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COM(2023) 753 final

2023/0437 (COD)

Proposal for a

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

**amending Regulations (EC) No 261/2004, (EC) No 1107/2006, (EU) No 1177/2010, (EU) No 181/2011 and (EU) 2021/782 as regards enforcement of passenger rights in the Union**

(Text with EEA relevance)

{SEC(2023) 392 final} - {SWD(2023) 389 final} - {SWD(2023) 386 final} -  
{SWD(2023) 387 final}

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **• Reasons for and objectives of the proposal**

This legislative proposal for the revision of the Passenger Rights regulatory framework<sup>1</sup> will help to incentivise the use of collective modes of transport and consequently also to implement the Green Deal. It is a key action of the Sustainable and Smart Mobility Strategy<sup>2</sup> (SSMS) adopted by the Commission in 2020.

Passenger rights rely on a dozen separate and complementary rights prior, during and after the journey, including inter-alia a right to accessibility and assistance for persons with disabilities and reduced mobility (PRM), a right to information before and at the various stages of travel, a right to the fulfilment of the transport contract in case of disruption, a right to compensation under certain circumstances, a right to a quick and accessible system of complaint handling. As the EU passenger rights apply annually to more than 13 billion passenger travels in the EU, the protection of passengers has become a flagship initiative of the EU. Nevertheless, despite substantial progress made in the last 20 years, many challenges remain.

This revision addresses two problematic areas, which were confirmed by an impact assessment. First and foremost, shortcomings in the implementation and enforcement of passenger rights prevent passengers of all modes of transport from enjoying their rights fully. This problem has been recurring since the adoption of the various passenger rights Regulations. It was already identified in reports and studies of the Commission.<sup>3</sup>

As shown by several Eurobarometer surveys, the lack of awareness of passengers on their rights and the problems with enforcing these rights are recurrent issues. The last survey of 2019<sup>4</sup> shows that only about one in three EU citizens knows that they are protected by specific rights when travelling via collective transport in the EU.

The lack of passenger awareness and problems with the enforcement of their rights were also highlighted by the European Court of Auditors (ECA) in its report “EU passenger rights are comprehensive, but passengers still need to fight for them” of 2018<sup>5</sup>. The COVID-19 pandemic showed this, too: passengers were not aware of their rights and often did not know whom to turn to when they wanted to enforce them. The ECA’s Special report of 2021 ‘Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts’ came to the same conclusion<sup>6</sup>.

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<sup>1</sup> The passenger rights regulatory framework consists of five Regulations: Regulation (EC) No 261/2004 and Regulation (EC) No 1107/2006 for air, Regulation (EU) No 1177/2010 for waterborne, Regulation (EU) No 181/2011 for bus and coach, and Regulation (EU) 2021/782 replacing Regulation (EC) No 1371/2007 for rail transport.

<sup>2</sup> COM(2020)789 final: Sustainable and Smart Mobility Strategy – Putting European transport on track for the future.

<sup>3</sup> See impact assessment SWD(2023)386, section 2 on problem definition.

<sup>4</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_19\\_6814](https://ec.europa.eu/commission/presscorner/detail/en/ip_19_6814). A new Eurobarometer survey on passenger rights is under preparation, the results are expected for Q1/2024.

<sup>5</sup> European Court of Auditors’ Special Report 30/2018: [EU passenger rights are comprehensive, but passengers still need to fight for them](#).

<sup>6</sup> [European Court of Auditors’ Special Report 15/2021: Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts](#).

The second problem addressed in this proposal is more targeted: it focuses on the right to reimbursement of the full cost of an airline ticket when the flight is not carried out as planned, an issue which was exacerbated in the COVID-19 pandemic. Currently, reimbursement rules are unclear when air passengers make their bookings via an intermediary.

In conjunction with this proposal, a third problem, the protection of passengers during multimodal journeys, is addressed in another legislative proposal dealing with the extension of passenger rights to cover multimodal journeys<sup>7</sup>.

As regards shortcomings in the implementation and enforcement of passenger rights in all modes of transport, objectives are twofold: first, to ensure effective and efficient enforcement across all Member States, allowing national enforcement bodies (NEBs) to have more effective tools for the monitoring of operators' compliance with passenger rights and second, to ensure a more effective complaint handling for passengers, providing them with a quick, simple and accessible system. The proposal will contribute to harmonising rules for the various modes, making best use of recent developments in the new rail passenger rights Regulation (EU) 2021/782 and of the Commission proposal of 2013 to amend Regulation (EU) No 261/2004<sup>8</sup>. All passengers benefiting from passenger rights would benefit from these new measures potentially.

