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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 4.12.2002  
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2001/0305 (COD)

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Amended proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing common rules on compensation and assistance to air passengers in the event  
of denied boarding and of cancellation or long delay of flights**

(presented by the Commission pursuant to Article 250 (2) of the EC Treaty)

## **EXPLANATORY MEMORANDUM**

On 21 December 2001, the Commission submitted a proposal for a regulation of the European Parliament and of the Council establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights (COM (2001) 784 final – C 5 – 0700/2001 – 2001/0305 (COD)) for adoption by the co-decision procedure laid down in Article 251 of the Treaty establishing the European Community.

On 24 October 2002, the European Parliament approved at first reading a series of amendments. On this occasion the Commission gave its position on each amendment, indicating which amendments it could accept entirely or partially and which amendments could not be included. Of the forty amendments adopted by the European Parliament, the Commission accepted fourteen (some with redrafting or in principle) and eight partially.

### **1. AMENDMENTS ACCEPTED/ACCEPTED IN PART**

The modified proposal incorporates the text or substance of the European Parliament's amendments n° 1, 6, 8, 9, 10, 11, 12, 14 (*partly*), 22 (*partly*), 25 (*partly*), 26, 27, 28 (*partly*), 29 (*partly*), 31 (*partly*), 32, 33 (*partly*), 34, 36, 38, 39 (*partly*) and 42, aiming at strengthening certain elements or clarifying the text of the Commission's initial proposal.

#### **1.1. Recitals**

The following elements have been incorporated:

- A new recital, 8a, has been introduced which incorporates the concept of “force majeure”, replacing that of “exceptional circumstances beyond the responsibility of an air carrier” as proposed in amendment 1. This will help clarify the circumstances in which air carriers are not responsible for cancellations or long delays. For guidance, examples are given of cases of force majeure.
- Accordingly, recital 7 has been modified and the reference to “exceptional circumstances beyond the responsibility of an air carrier” has been deleted.

#### **1.2. Article 1**

Under point (b), a reference to “force majeure” replaces that to “exceptional circumstances beyond the responsibility of an air carrier”, in order to help clarify the circumstances where carriers are not responsible for cancellations or long delays (amendment 6).

#### **1.3. Article 2**

- Under point (ha) a definition of “force majeure” is introduced, in harmony with that of Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours (amendment 8).
- Under points (hb) and (hc) definitions are given of “denied boarding” and of “volunteer”, in order to clarify the text. However the conditions under which passengers enjoy rights (possession of a valid ticket and confirmed reservation and presentation for check-in within

a time limit) are kept in Article 3, as they apply to all provisions of the regulation (amendment 9 and 10).

- Under point (hd) “cancellation” is defined, while the time limit on the coverage of cancellations is introduced in Article 10, paragraph 2 (amendment 11).
- Under point (he) the standard definition of a “person with reduced mobility” of the European Civil Aviation Conference is introduced, to ensure consistency in meeting the special needs of these passengers (amendment 12).

#### **1.4. Article 3**

- In paragraph 1, point (a), the time limit for presentation at the check-in desk, when an air carrier or tour operator does not stipulate a time, is changed from thirty to sixty minutes. The latter is more appropriate because of the reinforcement of security measures since 11th September (amendment 14).

#### **1.5. Article 6**

Reference is made to “person with reduced mobility” instead of “disabled passenger” following the introduction of the term under Article 2, point (he). Also the prohibition to deny boarding is extended to certified service dogs, as blind or poorly sighted passengers may only be able to travel if accompanied by them (amendment 22).

#### **1.6. Article 8**

- In paragraph 1, under point (c), the condition “subject to availability” limits the right to re-routing at a later date at the passenger’s convenience. This makes clear that air carriers and tour operators would not be obliged to organise flights specially for passengers affected by denied boarding or cancellation (amendment 25).
- In the last sentence of paragraph 1, the right to a free telephone call, telex, fax message and/or e-mail to the point of departure is introduced (in addition to one to the final destination). This will enable passengers to communicate with all those concerned by the disruption of their travel plans (amendment 26).

