)**

*Council position*

*Amendment*

*(3 a) In line with the objectives of Regulation (EC) No 261/2004, an independent peer-reviewed study from 2023<sup>1a</sup> provides robust evidence that the Regulation in its current form is effective in reducing average flight delay times. It finds that this impact is clearly*

*economically important in magnitude and is independent of air carriers' decisions on scheduled flight duration. It confirms that statistically, the hypothesis of no impact can be very firmly rejected. It insists that its results hold for other measures of flight punctuality (arrival delay and share of "ontime flights"), and is robust to alternative specifications. Moreover, it finds that the current Regulation is most effective at delay reduction on routes where competition is low. It underlines that from an economic perspective, the compensation scheme under Regulation (EC) No 261/2004 applies the principle that liability should be borne by the party best placed to prevent and manage it at the lowest cost. Air carriers, rather than passengers, would retain control over punctuality through scheduling, maintenance planning, crew and aircraft rotations, and disruption-recovery strategies. By tying liability to arrival delay at the final destination, the Regulation would provide necessary economic incentives for air carriers to reduce the occurrence of long delays and cancellations. The findings of this study support the Union legislator's decision to maintain and render explicit the common three-hour threshold for compensation in the event of cancellation or a long delay, the current compensation levels and distance thresholds: ensuring that the current level of protection of passenger rights is not downgraded is effective in increasing connectivity and maintaining economic incentives for air carriers.*

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<sup>1a</sup> Cf. Gnutzmann and Spiewanowski in: *Transport Policy* 136 (2023) 155–168, cf. <https://www.sciencedirect.com/science/article/pii/S0967070X23000768>

**Council position**  
**Recital 12**

*Council position*

*Amendment*

**(12) Article 349 of the Treaty on the Functioning of the European Union recognises the special characteristics of the outermost regions, in particular due to their remoteness. In light of experience gained with Regulation (EC) No 261/2004, it is necessary to ensure territorial connectivity for the outermost regions and enhance cohesion across the Union, which would ultimately benefit passengers. Due to the specific features of journeys between outermost regions and another territory of a Member State to which the Treaties apply, the amount of compensation should be determined on the basis of the actual distance of the journeys.**

*deleted*

**Council position  
Recital 24 a (new)**

*Council position*

*Amendment*

**(24a) The Flight Emissions Label established pursuant to Article 14 of Regulation (EU) 2023/2405 of the European Parliament and the Council<sup>1a</sup> is at the disposal of the service providers should they want to display, in an easily accessible format on their websites and on tickets, accurate and objective information regarding the environmental impact of their travel in a comparable way.**

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<sup>1a</sup> Regulation (EU) 2023/2405 of the European Parliament and of the Council of 18 October 2023 on ensuring a level playing field for sustainable air transport (ReFuelEU Aviation) (OJ L, 2023/2405, 31.10.2023, ELI: <http://data.europa.eu/eli/reg/2023/2405/oj>).

**Council position  
Recital 34**

*Council position*

(34) Regulation (EC) No 261/2004 also applies to passengers who have booked their air transport as part of a package travel. This amending Regulation aims to further improve the coherence between Directive (EU) 2015/2302 of the European Parliament and of the Council<sup>16</sup> and Regulation (EC) No 261/2004. In that regard, passengers should not be allowed to cumulate *corresponding* rights, *in particular* under both *legal* acts.

*Amendment*

(34) Regulation (EC) No 261/2004 also applies to passengers who have booked their air transport as part of a package travel. This amending Regulation aims to further improve the coherence between Directive (EU) 2015/2302 of the European Parliament and of the Council<sup>16</sup> and Regulation (EC) No 261/2004. In that regard, passengers should ***be able to choose under which of those two legal acts they introduce their claims and, where appropriate, make claims under both legal acts. A passenger who has booked air transport as part of a package should be able to make claims under both legal acts where, for example, the passenger received a compensation from the air carrier for a delayed flight, but is entitled to a price reduction or compensation to be granted by the organiser for specific services, such as a hotel night, meals, an excursion or other events, missed as a consequence of the delayed flight. However, passengers should not be allowed to cumulate rights insofar as the relevant compensation or price reduction granted under both acts safeguards the same interest or have the same objective. If passengers introduce their claim with the air carrier, the air carrier should pay the full amount of the compensation due under Regulation (EC) No 261/2004. If passengers make a claim under Directive (EU) 2015/2302, the compensation paid by the air carrier should be deducted from payments due under Directive (EU) 2015/2302 insofar as the underlying rights safeguard the same interest or have the same objective.***