As regards the reimbursement of air passengers having made their booking via an intermediary, the objective is to ensure a clear reimbursement procedure for all actors involved (e.g., carriers, intermediaries and passengers). Around 450 million passengers a year who booked their tickets via intermediaries would potentially benefit from these measures.

The question of standardised dimensions for carry-on luggage has been raised recently by the European Parliament in a resolution<sup>9</sup>. The Commission proposal of 2013 to amend Regulation (EU) No 261/2004 already addresses some of the concerns of the European Parliament, notably the obligation of air carriers to inform passengers of the baggage allowance applicable to their respective bookings. However, passengers also often face confusion as regards the permitted hand luggage depending on airline and fare class, due to the proliferation of different dimensions and weights permitted by different airlines and for different classes of tickets. While noting air carriers' freedom to set air fares, there should be a small number of common sizes and weights to reduce the confusion. Air carriers should work with aircraft manufacturers and luggage manufacturers as necessary to agree on these standards, but also inform about their adherence to industry standards on weight and dimensions of hand luggage in the context of their service quality standards on which they have also to report.

Finally, in other transport modes than air, a carrier which requires a person with disability to travel accompanied by an assistant has to let the assistant travel free of charge. The rules related to the different transport modes aimed at further implementing accessibility as set forth in Article 9 of the UN Convention on the Rights of Persons with Disability (UNCRPD) should be further aligned and include also air transport. If an air carrier requires a person with disability to travel accompanied by an assistant in order to comply with the statutory aviation

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<sup>7</sup> See proposal for a Regulation of the European Parliament and of the Council on passenger rights in the context of multimodal journeys, COM(2023)752 final of 29.11.2023.

<sup>8</sup> 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 and Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air, COM(2013)130 final of 13.03.2013.

<sup>9</sup> [https://www.europarl.europa.eu/doceo/document/TA-9-2023-0344\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2023-0344_EN.html).

safety requirements, the air carrier should be required to transport the accompanying person free of charge. This is an important precondition for persons with disability and persons with reduced mobility to use air transport comparable to others. Therefore, this will be a significant step to implement the accessibility obligations set forth in the UNCRPD in EU law.

Overall, the reform addresses the shortcomings in the implementation and enforcement of existing passenger rights and does not establish any new passenger rights as such. It strikes a balance between the protection of passengers and the obligations of carriers and infrastructure managers.

This initiative is part of the Commission Work Programme 2023 under Annex II (REFIT initiatives), under the heading ‘An Economy that Works for People’.<sup>10</sup>

- **Consistency with existing policy provisions in the policy area**

The Commission committed in the Sustainable and Smart Mobility Strategy to take action to ensure that EU passenger rights are better implemented, clearer for both carriers and passengers, offer adequate assistance and reimbursement, including when disruptions arise, and appropriate sanctions are applied if the rules are not properly observed as well as to consider options and benefits to go further with a multimodal framework for passenger rights (Action 63). The proposal is therefore in line with the passenger rights policy.

To a significant extent, proposed amendments dealing with enforcement take stock of both the new rules in the new rail Regulation (Regulation (EU) 2021/782) and of the Commission proposal of 2013 to amend Regulation (EU) No 261/2004. This would make possible the simplification and harmonisation of the regulatory framework to the benefit of the European passengers.

The new Regulation on rail passenger rights has introduced several new rules which could also be useful for the protection of passengers travelling with other modes of transport, such as the obligation for operators to share relevant information with NEBs, better tools for NEBs and a new EU-wide standardised form for compensation and reimbursement. The policy measures presented in this proposal are therefore complementary to the new rail passenger rights Regulation.

With regard to air passenger rights, the Commission, already in 2013, proposed changes to regulation (EC) No 261/2004 to clarify passenger rights and to make them more effective. In the Commission’s view, the rules proposed in 2013 for the better enforcement of air passenger rights are still fit for purpose. It has been a priority pending file in its past annual work programmes and remains a priority pending file for 2024.<sup>11</sup> The three EU institutions established common legislative priorities for 2023 and 2024, on which they want to achieve substantial progress, and the proposal of 2013 is also listed there.<sup>12</sup>

In this context, the proposed rules on better enforcement identified in the 2013 air proposal (such as the possibility for the Commission to request NEBs to investigate specific suspected

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<sup>10</sup> Commission Work Programme 2023 A Union standing firm and united, COM(2022)548 final of 18.10.2022.