#### **1.7. Article 9**

- Under point (ba), passengers are given the additional right to free transport, or reimbursement of expenses, for the journey from the airport to their place of accommodation and back. This will relieve them of sometimes heavy expenditure when affected by denied boarding, cancellation or long delay (amendment 27).

#### **1.8. Article 10**

- In paragraph 1, the notion of “force majeure” is introduced to clarify the circumstances where carriers are not responsible for cancellations (amendment 28).
- In paragraph 2, the coverage of cancellations is limited to those made within seven days of departure, to avoid putting financial pressure on carriers or tour operators to maintain their programmes irrespective of demand. The time of seven days before the expected time of departure gives passengers time to change their travel arrangements (first part of

amendment 29). The “48 hours” proposed in amendment 29 has been considered too short to give passengers the time needed to make new travel arrangements.

- In the same paragraph, the obligation is introduced to explain alternative means of travel to passengers affected by a cancellation, when contacted by a carrier or tour operator (third part of amendment 29).

### **1.9. Article 11**

- In paragraph 1, the right of choice between a refund and an alternative flight is replaced by that to care while awaiting a later flight (meals, hotels, etc.). This will ensure good care of all passengers suffering long delays, including overnight accommodation when needed. The change will also prevent disruption and further delay that the provision of refunds or alternative flights might cause in certain circumstances (amendment 31).
- A second change to the first paragraph introduces the concept of “force majeure”, to clarify when carriers and tour operators are not responsible for care in the event of long delays (amendments 31 and 33).
- Paragraph 2 is deleted and its content transferred to paragraph 1, so as to clarify and simplify the text (amendment 32).

### **1.10. Article 12**

The additional sentence prevents passengers from claiming further compensation in court, when they have accepted to give up their reservations under conditions agreed with the air carrier or tour operator (amendment 34).

### **1.11. Article 14**

- The content of amendment 36 which requires carriers and tour operators, when denying boarding or cancelling, to inform passengers of the body designated to receive complaints has been introduced in order to facilitate the lodging of complaints. This helps passengers to exercise their rights.

### **1.12. Article 15**

Amendment 42 providing protection in the event of air carriers or tour operators introducing restrictive clauses into contracts (despite the prohibition to do so) and of passengers accepting compensation on that basis has been incorporated.

### **1.13. Article 18**

In order to clarify that air passengers maintain their rights to go to court to claim further compensation, if they lodge a complaint, the content of amendment 38 has been introduced.

### **1.14. Article 19**

An obligation on the Commission to report no later than five years after the entry into force of the regulation replaces that to report by 1<sup>st</sup> January 2008. This ensures a sufficient period for the Commission to draw valid conclusions about the operation and results of the regulation (amendment 39).

## **2. AMENDMENTS NOT ACCEPTED**

The modified proposal does not integrate the European Parliament's amendments n° 2, 3, 4, 5, 7, 13, 14 (partly), 15, 16, 17, 18, 19, 20, 21,22 (partly), 23, 24, 25(partly), 28(partly), 29(partly), 30, 31(partly), 33(partly), 35, 37 and 39(partly). More specifically:

- The exclusion of passengers on package tours so that the regulation would just apply to seat-only passengers. This is on the grounds that the Package Travel Directive (90/314/EEC) adequately protects them. However the directive only makes tour operators liable for non-performance of contracts, so that client can sue them for damages. In contrast, the proposed regulation would give passengers precise, automatic rights, which they would enjoy immediately and without going to court. There is no justification for protecting passengers facing the same problems to different degrees (amendments 2, 3, 13 and 15).
- The allocation of the available places, in the event of overbooking, according to uniform criteria (amendment 4 and 21). The central aim of the proposal is to induce airlines and tour operators to find volunteers to surrender their reservations, so drastically cutting the number of passengers prevented from flying against their will. If airlines had to follow uniform criteria for allocating places, they would be unable to negotiate with potential volunteers.
- The rates of compensation proposed in amendment 23, namely 200-400-600 euros depending on three distance bands. These reduced increases over present levels would not be enough to change the behaviour of airlines, that is to induce a switch from denying passengers boarding against their will to persuading them voluntarily to surrender their reservations. The lowest of the three rates, 200 Euro, is a particular problem, as it represents no increase after taking into account of inflation. The inadequacy of present levels is shown by the fact that airlines continue to deny boarding to large numbers of passengers. Accordingly, the three distance bands used in amendment 24 and in amendment 31 have not been taken over for reason of consistency.
- The organisation of care under Article 9 within one hour as it would be difficult to implement it and attempting to do so could cause further delays (amendment 31).
- The creation of shared responsibility for meeting the obligations of the regulation, in the case of code-sharing between the carriers and when logistically impossible for a tour operator to fulfil these obligations (amendments 16, 17, 18, 19, 28, 29, 30 and 31). This would create uncertainty for passengers and disputes between the different parties. The Commission's solution is instead to oblige the tour operator or contracting carrier to make any arrangements needed with the operating carrier, who has personnel in the airport. This would make responsibility clear, and would be practical to implement.
- The elimination of compensation in the case of delays of less than one hour. This would greatly reduce the incentive to find volunteers (amendment 24).
- The adjustment of levels in line with inflation every three years is rejected because the Commission has to report 5 years after the entry into force of the regulation and may make appropriate proposals (amendment 23).
- The references to the last flight coupon on a ticket in case of successive flights for the definition of final destination (amendment 7). This would only refer to paper tickets. The Commission's proposal would instead cover all forms of ticket, including electronic ones, which increasingly replace paper documents.

- The elimination to stipulate the check-in time in writing. For passengers to exercise their rights, they require written information -whether on paper or in electronic form- (amendment 14).
- The prohibition for air carriers and tour operators from denying boarding to passengers travelling with small children. Including these passengers would greatly extend the scope of the article, so reducing the flexibility that carriers and tour operators need to successfully operate volunteer schemes. Furthermore, the term “small children” is not sufficiently precise to create a clear, unambiguous obligation (amendment 22).
- The limitation of the obligation to reimburse tickets or to re-route passengers within the period of validity of the ticket. This restriction of the rights of passengers would have little justification and serve little practical purpose, as the regulation would oblige compensation and assistance of passengers immediately, while the ticket was valid (amendment 25).
- Amendment 5, requiring rules similar to those of the proposed regulation to be established for other modes of transport can not be accepted. While the Commission intends to take initiatives to protect the rights of passengers using other modes of transport, these are outside the scope of the present proposal.
- The elimination of the definition of the price on which a refund should be based in the event of down-grading, so preventing legal certainty to the detriment of passengers (amendment 20).
- The Commission cannot accept to limit the obligation to provide care to passengers in situations where local conditions allow it. This condition would weaken the protection of passengers and is not sufficiently precise to provide legal certainty (amendment 33).
- The liability of authorities for denied boarding, cancellation and delays. The liability of such agencies, providing in particular air traffic control and airport capacity, and of other service suppliers is outside the scope of this proposal (amendment 35).
- Amendment 37 on consumer reports. While the Commission is developing reports on the performance of airlines, it considers them outside the scope of this proposal.
- The Commission does not see the justification for linking its obligation to report on the operation and on the result of this Regulation to the designation of enforcement bodies under Article 17 (amendment 39).

3. The Commission therefore amends its proposal, pursuant to Article 250(2) of the EC Treaty.

Amended proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing common rules on compensation and assistance to air passengers in the event of denied boarding and of cancellation or long delay of flights**

**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80 (2) thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>2</sup>,

Having regard to the opinion of the Committee of the Regions<sup>3</sup>,

Acting in accordance with the procedure referred to in Article 251 of the Treaty<sup>4</sup>,

Whereas:

