

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

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The Commission has presented its communication on the operation and the results of this Regulation establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights.

In order to have independent and unbiased quantitative and qualitative data on the application of this Regulation, the Commission contracted an external consultant. One of the most important characteristics of this study was the broad and intensive consultation of as many stakeholders as possible, including consumer associations and passenger federations.

After more than two years of application of the Regulation, progress has been made but substantial improvement is necessary if more consistent application of the rules by airlines and more consistent enforcement of the rules by the Member States are to be achieved. In contrast with the past, stranded passengers now have specific rights, but too often they are in a weak position compared to the airlines.

To address the issues for improvement, the Commission considers work in a number of areas to be necessary:

Improve enforcement: the Commission needs to enhance cooperation with and between the national enforcement bodies (NEB) in order to ensure an appropriate level of service to the public and better cooperation as a network. At a later stage, cooperation between the national enforcement bodies might take the form of a 'Code of Good Practice' dealing with issues not addressed by the Regulation such as: the timescale for complaint submission by passengers and the replies delivered by NEB, the conditions under which complaints can be referred between NEB and the languages acceptable for referred complaints as well as the improvement of the quality of statistics.

Clarify interpretation of those aspects of the Regulation which are unclear: the Commission intends to issue a communication setting out its interpretation of the Regulation after consulting with the NEB. It is expected that such Communication, while not being legally binding, will carry significant weight with airlines, facilitate the enforcement process and also make it easier for consumers to understand their rights under the Regulation.

Establish clarity between delays and cancellations: it would be helpful to discuss with airlines and NEB more precise criteria for differentiating between delays and cancellations. It would also be useful to improve collection of data to ensure that the status of a flight is clearly recorded both for purposes of enforcement of passenger rights and for better monitoring of overall service quality in the industry.

Establish guidelines on 'Exceptional Circumstances': exceptional circumstances seem to provide a source of persistent dispute between passengers, airlines and NEB. Assessment of such claims for cancelled flights accounts for about 30% of all complaints and takes up more than 70% of the resources of national authorities. As it stands at present, the Regulation makes no provision for financial compensation for delays.

Enhance the role of the NEB: given developments in passenger rights for other modes of transport, setting-up different NEB for different modes of transport once passenger rights have been created in all areas might be inefficient. The concept of ECC (European Consumer Centres), which are already dealing with cross-border (international nature of transport) complaints, could be an approach to help NEB in their day-to-day tasks. In addition, complaints could be centralised in this type of structure thereby ensuring that complaints handling is harmonised with no conflict of interest. It would also facilitate statistical follow up and monitoring (centralised), emphasising once more the horizontal and harmonised approach to passenger rights for each mode of transport. If there is a breach of the new Regulation, the ECC concerned could then forward the complaint to the appropriate Civil Aviation Authority or to a national ministry for legal action against the air carrier.

Over the **next six months**, the Commission will organise as many meetings as may be needed with the NEB to tighten up and strengthen enforcement procedures. The Commission will consider intensifying infringement proceedings against Member States where, after that six month period, enforcement regimes do not appear to be effective and dissuasive. During the coming six months, the Commission will examine, at airports, whether airlines provide passengers with the information, assistance and compensation. In particular, the Commission will check whether the information boards at check-in and the written notices in cases of flight disruptions are available and handed out.

In order to improve the information available on air passenger rights, the Commission will provide updated information material to the public before the summer of 2007.