<sup>11</sup> Commission Work Programme 2024 Delivering today and preparing for tomorrow, COM(2023)638 final of 17.10.2023, Annex III, p. 26, no 109.

<sup>12</sup> See the interinstitutional procedure 2013/0072(COD)  
[https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2013/0072\(COD\)&l=en](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2013/0072(COD)&l=en)  
and the list of common legislative priorities for 2023 and 2024:  
<https://oeil.secure.europarl.europa.eu/oeil/popups/thematicnote.do?id=41380&l=en>.

practices by operators) are also useful for the protection of passengers using other modes. It is, therefore, proposed to extend those rules to the other modes of transport. Regarding air passenger rights, the policy measures presented in this proposal are therefore complementary to the legislative proposal of 2013.

In 2021, the Commission published three evaluations of the regulatory framework for passenger rights for waterborne, bus and coach transport, as well as for PRM travelling by air<sup>13</sup>. The three evaluations show inter alia that there is room for improvement when it comes to enforcement of these Regulations.

As shown by several Eurobarometer surveys, the lack of awareness of passengers of their rights and the problems with enforcing these rights are recurrent issues. The last survey of 2019<sup>14</sup> shows that only about one in three EU citizens knows that they are protected by specific rights when using air, rail, bus and coach and waterborne transport in the EU (a similar result as the 2014 Eurobarometer). For this reason, the Commission regularly organises campaigns to promote passenger rights awareness, and offers information on the Single Digital Gateway ‘Your Europe’ as well as on a passenger rights app that is available in all official EU languages.

The lack of passenger awareness and problems with the enforcement of their rights were also highlighted by the European Court of Auditors (ECA) in its reports of 2018 and 2021 mentioned above.

- **Consistency with other Union policies**

The proposal takes into consideration other EU legislation that is currently also being revised or developed, to ensure harmonisation and coherence. These include in particular the ongoing initiatives on consumer protection - which include the EU passenger rights Regulations – which are also complementary, but not overlapping with this initiative.

Regarding the review of Directive (EU) 2015/232 on package travel and linked travel arrangements (PTD), the rules on package travel under the PTD and the proposal to revise it,<sup>15</sup> are also consistent with this proposal: Albeit both deal with travel, they concern two separate markets. Whereas this proposal – in line with the existing legislation on passenger rights and the proposal to amend these – exclusively deals with passenger transport services (e.g. a combination of a rail and bus service), the rules on package travel cover a combination of different travel services offered by an organiser (e.g. a package combining a flight and hotel accommodation). Nevertheless, if a service provider (carrier) cancels the service, the organisers under the proposal for the PTD as well as the intermediaries who paid for transport tickets from their own account for the passenger under this proposal have the right to receive the reimbursement from these service providers within 7 days. Passengers who book an air ticket via an intermediary will also be reimbursed within 14 days like package travellers. While the proposal for the package travel Directive covers also issues like prepayments and insolvency protection, the protection of passengers in the event of insolvency of air carriers and major crisis will be addressed in the ongoing revision of Regulation (EC) No 1008/2008

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<sup>13</sup> SWD(2021)417, SWD(2021)413 and SWD(2021)415  
[https://transport.ec.europa.eu/news-events/news/evaluation-confirms-better-protection-air-ship-and-bus-passengers-thanks-eu-law-2021-12-15\\_en](https://transport.ec.europa.eu/news-events/news/evaluation-confirms-better-protection-air-ship-and-bus-passengers-thanks-eu-law-2021-12-15_en).

<sup>14</sup> Special Eurobarometer 2019 survey on EU citizens' views on passenger rights, <https://europa.eu/eurobarometer/surveys/detail/2200>.

<sup>15</sup> Proposal amending Regulations (EC) No 261/2004, (EC) No 1107/2006, (EU) No 1177/20, (EU) No 181/2011 and (EU)2021/782 as regards enforcement of passenger rights in the Union, COM(2023)753 final of 29.11.2023.