- (1) Action by the Community in the field of air transport should aim, among other things, at ensuring a high level of protection for passengers; moreover full account should be taken of the requirements of consumer protection.
- (2) Denied boarding and cancellation or long delay of flights cause serious trouble and inconvenience to passengers.
- (3) The Community should set common minimum standards of protection both to strengthen the rights of passengers and to ensure that air carriers operate under harmonised conditions in a liberalised market.
- (4) While Regulation (EEC) N° 295/91<sup>5</sup> created basic protection for passengers, the number of passengers denied boarding against their will remains unacceptably high. This can best be reduced by both requiring air carriers to call for volunteers to surrender their reservations, in exchange for benefits, and deterring carriers from denying passengers boarding against their will through a requirement to pay compensation at a dissuasive level.

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<sup>1</sup> OJ C ..., ..., p. ...

<sup>2</sup> OJ C ..., ..., p. ...

<sup>3</sup> OJ C ..., ..., p. ...

<sup>4</sup> OJ C ..., ..., p. ...

<sup>5</sup> OJ L 36, 8.2.1991, p. 5.

- (5) Passengers denied boarding against their will should be able either to cancel their journeys, with reimbursement of their tickets, or to continue them under satisfactory conditions, and should be adequately cared for while awaiting a later flight.
- (6) Volunteers should also be able to cancel their journeys or continue them under satisfactory conditions, since they face difficulties of travel similar to those experienced by passengers denied boarding.
- (7) The trouble and inconvenience to passengers caused by cancellation of flights should also be reduced, ~~except when cancellation occurs in exceptional circumstances beyond the responsibility of an air carrier or that of its subcontracting agent.~~ This can best be achieved by requiring air carriers, before the scheduled time of departure, to contact the passengers affected and agree with them the conditions under which they volunteer to surrender their reservations.
- (8) Passengers whose flights are cancelled and who do not volunteer to surrender their reservations should be able either to obtain reimbursement of their tickets or to continue their journeys under satisfactory conditions, and should be adequately cared for while awaiting a later flight.
- (8a) **When cancellation is caused by force majeure, such as political instability, extreme meteorological conditions, shortcomings in security or in safety despite due care and full compliance with safety and security standards or strikes in essential services, it should be considered beyond the responsibility of an air carrier or tour operator or its agent.**
- (9) Similarly passengers whose flights are delayed for a specified time should be able to cancel their journeys or to continue them under satisfactory conditions.
- (10) Since the distinction between scheduled and non-scheduled air services is weakening, protection should apply to passengers not only on scheduled but also on non-scheduled flights, including those contained in package travel, holidays and tours.
- (11) Since tour operators are generally responsible for commercial decisions concerning package travel, holidays and tours, they should be responsible for compensation and assistance to passengers taking flights contained in package travel, holidays and tours, in the event of denied boarding and cancellation or long delay.
- (12) Since paperless tickets are becoming common, this Regulation should cover all forms of tickets to ensure comprehensive protection of passengers.
- (13) Passengers should be fully informed of their rights in the event of denied boarding and of cancellation or long delay of flights, so that they can effectively exercise their rights.
- (14) The Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those penalties must be effective, proportionate and dissuasive.
- (15) Regulation (EEC) N° 295/91 should accordingly be repealed,

HAVE ADOPTED THIS REGULATION:

*Article 1*  
*Subject matter*

This Regulation establishes minimum rights for air passengers when:

- (a) denied boarding;
- (b) their flight is cancelled, except for **reasons of force majeure**;
- (c) their flight is delayed for a specified time.

*Article 2*  
*Definitions*

For the purposes of this Regulation:

