

Proposal for a Regulation of the European Parliament and of the Council **amending Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The outbreak of the COVID-19 disease caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) has led to a sharp drop in air traffic as a result of a significant fall in demand and direct measures taken by the Member States as well as third countries to contain the outbreak. The consequent serious impact on air carriers has set in as early as January 2020 in respect of the People's Republic of China and Hong Kong Special Administrative Region of the People's Republic of China, has been pervasive since 1 March 2020, and is likely to affect air transportation at least until **15 september 2020**.
- (2) Those extraordinary circumstances are beyond the control of air carriers and the consequent voluntary or obligatory cancellation of air services by air carriers is a necessary or legitimate response to those circumstances, which prevents also sometimes passengers to go to airports. Notably, voluntary cancellations protect the financial health of air carriers and mitigates the risk of insolvencies.
- (3) Under Article 8.1(a) read in conjunction with Article 5(1) a) of Regulation (EC) No 261/2004 passengers are entitled, in case of cancellation of a flight, to reimbursement within seven days. This obligation represents currently an heavy burden for airlines under these extraordinary circumstances, which threaten many airlines and connectivity in the European Union.
- (4) An amendment of Regulation 261/2004 providing uniform rules is needed in order to safeguard a level playing field among air carriers throughout the member states. The amendment further seeks to ensure a level playing field between air carriers and travel package service providers alike, by granting airlines comparable mitigation measures.
- (5) In view of the urgency entailed by the extraordinary circumstances justifying the measures established, this regulation should immediately entry into force.

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 261/2004 is amended as follows:

(1) The following Article 8a is inserted:

'Article 8a

Temporary derogation of Right to reimbursement

1. As an exception to article 5(1) a), where, with respect to cancellation of flights between 1 March 2020 and 15 September 2020, reference is made to article 8, this article shall apply.
2. Passengers shall be offered by the air carrier the choice between:
 - (a) re-routing, under comparable transport conditions, to their final destination at the earliest opportunity; or
 - (b) re-routing, under comparable transport conditions, to their final destination at a later date at the passenger's convenience, subject to availability of seats.
3. When the air carrier cannot, due to the circumstances, offer a re-routing as defined in paragraph 2, or when a passenger refuse any of the option offered according to paragraph 2, the operating airline shall, after a period of **XXX days**, at its own discretion, offer to the passenger either :
 - (a) reimbursement according to article 8.1(a) ; or
 - (b) - the issue of a voucher representing the monetary value of the full cost of the ticket at the price at which it was bought, for the part or parts of the journey not made, and for the part or parts already made if the flight is no longer serving any purpose in relation to the passenger's original travel plan, together with, when relevant,
 - a return flight to the first point of departure, at the earliest opportunity.
4. The conditions pertaining to the use of the voucher mentioned at paragraph 3.(b) are the following:
 - a. The voucher can be used for the purchase of a new ticket for a flight to any destination offered by the air carrier on a later date. The voucher shall be valid for a period of time up to 18 months starting from the date of cancelation of the flight.
 - b. If the price of the new ticket is of a lower value than the voucher, the air carrier shall reimburse the difference to the passenger by means of a new voucher valid for the remaining period of validity as defined in paragraph (a), or, if the air carrier decides so, in cash, by electronic bank transfer, bank orders or bank cheques.
 - c. If the price of the new ticket is of a higher value than the voucher, the passenger shall pay the difference at the time of purchase.
 - d. If the voucher has not been used by its expiration date, as defined in paragraph (a), the air carrier shall contact the passenger in order to reimburse the passenger for the full amount of the voucher or, when relevant, for the remaining value of the voucher, within 7 days after the expiration date.

5. In case of cancellation, the air carrier shall provide each passenger concerned with information about the provisions of this article, at the time of cancellation, or at least as soon as possible after the flight has been cancelled.

Article 2

This Regulation will be applicable retroactively as of 1 March 2020.

Article 3

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.