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<sup>16</sup> Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European

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<sup>16</sup> Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European

Parliament and of the Council and  
repealing Council Directive 90/314/EEC  
(OJ L 326, 11.12.2015, p. 1, ELI:  
<http://data.europa.eu/eli/dir/2015/2302/oj>).

Parliament and of the Council and  
repealing Council Directive 90/314/EEC  
(OJ L 326, 11.12.2015, p. 1, ELI:  
<http://data.europa.eu/eli/dir/2015/2302/oj>).

**Council position**  
**Recital 55 a (new)**

*Council position*

*Amendment*

***(55a) This Regulation respects 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.***

**Council position**  
**Recital 55 b (new)**

*Council position*

*Amendment*

***(55b) In order to improve air passenger protection beyond Union borders, such rights should also be addressed in bilateral and international agreements.***

**COMPROMISE AMENDMENT 25**

**Liability Regulation**

Supported by: EPP, S&D, P/E, ECR, Renew, Greens, The Left

The following AMs are replaced: 18, 41, 45, 46, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 236, 237, 238

Article 2

Regulation (EC) No 2027/97

Articles, Annex II and corresponding Recitals

### **Council position**

#### **Article 2 – paragraph 1 – point 1 – point b**

Regulation (EC) No 2027/97

Article 2 – paragraph 1 – point 1

#### *Council position*

(1) “personal item” means a piece of unchecked baggage, ***constituting a necessary aspect of the carriage of passengers***, which complies with security and safety requirements, and either with maximum dimensions of 40x30x15cm or on condition that it fits under the seat in front of the seat in which the passenger is sitting;

#### *Amendment*

(1) “personal item” means a piece of unchecked baggage, which complies with security and safety requirements, and either with maximum dimensions of 40x30x15cm or on condition that it fits under the seat in front of the seat in which the passenger is sitting;

### **Council position**

#### **Article 2 – paragraph 1 – point 3**

Regulation (EC) No 2027/97

Article 3 – paragraph 2 (new)

#### *Council position*

(3) in Article 3, paragraph 2 is ***deleted***.

#### *Amendment*

(3) ***in Article 3, paragraph 2 is replaced by the following:***

***’2. At all airports within the Union, the Union air carrier and the ground handlers acting on its behalf shall establish a service that provides passengers with complaint forms which allow them to immediately submit a complaint about damaged or delayed baggage upon arrival. Likewise, the Union air carrier shall ensure that passengers are provided with easy and user-friendly access to the complaint form referred to in this paragraph through the use of QR codes. Such QR codes shall be communicated and displayed in a clear and visible manner, including at check-in desks, airport service desks, boarding gates and on the air carrier’s website or equivalent online platform, so as to allow passengers to access the complaint form swiftly and without undue difficulty. 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 prescribed by the Montreal Convention’.*

Council position

**Article 2 – paragraph 1 – point 3 a (new)**

Regulation (EC) No 2027/97

Article 3 – paragraph 2 a (new)

*Council position*

*Amendment*

**2a. The Commission may adopt implementing acts to 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).**

Council position

**Article 2 – paragraph 1 – point 5**

Regulation (EC) No 2027/97

Article 5 – paragraph 3 a (new)