(Air Services Regulation), namely through measures to improve the financial fitness and resilience of air carriers and pre-empt situations of bankruptcy or liquidity crisis.<sup>16</sup>

The enforcement of consumer protection legislation rests on two complementary pillars. Firstly, consumers can make use of private enforcement tools: redress before a court or out-of-court settlement. The Commission adopted in 2023 a proposal amending Directive 2013/11/EU (the Alternative Dispute Resolution Directive) to further enhance out-of-court settlement<sup>17</sup>, either individually or as a group. This proposal enhances Alternative Dispute Resolution, because it requires national enforcement bodies to inform passengers about the possibilities of Alternative Dispute Resolution. Secondly, consumers can be protected by public enforcement, which is carried out mainly by public authorities protecting the collective interest of consumers. Passenger rights are primarily enforced by the national enforcement bodies responsible for the EU passenger rights Regulations. Regulation (EU) 2017/2394 (the Consumer Protection Cooperation Regulation) is a complementary instrument establishing a cooperation framework to allow national authorities from all countries in the European Economic Area to jointly address breaches of consumer rules (including passenger rights) when the service provider and the consumer are established in different countries. Actions based on the Consumer Protection Cooperation Regulation against airlines and intermediaries have shown that the dialogues can be a useful instrument to support enforcement of passenger rights, but also that the rules in force need to be strengthened, especially when an intermediary was involved in buying the ticket.<sup>18</sup>

This proposal is consistent with the Commission Delegated Regulation (EU) 2017/1926 on Multimodal Travel Information Services (MMTIS).<sup>19</sup> This Regulation requires data holders (e.g. transport authorities, transport operators and infrastructure managers) to make data on transport networks (including data on transport services such as timetables and hours of operation) accessible to data users, via national access points established by the Member States, when the data is available in a digital machine-readable format. It is also consistent with the proposal for the revision of the Commission Delegated Regulation (EU) 2017/1926<sup>20</sup>. This revision extends this requirement by gradually adding, from December 2025 to December 2028, dynamic data types such as real-time arrival and departure times. This is of essential importance for this proposal regarding real-time information to passengers about travel disruptions when switching modes. This will be further supported by the proposed amendment of the ITS Directive.<sup>21</sup> This amendment should ensure that ITS applications in the field of road transport enable seamless integration with other modes of transport, such as rail

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<sup>16</sup> [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13255-Revision-of-the-Air-Services-Regulation\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13255-Revision-of-the-Air-Services-Regulation_en).

<sup>17</sup> Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2013/11/EU on alternative dispute resolution for consumer disputes, as well as Directives (EU) 2015/2302, (EU) 2019/2161 and (EU) 2020/1828, COM(2023)649 final, 17.10.2023.

<sup>18</sup> [https://commission.europa.eu/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/air-travel\\_en](https://commission.europa.eu/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/air-travel_en).

<sup>19</sup> Commission Delegated Regulation (EU) 2017/1926 of 31 May 2017 supplementing Directive 2010/40/EU of the European Parliament and of the Council with regard to the provision of EU-wide multimodal travel information services (OJ L 272, 21.10.2017, p. 1).

<sup>20</sup> [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12912-EU-wide-multimodal-travel-new-specifications-for-information-services\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12912-EU-wide-multimodal-travel-new-specifications-for-information-services_en).

<sup>21</sup> Proposal for a Directive amending Directive 2010/40/EU on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport, COM(2021)813 final - 2021/0419 (COD) - (EP and Council agreed on the provisional text in June 2023).



or active mobility, thus facilitating a shift to those modes whenever possible, to improve efficiency and accessibility.

This proposal is also consistent with the Communication on a common European mobility data space (EMDS), which outlines the proposed way forward for the creation of a common European mobility data space, including its objectives, main features, supporting measures and milestones. Its objective is to facilitate access, pooling and sharing of data from existing and future transport and mobility data sources.<sup>22</sup>

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

### **• Legal basis**

Article 91(1) of the Treaty on the Functioning of the European Union (TFEU) serves as the legal basis for the adoption of EU legislation related to a common transport policy. This provision is the legal basis for the passenger rights Regulations currently in force. Furthermore, pursuant to Article 100(2) TFEU the Union legislator may lay down appropriate provisions for sea transport.

