

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

2001/0305(COD) - 18/03/2003 - Council position

The Council made a number of modifications to the proposal of the Commission, both regarding the form and substance. As far as the formal modifications are concerned, the Council endeavoured to make the texts simpler and easier to understand. The Council rearranged the text considerably in order notably to enhance their logical disposition. The main substantive modifications can be described as follows: - the Council agreed to simplify the text by laying all obligations to compensate and assist passengers on the operating air carrier, which is normally the best placed to meet such obligations because of its presence at airports. However, the operating air carrier has a right of redress in accordance with the law applicable, in particular the regulation should in no way restrict the operating air carrier's right to seek reimbursement from a tour operator or any other person with whom the operating carrier has a contract; - in line with the amended by the Parliament and in view of the Montreal Convention, the Council felt it would be appropriate to provide a list of circumstances which may exempt the operating air carrier from its obligations under this Regulation. However, for reasons of legal clarity the Council decided not to list such circumstances under 'force majeure' but decided to use the concept of 'extraordinary circumstances'; - with regard to cancellation, the Council decided to refine the text by providing that the right to compensation depends not only on the moment in time at which the passenger is informed of the cancellation, but also on the adequacy of the re-routing that is offered to the passenger concerned; - as regards the levels of compensation, the Council agreed, in line with the amendment by Parliament, to adopt a system of three distance sections. The levels itself are almost equal to those recommended by the Parliament, namely EUR 250, EUR 400 and EUR 600; - taking account of the amendment by parliament, the Council has strengthened the rights passengers in the even to long delays of flights, by providing that passengers not only have the right to reimbursement or re-routing, but also, in principle, the right to care. By the way, the Council agreed that this latter right should in general also encompass the right to transport, free of charge, between the airport and the place of accommodation (hotel or other); - with regard to the situations of upgrading and downgrading, the Council decided to turn the provision into a separate Article, since in the situations concerned there is no denial of boarding. Moreover, in order to simplify handling at airports, the Council agreed that it would be appropriate to apply fixed percentages in order to calculate amounts of reimbursement; - finally, the Council decided to give more importance to the provisions regarding passengers with reduced mobility or special needs. It therefore incorporated the relevant amendment by Parliament and gave a horizontal character to the relevant provisions.