*Council position*

*Amendment*

**3a. If baggage is lost, delayed or damaged, air carriers 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.**

Council position

**Article 2 – paragraph 1 – point 6 – point a**

Regulation (EC) No 2027/97

Article 6 – paragraph 1

*Council position*

*Amendment*

1. All air carriers shall, when selling carriage by air in the Union, ensure that a summary of the main provisions governing liability for passengers and their baggage,

1. All air carriers shall, when selling carriage by air in the Union, **provide passengers in a clear and accessible manner with comprehensive information**

including deadlines for filing an action for compensation and the possibility of making a special declaration for baggage, is made available to passengers at all points of sale, including sale by telephone and **through** the Internet. In order to comply with this information requirement, Union air carriers shall use the notice contained in the Annex. Such summary or notice cannot be used as a basis for a claim for compensation, nor to interpret the provisions of this Regulation or the Montreal Convention.;

***on the applicable procedures to be followed in the event of lost, delayed or damaged baggage. Air carriers shall ensure that a summary of the main provisions governing liability for passengers and their baggage, including deadlines for filing an action for compensation and the possibility of making a special declaration for baggage, is made available to passengers at all points of sale, including sale by telephone and **via** the Internet. In order to comply with this information requirement, Union air carriers shall use the notice contained in the Annex. Such summary or notice cannot be used as a basis for a claim for compensation, nor to interpret the provisions of this Regulation or the Montreal Convention.***

#### **Council position**

**Article 2 – paragraph 1 – point 6 – point a a (new)**

Regulation (EC) No 2027/97

Article 6 – paragraph 1 a (new)

*Council position*

*Amendment*

***(aa) the following paragraph is inserted:***

***1a. All air carriers shall, when selling carriage by air in the Union, ensure that a summary of the main provisions governing liability for passengers and their baggage, including deadlines for filing an action for compensation and the possibility of making a special declaration for baggage, is made available to passengers at all points of sale, including sale by telephone and via the Internet. In order to comply with this information requirement, Union air carriers shall use the notice contained in the Annex. Such summary or notice cannot be used as a basis for a claim for compensation, nor to interpret the provisions of this Regulation or the Montreal Convention. The Commission is empowered to adopt***

*delegated acts in accordance with Article 6d 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*

### **Council position**

#### **Article 2 – paragraph 1 – point 7**

Regulation (EC) No 2027/97

Article 6a – paragraph 1 – subparagraph 1

#### *Council position*

Whenever carrying checked-in mobility equipment or recognised assistance dogs, the Union air carrier shall ensure that each person with disabilities or person with reduced mobility is offered the option to make a special declaration of interest in delivery at destination, in an accessible format, pursuant to Article 22(2) of the Montreal Convention, at booking, at the same time as the notification pursuant to Article 6 of Regulation (EC) No 1107/2006, and at the latest when the equipment is handed over to the air carrier and, in the case of a recognised assistance dog, at boarding. In that case, the Union air carrier shall not charge the passengers concerned an additional fee. Where the equipment is destroyed, lost, damaged or delayed, or in the case of the death of, or injury to, a recognised assistance dog, the Union air carrier may require proof of the cost of replacement, including temporary replacement, of the mobility equipment or the recognised assistance dog from the person with disabilities or person with reduced mobility to support the amount declared in the special declaration of interest.

#### *Amendment*

Whenever carrying checked-in mobility equipment or recognised assistance dogs, the Union air carrier shall **make passengers aware of their rights and** ensure that each person with disabilities or person with reduced mobility is offered the option to make a special declaration of interest in delivery at destination, in an accessible format, pursuant to Article 22(2) of the Montreal Convention, at booking, at the same time as the notification pursuant to Article 6 of Regulation (EC) No 1107/2006, and at the latest when the equipment is handed over to the air carrier and, in the case of a recognised assistance dog, at boarding. In that case, the Union air carrier shall not charge the passengers concerned an additional fee. **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)].** Where the equipment is destroyed, lost, damaged or delayed, or in the case of the death of, or injury to, a recognised assistance dog, the Union air carrier may require proof of the cost of replacement, including temporary

replacement, of the mobility equipment or the recognised assistance dog from the person with disabilities or person with reduced mobility to support the amount declared in the special declaration of interest.

