

Enhancing passenger rights framework

Position paper of Airlines International Representation in Europe on the Proposal for amending Regulation (EC) No. 261/2004 and Regulation (EC) No. 1107/2006

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About AIRE

Airlines International Representation in Europe (AIRE) is a leading association that represents the interests of airlines and aviation stakeholders operating within Europe since 1976. AIRE's primary goal is to advocate for fair and balanced policies that promote a competitive, sustainable, and efficient aviation industry. The association works closely with European regulators, policymakers, and other stakeholders to ensure that the needs and concerns of international carriers are considered in legislative and regulatory decisions.

*AIRE's membership includes a diverse range of airlines, such as **AirExplore, Air Horizont, AlbaStar, Iberojet, LOT Polish Airlines, Neos and Turkish Airlines** and key aviation stakeholders as **Boeing, Embraer, AAP Aviation, Amius and Corpay**. By promoting dialogue, AIRE aims to shape a future where aviation continues to connect people, support economic growth, and enhance passenger experience across Europe and beyond.*

The Members of **Airlines International Representation in Europe (AIRE)** express their satisfaction with the presentation of the European Commission's proposal to amend **Regulation (EC) No. 261/2004 on Passenger Rights** and **Regulation (EC) No. 1107/2006 on the Rights of Disabled Persons and Persons with Reduced Mobility in Air Transport**, which was officially launched on 29 November 2023. This proposal marks an important step towards the long-awaited revision of Regulation (EC) No 261/2004, a critical piece of legislation for ensuring fair treatment of passengers in the European aviation sector.

AIRE fully supports this revision, recognizing its significant potential to enhance the enforcement and implementation of passenger rights, particularly in exceptional circumstances.

Background

Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights (hereinafter *Regulation 261/2004*) was adopted in 2004 and it provides a framework for the protection of passengers' rights in cases of flight delays,

cancellations, and denied boarding. Over the years, the aviation industry has evolved and challenges such as rising demand, increased flight cancellations, and operational complexities have emerged.

Thus, we believe that the new regulation should seek to strike an appropriate balance between the interests of passengers and those of the aviation industry, while also incorporating the recent case-law of the European Court of Justice, to ensure greater certainty for all parties involved.

- **Proposal put forward by the Commission in 2013 to revise Regulation (EC) No 261/2004**

AIRE truly welcomes the **proposal drafted by the Commission in 2013 regarding the revision of Regulation (EC) No 261/2004** being reintroduced for discussion at the Council. The changes proposed in this proposal are crucial for the aviation industry to adapt to current aviation conditions. We fully support the position adopted by the Parliament on 5 February 2014 in relation to this proposal, which includes:

- Clear definition of the concept of **extraordinary circumstances**, together with a non-exhaustive list.
- **Change of the delay threshold depending on the distance.** We welcome the change of the delay threshold to 5 hours for flights up to 3,500 km, 9 hours for flights 3,500-6,000 km, 12 hours over 6,000 km.
- It sets up a **limitation on the right to accommodation in cases of delays, cancellations, or schedule changes due to extraordinary circumstances**, capping it at 3 nights with a maximum of EUR 100 per night per passenger.
- Further clarification regarding the **right to care, right to re-routing, and the right to information.**
- **Right to disembark after five hours when their aircraft is delayed on the tarmac.**

AIRE's stance on the proposal presented by the Commission on 29 November 2023 to amend Regulation (EC) No 261/2004 and Regulation (EC) No 1107/2006

Below, please find outlined the key points of both proposals, as well as some areas for improvement that we believe are essential for ensuring a more equitable and efficient implementation of these regulations:

(i) Proposal to amend Regulation (EC) No 261/2004

- **AIRE agrees with the provision for a complete refund of costs by the intermediary at no charge (art. 8. a).** Previously, the challenge of refunding agency tickets without knowing the ticket prices or the agent's margin was a significant issue, often resulting in legal disputes. **AIRE supports the possibility to refund the ticket price according to the method of purchase, i.e. through an intermediary.**

In this context, AIRE proposes the following paragraph: *“The company from which the passenger purchased the ticket is responsible for processing the refund of the ticket”*.

We are also very much in favour of regulating that refunds can be made by the operating carrier, possibly clarifying that this refers to the operating carrier with which the journey was irregular (this applies to transfer flights).

- **AIRE welcomes the idea of a common reimbursement form (art. 16 a).** This unification will help both passengers and airlines in the procedure and may also contribute to a more uniform implementation of the regulation.
- **We believe that the requirement to delete contact details within 72 hours after the completion of the contract may conflict with the obligation to report to National Enforcement Bodies (art. 14. a).** Complaints are not limited to cases of flight delays or cancellations; passengers may also file complaints regarding the quality of services. Since passengers are not obligated to submit a complaint within 72 hours, the carrier may face difficulties in fully verifying the report if the passenger's contact details are deleted, particularly in the event of a lawsuit. Retaining contact information is essential not only to confirm whether a complaint is from a passenger but also to verify the connections.

(ii) Proposal to amend Regulation (EC) No 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air

- **AIRE believes that offering a free ticket to the person accompanying a disabled passenger could lead to potential misuse and should not be provided at no cost (art. 4.2).** We think that seating the assistant next to the passenger with reduced mobility may require adjustments to the airline's systems, so we suggest offering the ticket at a discounted price. It is mandatory to pay taxes and airport charges for each passenger, so it is not possible to make a completely free trip. In this context, AIRE proposes the following change to the paragraph: The person accompanying the disabled passenger purchases the ticket at a reduced price, which includes applicable taxes and airport charges.

Additionally, according to Article 3.3 of Regulation 261/2004, if the accompanying person travels for free, they would not be covered by this Regulation: *"This Regulation shall not apply to passengers traveling free of charge or at a reduced fare not available directly or indirectly to the public."*

- **AIRE finds the current definition of persons with disabilities might be problematic and unclear, which leads to difficulties in providing consistent support.** In addressing this issue, we support initiatives to establish a unified and clear definition, such as introducing a disability card modelled after the European Health Insurance Card. This would provide a consistent

standard throughout the European Community, enabling a person with a disability to be defined by the possession of such a card.

The amendment of Regulation (EC) No 261/2004 is of great significance for AIRE, as it plays a critical role in ensuring a fair and balanced approach between the rights of passengers and the operational needs of the aviation industry. We strongly believe that revisiting and amending this regulation will not only address existing challenges but also offer opportunities to improve passenger rights.

Therefore, we fully welcome its re-introduction as a top priority on the European Union's legislative agenda, recognizing its importance for the future of air travel.