# Functioning and application of established rights of people travelling by air

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PURPOSE: to present further actions to ensure respect for the rights of air passengers.

BACKGROUND: Regulation 261/2004 became applicable on 17 February 2005. It sets a minimum level of quality standards for passenger protection, adding an important citizen's dimension to the liberalisation of the aviation market. The novelty of some provisions of the Regulation has led to different interpretations, and thus varied application, among air carriers and national enforcement authorities (NEBs), rendering it difficult for passengers and stakeholders to understand the scope and limits of the rights set out in the Regulation.

Regarding the application of the Regulation the Commission in its Communication of 2007 identified different areas for improvement, namely, the lack of:

- uniform interpretation and enforcement throughout the EU;
- clear and easily accessible means of complaint handling; and
- adequate information to passengers.

The Commission has asked stakeholders and EU institutions to continue their efforts to improve the application in order to ensure harmonised interpretation and enforcement of the Regulation and to report on it regularly, and after 6 years of application, the Commission is assessing again the implementation of the Regulation. According to different sources of information, there are three main conclusions to draw at this stage:

- the difficulties in the application linked to the lack of both uniform interpretation and consistent enforcement at national level are still high;
- the striking differences between complaint handling procedures, deadlines to answer passengers and the non-legally binding nature and the scope of the NEBs' opinions frustrate passengers as well as weaken the application of the Regulation;
- passengers' awareness of their rights does not appear to have increased.

CONTENT: the objective of this report is threefold: (i) to list the developments since the adoption of the Regulation that may have an impact on its application; (ii) to follow up the measures undertaken since 2007, taking stock of the improvements in its application and the remaining obstacles; (iii) to identify further actions to ensure at short term further improvement of its application within the current legal framework provided by the Regulation, and to evaluate possible changes that may help to achieve better its political goals.

In spite of the progress made since 2007, the Commission considers that there are three areas where measures are still necessary to improve the application of the Regulation: effectively harmonised enforcement of EU rights, facilitation of their enjoyment in practice, and raising awareness about these rights. In this report the Commission has identified 12 actions to overcome the obstacles that passengers and the industry still face when applying and enjoying the rights provided by the Regulation.

- In the short term, these actions build on the mechanisms and procedures already in place, to better structure and use them.

- In the medium term, the Commission will carry out an assessment to evaluate the impact of the current Regulation and the different scenarios that may help to improve the protection of Air Passengers Rights and to keep pace with evolving socio-economic realities. This should allow the Commission to announce in 2012 which further measures, including those of a legislative nature, may appear necessary.

Thus, the Commission will:

- work with relevant Member States to **identify and overcome obstacles in national law hampering proper application and uniform enforcement** of the Regulation, and will assess the opportunity to remove them by the opening of infringement procedures if necessary;
- implement **a mandate and internal working rules for the existing NEB network** –which will cover the various APR regulations- to improve their coordination at an appropriate level and to facilitate the adoption of common and relevant decisions on the interpretation and enforcement of the Regulation, including **further clarification on extraordinary circumstances** and on a reasonable and proportionate right to care;
- encourage **better coordination** at national level between the authority that issued the operating licence and the NEB to enhance enforcement measures, and between the different national bodies appointed as NEBs to step up the exchange of information about carriers' compliance;
- structure its contacts with all other key stakeholders through the **creation of an APR Consultative Group**, reflecting industry and passenger perspective on all issues related to air passengers' rights, and work with the future APR Consultative Group to encourage air carriers to establish reasonable and precise timeframes to handle passenger claims;
- encourage NEBs to **make use of effective tools to exchange information**, including on relevant national administrative and judicial decisions, to seek further coordination of their databases and further reporting on the application of the Regulation;
- promote a **better level playing field among operators across the European area**, amongst others by encouraging the publication of issued sanctions and/or of the operators' overall performance in complying with the Regulation;
- work with relevant Member States to identify and **overcome shortcomings** in their current national complaint handling bodies and procedures to lead towards a more efficient, quick and consistent complaint handling (at EU level) while ensuring the indispensable flow of information between the complaint handling and the enforcement bodies;
- ensure proper coordination of passenger rights legislation with the ongoing revision of existing or future EU measures on enforcement and redress, like those **on alternative dispute resolution mechanisms or collective consumer redress**;
- promote a **more uniform and quick handling of complaints**, notably by submitting to the NEB network Group a common standard form to request information from carriers and a proposal on the competent NEB;
- work with the NEB Network and the APR Consultative Group to encourage airlines and other relevant operators to regularly report to NEBs on relevant data on the application of the Regulation;
- raise passengers' awareness on their rights, through widespread communication tools, such as the on-going Commission information campaign on passengers' rights, as well as through existing consumer networks, as the European Consumer Centres;
- launch in 2011 **an Impact Assessment** to assess the proportionality of the current measures in the light of experience and the costs of the regulation for stakeholders, with a view to propose further measures on Air Passenger Rights and in coordination with the ongoing revision of the Package Travel Directive (90/314/EEC), including of a legislative nature, in 2012.