- (a) "air carrier" means an air transport undertaking with a valid operating licence;
- (b) "Community carrier" means an air carrier with a valid operating licence granted by a Member State in accordance with the provisions of Council Regulation (EEC) No. 2407/92<sup>6</sup>;
- (c) "tour operator" means, with the exception of an air carrier, an organiser or retailer in the sense of Article 2 points 2 and 3 of Council Directive 90/314/EEC<sup>7</sup>;
- (d) "package" means those services defined in Article 2 point 1 of Directive 90/314/EEC;
- (e) "ticket" means a valid document giving entitlement to transport, or an equivalent in paperless form, including electronic form, issued or authorised by the air carrier or its authorised agent;
- (f) "confirmed reservation" means that the passenger has a ticket, or other proof, which indicates that the reservation has been registered and confirmed by the air carrier or tour operator;
- (g) "code-sharing" means a situation in which a passenger has a contract and confirmed reservation with one air carrier, the marketing carrier, but is transported by another, the operating carrier;
- (h) "final destination" means the destination on the ticket presented at the check-in counter or, in the case of directly connecting flights, the destination of the last flight.
- (ha) "force majeure" means unusual and unforeseeable circumstances beyond the control of the party by whom it is pleaded, the consequences of which could not have been avoided even if all due care had been exercised;**

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<sup>6</sup> OJ L 240, 24.8.1992, p. 8.

<sup>7</sup> OJ L 158, 23.6.1990, p. 59.

- (hb) "denied boarding" means a refusal to accommodate passengers on a flight;**
- (hc) "volunteer" means a person who responds positively to the carrier's call for passengers prepared to surrender their confirmed reservation in exchange for benefits;**
- (hd) "cancellation" means the non-performance of a flight places on which have been put on the market;**
- (he) " person with reduced mobility" means any person whose mobility is reduced due to any physical disability (sensory or locomotory), an intellectual impairment, age, or any other cause of disability when using transport, and whose situation needs special attention or adaptation of services ordinarily made available to all passengers;**

*Article 3*  
*Scope*

1. This Regulation applies to passengers departing from an airport located in the territory of a Member State to which the Treaty applies, and to passengers having a contract with a Community carrier or with a tour operator for a package offered for sale in the territory of the Community departing from an airport located in a third country to one situated in the territory of a Member State to which the Treaty applies, unless they benefit from compensation and assistance in that third country, when they:
  - (a) have a confirmed reservation on a flight and present themselves for check-in, either as stipulated and at the time indicated in advance and in writing by the air carrier, the tour operator or an authorised travel agent, or if no time is indicated, not later than **sixty** minutes before the published departure time; or
  - (b) have been transferred by an air carrier or tour operator from the flight for which they held a confirmed reservation to another flight, irrespective of the reason.
2. This Regulation does not apply to passengers travelling free of charge or at a reduced fare not available directly or indirectly to the public. However, passengers having tickets issued under a Frequent Flyer Programme or other commercial programme by an air carrier or tour operator are covered by this Regulation.
3. This Regulation applies to any air carrier or tour operator with which a passenger referred to in paragraph 1 has a contract. The tour operator, or in the case of code sharing, the marketing carrier shall make with the operating carrier any arrangements necessary to ensure the implementation of the provisions of this Regulation.
4. The provisions of this Regulation shall not affect the rights of passengers under Directive 90/314/EEC.

*Article 4*  
*Rules laid down by the air carrier or tour operator*

An air carrier or tour operator shall, in accordance with this regulation, lay down the rules which it will follow when passengers are denied boarding, including those on priorities for passenger embarkation, and shall make them available to the public. They shall form part of the contract or conditions of carriage of the carrier or tour operator.

*Article 5*  
*Obligations towards passengers in case of denied boarding*

1. When an air carrier or tour operator reasonably expects to deny boarding on a flight, it shall first identify any passenger still awaiting check-in for the flight concerned at the time check-in closes and then call for volunteers to surrender their confirmed reservations in exchange for benefits under conditions to be agreed between the passenger concerned and the air carrier or tour operator.
2. Volunteers shall be assisted in accordance with Article 8, such assistance being additional to the benefits mentioned in the paragraph 1. If an insufficient number of volunteers comes forward to allow the remaining passengers with confirmed reservations to be accommodated on the flight, the air carrier or tour operator may then deny boarding to passengers against their will, in accordance with the rules laid down by the air carrier or tour operator referred to in Article 4.
3. If boarding is denied to passengers, the air carrier or tour operator shall immediately compensate them in accordance with Article 7 and assist them in accordance with Articles 8 and 9.
4. If an air carrier or tour operator places a passenger in a class higher than that for which the ticket was purchased, it may not request any supplement or payment. If an air carrier or tour operator places a passenger in a class lower than that for which the ticket was purchased, it shall reimburse the difference in price between the passenger's ticket and the cheapest published fare available for the class in which he or she is placed for that part of the journey.