### **• Subsidiarity (for non-exclusive competence)**

The level of protection of passengers was rather limited before the passenger rights Regulations were adopted. Within the single market, many carriers (not only airlines but also railway undertakings and shipping companies, and increasingly bus companies) provide their services in different Member States and even beyond. Harmonisation of passenger rights at EU level is therefore necessary to ensure a level playing field for all actors involved in the provision of transport services (e.g., carriers, infrastructure managers (especially relevant for PRM), intermediaries, etc.) which are often cross-border. It remains that effective enforcement rests on the cooperation between Member States and that monitoring activities are performed at national level. Regarding reimbursement by intermediaries, the air travel market in the EU is essentially cross-border, with some of the largest intermediaries being international market players. Action at national level may lead to distortions of the internal market while passengers must be able to assert their rights in the same manner and to benefit from the same protection regardless of the Member State where they travel.

The new measures related to enforcement would allow making existing rights more effective by ensuring that NEBs' enforcement practices would incentivise carriers, terminal operators and intermediaries (especially those who do not always apply the existing rules on passenger rights rules in a fully compliant way) to deliver the best protection to passengers and by removing obstacles that prevent citizens from effectively exercising their rights under EU law. A more effective implementation of passenger rights will incentivise people to use more public transport instead of private cars and contribute this way to the Green Deal. Finally, the new measures will contribute to enhance the protection for air passengers across the EU, ensuring that they will be reimbursed also if they booked via an intermediary. For these reasons, the problems identified above require action at EU level.

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<sup>22</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Creation of a common European mobility data space, COM(2023)751 final of 29.11.2023.

- **Proportionality**

As detailed in chapter 7 of the Impact Assessment accompanying this proposal and below under point 3, none of the two options dealing with enforcement goes beyond what is necessary to reach the overall policy objectives to ensure the proper functioning of the single market for passenger transport and to achieve a high level of consumer protection for passengers when travelling within one mode or when switching modes during their journey, by enabling carriers, intermediaries and (especially for PRM) terminal operators and national administrations to apply and enforce these rights in an efficient and effective manner. The same applies to policy options addressing the lack of clarity of reimbursement rules when a flight is booked via an intermediary.

- **Choice of the instrument**

Since this is a proposal for revising five existing Regulations, the instrument chosen is also a Regulation.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

In 2020-2021, the Commission performed evaluations of the passenger rights Regulations for air PRM (Regulation (EC) No 1107/2006), waterborne (Regulation (EU) No 1177/2010) and bus and coach (Regulation (EU) No 181/2011). The three evaluations highlight that there are still challenges in particular when it comes to applying these rules and monitoring and enforcing them. They showed that the magnitude of compliance monitoring activities across Member States varies significantly, and national enforcement bodies (NEBs) are often not sufficiently aware whether and how passenger rights are protected. The total amount of complaints submitted to NEBs remains low or very low overall: around 15 complaints per million passengers as regards for Air PRM passenger rights, around 1 complaint per million passengers for waterborne passenger rights and around 1.5 complaints per million passengers for bus and coach passenger rights, but it remains unclear whether this is the case because the passenger rights are well protected or whether passengers do not complaint, and if so for which reasons, including because they are unaware of the passenger rights.

- **Stakeholder consultations**

The objective of the consultations was to collect qualitative and quantitative evidence from relevant stakeholder groups and from the general public.

The relevant stakeholder groups consist of organisations representing consumers and passengers (including persons with disabilities), NEBs and other public authorities, alternative dispute resolution bodies, carriers (airlines, railway undertakings, bus and coach companies, shipowners) and their associations, terminal operators (airport managing bodies, railway station managers, bus and coach terminal operators, port terminal operators) and their associations; intermediaries (intermediary ticket vendors, online travel agents, package travel organisers) and their associations, insurance companies and insolvency protection funds, credit card companies and claim agencies.

The Commission consulted stakeholders via the following methods: responses to the Call for Evidence, online Open Public Consultation, targeted public consultation of the relevant



stakeholder groups by online questionnaires, interviews, workshops and NEB expert group meetings<sup>23</sup>.

- **Collection and use of expertise**

#### Court of Auditors

The European Court of Auditors Special Report no 30/2018: “EU passenger rights are comprehensive but passengers still need to fight for them” as well as the Special Report 15/2021 on Air passenger rights during the COVID-19 pandemic, were taken into account. These recommendations are aiming to improving the coherence, the clarity, and the effectiveness of the EU passenger rights framework and further empowering the national enforcement bodies and enhancing the mandate of the Commission.

