



INTERNATIONAL CIVIL AVIATION ORGANIZATION

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ASSEMBLY — 35TH SESSION

ECONOMIC COMMISSION

Agenda Item 27: Regulation of international air transport services, and outcome of the fifth Worldwide Air Transport Conference

DENIED BOARDING AND CANCELLATION OR LONG DELAY OF FLIGHTS

(Presented by the European Commission)

INFORMATION PAPER

SUMMARY

This information paper describes the regulation adopted by the European Community, early in 2004, establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights.

1. The European Parliament and the Council have adopted Regulation (EC) No 261/2004 of 11 February 2004 establishing common rules on compensation and assistance to air passengers in the event of denied boarding and of cancellation or long delay of flights. This regulation will enter into force one year after its publication in the Official Journal, on 17 February 2004, and will replace the existing regulation on compensation and assistance in the event of denied boarding, Council Regulation (EEC) No 295/91 of 4 February 1991.
2. The new regulation will extend passengers' rights beyond those granted by present legislation in several ways. First, it will protect passengers not only in the event of denied boarding but also of cancellations or long delays, the previous regulation being limited to denied boarding. Second, it will cover both scheduled and non-scheduled flights, whereas the previous legislation is limited to scheduled flights. Third, it will apply not only to passengers departing from an airport located in a Member State but

¹ French and Spanish language versions provided by the European Commission.

also to those flying from a third country to a Member State, if the airline operating the flight is a Community carrier and if compensation and assistance is not given in the country of departure.

3. In its provisions on denied boarding, the new regulation differs from the present regulation, as its aim is to discourage resort to denied boarding, as well as to compensate and assist the passengers affected. When expecting to turn passengers away, and before doing anything else, an operating air carrier will be obliged to call for volunteers to surrender their seats in exchange for benefits. Only if insufficient volunteers come forward, will it be allowed to deny passengers boarding against their will. When that happens, the carrier will have to compensate them at increased rates. The combination of obligations to seek volunteers and to pay compensation should substantially cut the frequency of denied boarding.

4. The new regulation sets compensation at dissuasive levels:

- a) € 250 for flights of 1500 kilometres or less;
- b) € 400 for all intra-Community flights of more than 1500 kilometres and for other flights between 1500 and 3000 kilometres; and
- c) € 600 for all other flights.

These rates apply irrespective of the price of the ticket. When passengers are offered an alternative flight that allows them to arrive less than a specified time later than originally scheduled, then the carrier may reduce compensation by one half.

5. In addition, passengers denied boarding will continue to enjoy these rights:

- a) the choice between reimbursement of the cost of the ticket and re-routing to their final destination; and
- b) meals, refreshments, hotel accommodation, transport between the airport and the place of accommodation, as needed.

6. The new regulation will also protect passengers when their flights are cancelled. In the event of a cancellation, an operating carrier will have to compensate financially passengers at the rates set for denied boarding, unless:

- a) the passengers are informed of the cancellation at least two weeks before the scheduled time of departure; or
- b) they are informed less than seven days before the scheduled time of departure, but are offered an alternative flight allowing them to arrive less than two hours later than originally scheduled.

7. Moreover, the regulation will give these rights to passengers whose flights are cancelled for whatever reason:

- a) the choice between reimbursement of the cost of the ticket and re-routing to their final destination; and

- b) meals, refreshments, hotel accommodation, transport between the airport and the place of accommodation, as needed.

8. As for delays, when an operating carrier expects one to last longer than a specified time, it shall offer passengers:

- a) meals, refreshments, hotel accommodation, transport between the airport and the place of accommodation, as needed; and
- b) reimbursement of the cost of the ticket, when the delay is at least five hours.

9. The regulation also contains provisions on operating carriers' rights to redress from third parties and vice-versa, on the information of passengers, on the designation of enforcement bodies and on the setting of sanctions against infringement, among other things.

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