*Article 6*  
*Boarding of disabled and other passengers with special needs*

An air carrier or tour operator shall not deny boarding to **a person with reduced mobility, to an accompanying person or certified service dog,** or to an unaccompanied child.

*Article 7*  
*Right to compensation*

1. In the case of denied boarding passengers shall receive compensation amounting to:
  - (a) Euros 750 for flights of less than 3,500 kilometres;
  - (b) Euros 1,500 for flights of 3,500 kilometres or more.

In determining the relevant distance, the basis shall be the last destination at which the denial of boarding will delay the passenger's arrival after the scheduled time.

2. When passengers accept re-routing to their final destination on an alternative flight pursuant to Article 8, the arrival time of which does not exceed the scheduled arrival time of the flight originally booked by two hours for flights of less than 3,500 kilometres, and by four hours for flights of 3,500 kilometres or more, an air carrier or tour operator may reduce the compensation provided for in paragraph 1 by 50%.
3. The compensation referred to in paragraph 1 shall be paid in cash or, with the signed agreement of the passenger, by bank orders, bank cheques, in travel vouchers and/or other services.
4. The distances given in paragraphs 1 and 2 shall be measured by the great circle track method (great circle route).

*Article 8*  
*Right to assistance*

1. In the case of denied boarding passengers shall be offered the choice between:
  - (a) reimbursement of the full cost of the ticket, under the conditions by which it was paid, for the part or parts of the journey not made and for the part or parts already made, if no longer serving any purpose in relation to the passenger's original travel plan, with a return flight to the first point of departure at the earliest opportunity;
  - (b) re-routing, under comparable transport conditions, to their final destination at the earliest opportunity; or
  - (c) re-routing, under comparable transport conditions, to their final destination at a later date at the passenger's convenience **and subject to availability**.

The passengers shall also be offered free of charge a telephone call and/or telex or fax message and/or e-mail to the **points of departure and of final destination**.

2. When, in the case where a town, city or region is served by several airports, an air carrier or tour operator offers a passenger a flight to an alternative airport to that for which the booking was made, the carrier or tour operator shall bear the cost of travelling from that alternative airport either to that for which the booking was made or to another close-by destination, agreed with the passenger.

*Article 9*  
*Right to care while awaiting a later flight*

1. In the case of denied boarding passengers shall be offered free of charge:
  - (a) meals and refreshments in a reasonable relation to the waiting time;
  - (b) hotel accommodation in cases where a stay of one or more nights, or an additional stay, becomes necessary;

**(ba) free transport or reimbursement of expenses for the journey from the airport to the place of accommodation (hotel or other) and return.**

*Article 10*  
*Cancellation*

1. In the case of cancellation of a flight, the following provisions apply except when the air carrier or tour operator can prove that it was done solely because of **force majeure**.
2. When, **less than seven days before the expected time of departure**, an air carrier or tour operator cancels or reasonably expects to cancel a flight, it shall make every effort to contact the passengers affected **in order to explain to them any possible alternatives** and to agree with them the conditions under which they accept to surrender their confirmed reservations. At the very least the passengers shall be offered a choice between:
  - (a) either reimbursement of the full cost of the ticket, under the conditions by which it was paid, for the part or parts of their journey not made and for the part or parts already made, if no longer serving any purpose in relation to the passenger's original travel plan, with a return flight to the first point of departure at the earliest opportunity; or
  - (b) rerouting, under comparable conditions of transport, to their final destination at the earliest opportunity; or
  - (c) rerouting, under, comparable transport conditions, to their final destination at a later date, at their convenience.
3. Those passengers, with whom an air carrier or tour operator does not reach an agreement in accordance with paragraph 2 and which present themselves for check-in in accordance with Article 3, paragraph 1, shall be offered the compensation and assistance offered in the case of denied boarding, as specified in Articles 7, 8 and 9.