#### Evaluation studies

The three evaluations of the passenger rights for waterborne, and bus and coach transport as well as for PRM travelling by air, published in 2021, also served as external expertise.

#### Other studies and surveys

External studies on the current level of protection of air passenger rights in the EU<sup>24</sup> (2020) and on passenger rights in multimodal transport<sup>25</sup> (2019) were also considered as well as the Eurobarometer survey on passenger rights carried out in 2019.<sup>26</sup>

#### Impact assessment

An external study was carried out to support the impact assessment.

The proposal for a Regulation amending Regulations (EC) No 261/2004, (EC) No 1107/2006, (EU) No 1177/2010, (EU) No 181/2011 and (EU) 2021/782 as regards enforcement of passenger rights in the Union is accompanied by an impact assessment report, which received a positive opinion with reservations from the Regulatory Scrutiny Board (RSB) on 7 July 2023. The impact assessment report was revised in accordance with the Board’s findings and recommendations. The problem analysis and the analysis of benefits were strengthened, especially with regard to the expected consumer benefits. A more detailed assessment of the impacts on competitiveness of the most affected economic actors was added.

The impact assessment considered in detail policy options addressing the two problem areas which are covered by this proposal: (1) passengers not fully benefitting from their rights due to shortcomings in implementation and enforcement and (2) unclear reimbursement rules when flights were booked via an intermediary.

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<sup>23</sup> For more information on the stakeholder consultation, see the Synopsis report in Annex 2 of the Impact Assessment SWD(2023)386.

<sup>24</sup> [Study on the current level of protection of air passenger rights in the EU – Publications Office of the EU \(europa.eu\).](https://op.europa.eu/en/publication-detail/-/publication/f176da6f-d9ca-11e9-9c4e-01aa75ed71a1)

<sup>25</sup> Exploratory study on passenger rights in the multimodal context (June 2019):

[https://op.europa.eu/en/publication-detail/-/publication/f176da6f-d9ca-11e9-9c4e-01aa75ed71a1.](https://op.europa.eu/en/publication-detail/-/publication/f176da6f-d9ca-11e9-9c4e-01aa75ed71a1)

<sup>26</sup> Special Eurobarometer 2019 survey on EU citizens’ views on passenger rights, [https://europa.eu/eurobarometer/surveys/detail/2200.](https://europa.eu/eurobarometer/surveys/detail/2200)

As far as this proposal is concerned, the impact assessment's preferred option is a combination of those options scoring best for each problem area, i.e., policy option (PO) 1.2 for enforcement and PO 3.2 for reimbursements.

As regards the area of enforcement, two policy options were considered:

PO 1.1 aims to harmonise enforcement and complaint handling rules by introducing measures which exist in the new Regulation (EU) 2021/782 on rail passenger rights (measures a) to d)) or in the Commission's 2013 proposal on air passenger rights (measure e)) in other modes of transport:

- (a) carriers, terminal managers and intermediaries will have to provide NEBs with relevant data at NEBs' request; the measure will have a very positive impact on the supervision activity performed by NEBs as it will substantially develop their knowledge on stakeholders' behaviours.
- (b) carriers and terminal managing bodies will have to adopt and implement service quality standards and report about their implementation; carriers will also have to inform passengers and NEBs about their in the implementation of passenger rights.
- (c) mandating the Commission to adopt standardised reimbursement and compensation request forms to make easier for passengers to make their claims; these forms will help citizens to submit a complete file with all the relevant details and operators will be obliged to accept them, keeping in mind that existing forms from operators or NEBs would remain valid.
- (d) NEBs will have to inform passengers, where necessary, about their right to seek individual redress using alternative dispute resolution bodies.
- (e) the Commission may request investigations by NEBs, especially in cases involving several Member States to trigger relevant cooperation between Member States.

PO 1.2 consists of all the measures in PO 1.1 plus two additional measures:

- (f) Improving the information to passengers on their rights as a passenger with the aim to raise their awareness of these rights, in particular at the time of booking and during journey disruptions.
- (g) Obliging NEBs to perform compliance monitoring activities on the basis of a risk assessment; NEBs will make best use of data received from stakeholders and will develop a monitoring programme based on the assessment of the risk of recurrent non-compliance with passenger rights rules. Carriers and terminal managers will ensure that non-conformities identified during NEB monitoring activities are corrected promptly.