### **Council position**

#### **Article 2 – paragraph 1 – point 7**

Regulation (EC) No 2027/97

Article 6a – paragraph 1 – subparagraph 2

#### *Council position*

When selling carriage by air on behalf of the Union air carrier, intermediaries shall offer the passengers concerned the option to make a special declaration of interest, in an accessible format, pursuant to Article 22(2) of the Montreal Convention, at booking and at the same time as the notification pursuant to Article 6 of Regulation (EC) No 1107/2006. This special declaration of interest shall be given under the same conditions as set out in the first subparagraph. The intermediary shall transmit the declaration to the Union air carrier as soon as possible.

### **Council position**

#### **Article 2 – paragraph 1 – point 7**

Regulation (EC) No 2027/97

Article 6a a (new)

#### *Council position*

#### *Amendment*

When selling carriage by air on behalf of the Union air carrier, intermediaries shall ***make passengers aware of their rights and*** offer the passengers concerned the option to make a special declaration of interest, in an accessible format, pursuant to Article 22(2) of the Montreal Convention, at booking and at the same time as the notification pursuant to Article 6 of Regulation (EC) No 1107/2006. This special declaration of interest shall be given under the same conditions as set out in the first subparagraph. The intermediary shall transmit the declaration to the Union air carrier as soon as possible.

#### ***Article 6aa***

***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.*

*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.*

### **Council position**

**Article 2 – paragraph 1 – point 7**

Regulation (EC) No 2027/97

Article 6b – paragraph 1 – subparagraph 1 a (new)

*Council position*

*Amendment*

*Core travel services and additional*

*charges must be clearly identifiable and capable of being purchased separately from each other.*

**Council position**

**Article 2 – paragraph 1 – point 7**

Regulation (EC) No 2027/97

Article 6b – paragraph 1 – subparagraph 1 b (new)

*Council position*

*Amendment*

*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.*

**Council position**

**Article 2 – paragraph 1 – point 7**

Regulation (EC) No 2027/97

Article 6b – paragraph 2

*Council position*

*Amendment*

2. Without prejudice to Regulation (EC) No 1107/2006, air carriers shall permit passengers to carry a personal item in the cabin and at no extra cost.

2. Without prejudice to Regulation (EC) No 1107/2006, air carriers shall permit passengers to carry a personal item ***and hand baggage within the maximum dimensions of 100 cm (sum of length, width, and height)*** in the cabin and at no extra cost ***in accordance with (EC) No 261/2004. 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.***

**Council position**

**Article 2 – paragraph 1 – point 7**

Regulation (EC) No 2027/97

Article 6b – paragraph 4

*Council position*

*Amendment*

4. Paragraphs 2 and 3 shall apply to all air carriers departing from an airport

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located in the territory of a Member State to which the Treaties apply and to all **Union** air carriers arriving in the territory of a Member State to which the Treaties apply.

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### **Council position**

#### **Article 2 – paragraph 1 – point 7**

Regulation (EC) No 2027/97

Article 6c – paragraph 1

#### *Council position*

1. A Union air carrier shall permit a passenger to carry a musical instrument in the passenger cabin of an aircraft subject to applicable security and safety rules and the technical specifications and constraints of the aircraft concerned. Musical instruments shall be accepted for carriage within an aircraft cabin provided that those instruments can be stowed safely in a suitable baggage compartment within the cabin or under an appropriate passenger seat. ***An air carrier may determine that a musical instrument shall form part of a passenger's **unchecked** baggage allowance and shall not be carried in addition to that allowance.***

### **Council position**

#### **Article 2 – paragraph 1 – point 7**

Regulation (EC) No 2027/97

Article 6c – paragraph 2

#### *Council position*

2. ***Subject to applicable security and safety rules***, where a musical instrument is too large to be stowed safely in a suitable

