

Air carriage: liability in the event of accidents

2000/0145(COD) - 19/12/2001 - Council position

In its common position the Council followed the lines of the Commission proposal, taking into account the opinion of the Economic and Social Committee and, in particular, the amendments requested by the European Parliament in first reading. Specific points that were raised by the Council concern the following: - the Council agreed to add a new recital, in order to underline that Regulation 2027/97/EC, as amended by the Regulation under consideration, reinforce - in line with the Montreal Convention the protection of passengers and their dependants; - the Council agreed to add a new recital, providing that a Community air carrier should not be able to avail itself of Article 21(2) of the Montreal Convention - regarding compensation for damages in case of death or injury of passengers exceeding 100 000 Special Drawing Rights, unless it proves that the damage was not due to the negligence or other wrongful act or omission of the carrier or its servants or agents; - the Council welcomed the suggestion of the European Parliament concerning the notice contained in the Annex to the Regulation, because it simplifies and clarifies the information regarding air carrier liability that must be provided by Community air carriers to their passengers. As a consequence of this notice, the first paragraph of Article 6 of Regulation 2027/97/EC was no more needed; - the Council agreed to adapt the text in the light of the practice according to which a Regulation enters into force on the day of its publication in the Official Journal. With respect to the date from which the Regulation should apply, the Council decided to provide that the Regulation should apply from the date of its entry into force or from the date of the entry into force of the Montreal Convention for the Community, whichever is the later. This is intended to ensure the necessary parallelism between the Regulation and the Montreal Convention; - the Council, followed by the Commission, observed that damages caused in the context of air carriage might possibly result in liability both under the Montreal Convention or Regulation 2027/97/EC and the Package Tour Directive. Therefore, both institutions entered a joint statement to the common position, stating that in order to provide a consistent liability regime they will consider the need for clarification of this issue in advance of the entry into force of the Montreal Convention and Regulation 2027/97/EC as amended, if necessary through a revision of the Package Tour Directive; - the Council and the Commission further recognised that Regulation 2027/97 does not cover all carriers that are liable under the Montreal Convention and whose principal place of business is within the Community. Therefore, in the same joint statement as indicated under the precedent point, the Council and the Commission stated that with respect to these carriers it is desirable that Member States take appropriate measures, by implementing the Montreal Convention to provide for an equally high standard of passenger protection, in particular standards of liability. With regard to the amendments adopted by the European Parliament, the Council followed, in full or in substance, all amendments by the European Parliament, very often in the form suggested by the latter. A new paragraph regarding 'baggage delays' was inserted, several headings were added or modified, and the text of certain paragraphs was changed. The paragraph regarding private insurance was deleted, since the Council felt that this could lead to misunderstanding regarding the extent of the (unlimited) liability of Community air carriers in respect of the carriage of passengers and their baggage by air.