The preferred policy option for the enforcement area is PO 1.2, which is the policy option that best ensures that carriers and terminal operators comply with their respective obligations, contribute to the effective complaint handling for passengers, and best ensure that NEBs enforce passenger rights most effectively and efficiently across all Member States. PO 1.2 generates higher additional costs to carriers, terminal operators and NEBs than PO 1.1, but the difference is marginal (EUR 130.7 million for PO 1.1 versus EUR 138 million for PO.1.2, expressed as present value over 2025-2050 relative to the baseline) and the additional costs are outweighed by the increased effectiveness of the measures presented. PO 1.2 is also the most effective option. It goes further aligning enforcement efforts across Member States.

As regards reimbursements in money when air tickets were booked via intermediaries, three options were considered in the impact assessment: PO 3.1: the option that the passenger may only request the reimbursement from the carrier, PO 3.2: the option that the carrier can decide whether the passenger has to request the reimbursement from the intermediary (provided the intermediary agrees to this) or the carrier, and PO 3.3: the passenger can choose whether to request the reimbursement to the intermediary, or the air carrier. POs 3.1 and 3.2 were considered to be equally effective in ensuring clarity on the reimbursement process, since both intermediary and air carrier would establish clarity upfront, prior to booking. In terms of efficiency, PO 3.2 scored best, with the least costs for all affected parties, followed by PO 3.3 and lastly PO 3.1. POs 3.2 and 3.3 were considered as equally coherent, in particular since they create an alignment with the Package Travel Directive and its ongoing review. As regards subsidiarity and proportionality, PO 3.2 scored much better than the other two. It is the only option which reflects the current air carrier distribution models and is least invasive in terms of market practice. For these reasons, PO 3.2 was chosen as preferred option. It is assumed to generate administrative costs for air carriers of 0.07 million EUR and administrative costs for intermediaries of 57.42 million EUR, as well as hassle cost savings for consumers of EUR 1,679.1 million (all figures expressed as present value over 2025-2050 relative to the baseline).<sup>27</sup>

The preferred option is expected to have very limited employment and environmental impacts. It will result in increased confidence of passengers in enforcement of passenger rights, including when buying air tickets via an intermediary, which will in turn support the shift towards more sustainable transport choices by consumers on a given journey. The preferred option is consistent with the environmental objectives of the European Green Deal and the European Climate Law. It contributes towards Sustainable Development Goal 13 (Take urgent action to combat climate change and its impacts). The impact on SMEs in terms of additional costs is estimated to be very limited.<sup>28</sup>

- **Regulatory fitness and simplification**

This initiative is part of the Commission Work Programme 2023 under Annex II (REFIT initiatives), under the heading ‘An Economy that Works for People’.<sup>29</sup> It has an important REFIT dimension in terms of harmonisation of rights across modes. For passengers and NEBs, the proposed EU-wide standardised claim form that passengers can always resort to (instead of using claim tools that vary across operators) will simplify passengers’ lives, as well as possibly those of the operators and NEBs. For transport operators it will be clearer how to comply with the existing rights, making implementation more efficient. For operators applying passenger rights in a compliant manner, the additional obligations will be performed at the lowest cost. For operators whose non-compliance is recurrent in the application of certain rights, the new obligations will encourage change. The work of the NEBs will be made more efficient because transport operators will have to share more data with them about their compliance with the rules, enabling a risk-based approach to their oversight activities.

The initiative also presents simplifications for passengers who use intermediaries to buy their air tickets, as it becomes clear how they will be reimbursed (most importantly: by whom and when). Clear deadlines for intermediaries’ reimbursement payments to passengers will save the passenger the hassle of having to check different terms and conditions, in which currently,

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<sup>27</sup> SWD(2023)386.

<sup>28</sup> SWD(2023)386.

<sup>29</sup> COM(2022)548 final, Annex II REFIT proposals, p. 7, No 6.

the payment delays are often not stipulated. For air carriers and intermediaries alike, the reimbursement process will be made more efficient as the process and the deadlines, and the information channels, will be clear for all parties.

SMEs impacted by the initiative account for 95% of air intermediaries, 85% of bus and coach operators and 99% of waterborne passenger operators.<sup>30</sup>

The impact on EU competitiveness or international trade is expected to be largely neutral.