#### *Amendment*

1. A Union air carrier shall permit a passenger to carry a musical instrument in the passenger cabin of an aircraft subject to applicable security and safety rules and the technical specifications and constraints of the aircraft concerned. Musical instruments shall be accepted for carriage within an aircraft cabin provided that those instruments can be stowed safely in a suitable baggage compartment within the cabin or under an appropriate passenger seat. ***When accepted for carriage within the aircraft cabin***, a musical instrument shall form part of a passenger's ***hand*** baggage allowance. ***The air carrier may determine that additional charges are to apply for hand baggage to be carried in addition to that allowance.***

#### *Amendment*

2. Where a musical instrument is too large to be stowed safely in a suitable baggage compartment within the cabin or

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 *unchecked* baggage on a second seat. *Furthermore, passengers may be required to select and purchase adjacent seats for both the passenger and the musical instrument, one always being a window seat for the musical instrument. 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.*

under an appropriate passenger seat, an air carrier may request the payment of a second fare where such musical instruments are carried as *hand* baggage 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 shall make reasonable efforts to seat the passenger and the musical instrument concerned together.*

Council position

**Article 2 – paragraph 1 – point 7**

Regulation (EC) No 2027/97

Article 6c – paragraph 2 a (new)

*Council position*

*Amendment*

**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.*

Council position

**Article 2 – paragraph 1 – point 7**

Regulation (EC) No 2027/97

Article 6c – paragraph 2 b (new)

*Council position*

*Amendment*

**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.**

**Council position**

**Article 2 – paragraph 1 – point 7**

Regulation (EC) No 2027/97

Article 6 d (new)

*Council position*

*Amendment*

**The following Article is inserted :**

**Article 6d**

**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.**

**Council position**

**Article 2 – paragraph 1 – point 8**

Regulation (EC) No 2027/97

Article 7 – paragraph 1

*Council position*

*Amendment*

The Commission shall report to the European Parliament and the Council by ... [5 years from the date of entry into force of this amending Regulation] on the operation and the results of this Regulation.;

The Commission shall report to the European Parliament and the Council by ... [**three** years from the date of entry into force of this amending Regulation] on the operation and the results of this Regulation.; **The report shall be accompanied, where necessary, by**

*legislative proposal.*

**Council position**

**Annex II**

Regulation (EC) No 261/2004

Annex II – point 5 – subparagraph 2

*Council position*

In case of unchecked baggage (hand ***luggage***), including personal items, the air carrier is only liable if the damage has resulted from its fault or that of its servants or agents.

*Amendment*

In case of unchecked baggage (hand ***baggage***), including personal items, the air carrier is only liable if the damage has resulted from its fault or that of its servants or agents.

**Council position**

**Annex II**

Regulation (EC) No 261/2004

Annex II – point 6 – subparagraph 1

*Council position*

A passenger can benefit from a higher liability limit by making a special declaration at check-in, at the latest, and by paying a supplementary fee if so required. That 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 the limit under Article 22(2) of the Montreal Convention as updated by the International Civil Aviation Organization pursuant to Article 24(2) of the Montreal Convention ~~/the air carrier shall indicate between brackets the approximate amount in local currency/~~. The tariff shall be made available to passengers upon request.

*Amendment*

A passenger can benefit from a higher liability limit by making a special declaration at check-in, at the latest, and by paying a supplementary fee if so required. That 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 the limit under Article 22(2) of the Montreal Convention as updated by the International Civil Aviation Organization pursuant to Article 24(2) of the Montreal Convention ~~(the air carrier shall indicate between brackets the approximate amount in local currency)~~. The tariff shall be made available to passengers upon request.