*Article 11*  
*Delay*

1. When an air carrier or tour operator reasonably expects a flight to be delayed beyond its scheduled time of departure for two hours or more in the case of flights of less than 3,500 kilometres or for four hours or more in the case of flights of 3,500 kilometres or more, passengers shall be offered the **care** offered in the case of denied boarding as specified in Article 9, **except when it can prove that the delay was solely caused by force majeure**.
2. In any event, that care shall be offered **within the time limits set out in paragraph 1 with respect to each distance bracket. Such care shall be offered immediately to a person with reduced mobility, to an accompanying person and to an unaccompanied child irrespective of the distance of the flight.**

*Article 12*  
*Further compensation*

This Regulation shall apply without prejudice to a passenger's subsequent application to the courts having jurisdiction, with a view to further compensation **except with regard to volunteers who have surrendered a confirmed reservation in accordance with Article 5, paragraph 1 or Article 10, paragraph 2.**

*Article 13*  
*Compensation from a third party*

In cases where an air carrier or tour operator pays compensation or meets the other obligations incumbent on it under this Regulation, no provision of this Regulation may be interpreted as restricting its right to seek compensation from a third party in accordance with the law applicable.

*Article 14*  
*Obligation to inform passengers of their rights*

1. The legal entity responsible for check-in of passengers shall ensure that a clearly legible notice containing the following text is displayed at the check-in area in a manner clearly visible to passenger: "If you are denied boarding or if your flight is cancelled or delayed for at least two hours, ask at the check-in counter or boarding gate for the text stating your rights, particularly with regard to compensation and assistance".
2. An air carrier or tour operator denying boarding or cancelling a flight shall provide each passenger affected with a written notice setting out the rules for compensation and assistance in line with the provisions of this Regulation. It shall also provide each passenger affected by a delay of at least two hours with an equivalent notice. **The contact details of the body stipulated in Article 18 shall also be given to the passenger in written form.**

*Article 15*  
*Exclusion of waiver*

Obligations vis-à-vis passengers pursuant to this Regulation may not be limited or waived, notably by a derogation or restrictive clause in the contract of carriage. **If, nevertheless, such a derogation or restrictive clause is applied in respect of a passenger, and the latter has accepted compensation inferior to that provided for in this Regulation, the passenger shall be entitled to take the necessary legal action in the competent courts in order to obtain additional compensation.**

*Article 16*  
*Penalties*

Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by 1<sup>st</sup> January 2004 at the latest and shall notify it without delay of any subsequent amendment affecting them.

*Article 17*  
*Enforcement*

Each Member State shall designate the body responsible for the enforcement of this Regulation and shall make this public. The body shall be responsible for enforcement of the Regulation as regards airports situated on the territory of the Member State and flights from a third country to an airport situated on that territory. It shall be responsible, among other things, for the investigation of complaints concerning the respect of this Regulation and for taking the measures necessary to ensure that the rights of passengers are respected.

*Article 18*  
*Complaints*

**Without prejudice to Article 12**, a passenger may complain to any body designated by a Member State about a possible infringement of this Regulation at any airport situated on the territory of a Member State to which the Treaty applies or concerning any flight from a third country to an airport situated on that territory. If not responsible, the body shall communicate the complaint to the body responsible for enforcement in the case in question. The body responsible shall investigate the complaint and take any measures necessary to ensure that the rights of the passenger are respected.

*Article 19*  
*Report*

The Commission shall report to the European Parliament and the Council **no later than five years after the entry into force of the Regulation** on its overall operation and results , in particular the incidence of denied boarding and of cancellation of flights.

The report shall be accompanied where necessary by legislative proposals.

*Article 20*  
*Repeal*

Regulation (EEC) No. 295/91 is repealed.

*Article 21*  
*Entry into force*

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

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*