**Council position**

**Annex II**

Regulation (EC) No 261/2004

Annex II – point 8 – title

*Council position*

*Amendment*

TIME LIMIT FOR COMPLAINTS  
**REGARDING** BAGGAGE

TIME LIMIT FOR COMPLAINTS **ON**  
BAGGAGE

**Council position**

**Recital 19 c (new)**

*Council position*

*Amendment*

***(19c) Given the short deadlines for the submission of complaints for delayed, damaged or lost baggage, a special baggage claim service should be set up at all airports where passengers have the possibility to submit a complaint upon arrival. For this purpose, air carriers should provide a complaint form in all official languages of the Union to passengers. This could also take the form of the common Property Irregularity Report (PIR). In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to lay down the form of the standardised claim form through implementing acts.***

**Council position**

**Recital 44**

*Council position*

*Amendment*

(44) Having regard to the United Nations Convention on the Rights of Persons with Disabilities<sup>20</sup>, and in order to ensure that the damage to, destruction or loss of mobility equipment or the injury to or death of a recognised assistance dog is compensated to its full replacement cost, air carriers should offer to persons with disabilities and persons with reduced

(44) Having regard to the United Nations Convention on the Rights of Persons with Disabilities<sup>20</sup>, and in order to ensure that the damage to, destruction or loss of mobility equipment or the injury to or death of a recognised assistance dog is compensated to its full replacement cost, air carriers should offer to persons with disabilities and persons with reduced

mobility, as defined in Regulation (EC) No 1107/2006, the opportunity to make a special declaration of interest free of charge, which pursuant to the Montreal Convention allows them to seek full compensation.

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<sup>20</sup> OJ L 23, 27.1.2010, p. 37, ELI:  
[http://data.europa.eu/eli/dec/2010/48\(1\)/oj](http://data.europa.eu/eli/dec/2010/48(1)/oj).

### **Council position** **Recital 48**

#### *Council position*

(48) Musical instruments can be of immense monetary, artistic and historical value. Moreover, musical instruments are the tools of musicians' trade used regularly for rehearsal and performance and cannot be easily replaced. Therefore, passengers should be entitled to carry musical instruments into the cabin under their own responsibility, provided those instruments respect capacity, safety and security rules and the air carrier's maximum baggage allowance policy. When capacity, safety and security requirements are fulfilled, the air carrier should endeavour to allow passengers to carry musical instruments on additional seats, provided that the corresponding fares have been paid. Where this is not possible, musical instruments should, where possible, be carried under the appropriate conditions in the cargo compartment of the aircraft. Therefore, Regulation (EC) No 2027/97 should be amended accordingly.

### **Council position** **Recital 51**

mobility, as defined in Regulation (EC) No 1107/2006, the opportunity to make a special declaration of interest free of charge, which pursuant to the Montreal Convention allows them to seek full compensation ***for loss or damage. Air carriers should inform passengers of that declaration and of the related rights whenever they make a ticket booking.***

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<sup>20</sup> OJ L 23, 27.1.2010, p. 37, ELI:  
[http://data.europa.eu/eli/dec/2010/48\(1\)/oj](http://data.europa.eu/eli/dec/2010/48(1)/oj).

#### *Amendment*

(48) Musical instruments can be of immense monetary, artistic and historical value. Moreover, musical instruments are the tools of musicians' trade used regularly for rehearsal and performance and cannot be easily replaced. Therefore, passengers should be entitled to carry musical instruments into the cabin under their own responsibility, provided those instruments respect capacity, safety and security rules and the air carrier's maximum baggage allowance policy. ***In order to allow the passengers concerned to assess whether their musical instrument can be stored in the cabin, air carriers should inform them about the size of storage facilities.*** When capacity, safety and security requirements are fulfilled, the air carrier should endeavour to allow passengers to carry musical instruments on additional seats, provided that the corresponding fares have been paid. Where this is not possible, musical instruments should, where possible, be carried under the appropriate conditions in the cargo compartment of the aircraft. Therefore, Regulation (EC) No 2027/97 should be amended accordingly.

*Council position*

*Amendment*

***(51) It is necessary that the monetary limits referred to in the Annex to Regulation (EC) No 2027/97 be regularly amended by air carriers in order to take into account economic developments, as reviewed by the International Civil Aviation Organization (ICAO) pursuant to Article 24(2) of the Montreal Convention.***

*deleted*

Agence Europe