All but one of the measures in the area of enforcement regulate the relationship between NEBs and operators or the Commission and NEBs, and they are adapted to the digital environment. The only measure that has a direct impact on citizens is the introduction of standardised reimbursement and complaint claim forms. Such forms will be available both in physical and digital format: it is expected that most citizens will use the digital format, but those citizens who for any reasons do not use digital solutions will not be excluded.

The measures foreseen in the area of reimbursements are appropriate for both the physical and the digital environment. Passengers should be informed about the online, telephone postal contact details of the body to whom the passenger should request the reimbursement. The air carrier's single point of contact is foreseen to offer telephone, postal and online means of contact. Air intermediaries and air carriers should inform passengers on the reimbursement process on their websites, but also on the booking receipt.

#### Sustainable Development Goals

The initiative contributes towards **Sustainable Development Goals** (SDG) #10 Reduce inequality within and among countries (regarding passengers with disabilities and reduced mobility), #13 Climate action (enhanced passenger rights may incentivise people to use more public transport instead of private cars), and #16 Provide access to justice for all and build effective, accountable and inclusive institutions (enhanced and accessible means of redress for passengers and better tools for enforcement for the administration).

#### Climate consistency check

The proposal is consistent with climate neutrality objective set out in the European Climate Law and the Union 2030 and 2050 targets and contributes to achieve SDG #13 Climate action as mentioned above.

#### Fundamental rights

The proposal respects fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union, in particular Articles 21, 26, 38 and 47 concerning, respectively, the prohibition of any form of discrimination, the integration of persons with disabilities, the ensuring of a high level of consumer protection, and the right to an effective remedy and to a fair trial.

The obligation to share passengers' personal data has an impact on the right to protection of personal data under Article 8 of the Charter. This obligation is necessary and proportionate in light of the objective of ensuring that consumers are effectively protected in accordance with Article 38 of the Charter. In addition, to further mitigate the effects on data protection, data protection safeguards are implemented, namely purpose limitation and a clear retention

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<sup>30</sup> SWD(2023)386.

period. Further provisions of the proposal concerning the use of passengers' contact details contribute to respect the right to protection of personal data under Article 8 of the Charter by clearly laying down which personal data can be used for specified purposes (for informing, reimbursing and rerouting the passenger as well as for safety and security reasons) and under which conditions.

#### **4. BUDGETARY IMPLICATIONS**

The proposal has no implications for the EU budget.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The Commission will evaluate the implementation and effectiveness of this initiative on the basis of progress indicators listed in the Impact Assessment such as the number of complaints that NEBs, alternative dispute resolution bodies and European Consumer Centres receive, the number and type of monitoring activities that NEBs carry out and the number of sanctions they impose on operators.<sup>31</sup> In addition, the Eurobarometer surveys will serve as an indicator to measure passengers' knowledge about their rights and their satisfaction with the way transport operators comply with EU passenger rights. The reports of carriers on the implementation of their service quality standards will also be a useful tool to evaluate the intervention. As regards reimbursements when the air ticket was booked via an intermediary, the number of passenger enquiries and complaints with NEBs about being ping-ponged between carriers and intermediaries, and complaints with NEBs regarding intermediaries (to be expected to rise as currently, NEBs do not cover intermediaries), which NEBs report to the Commission, will be important indicators.

In its Communication on 'Long-term competitiveness of the EU: looking beyond 2030'<sup>32</sup>, the Commission committed to rationalise and simplify reporting requirements without undermining the related policy objectives. This proposal is in line with those aims. Although it creates a new obligation for air, bus and coach and waterborne carriers<sup>33</sup> to publish in every two years a report about the implementation of their service quality standards with key performance indicators related to passenger rights (e.g. punctuality, complaint handling, cooperation with the representatives of persons with disabilities), these reports are absolutely necessary for monitoring and enforcing passenger rights. Carriers indicated in the stakeholder consultation that they already collect the data in question, and the frequency of reporting (only every two years) was chosen to keep the costs of implementing these measures low. In addition of being a valuable source of information for NEBs with limited resources to carry out their monitoring and enforcement tasks, these reports will allow passengers to take informed decisions about which carrier to choose based on the quality of their performance and could also encourage competition between carriers based on the quality of their performance.

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<sup>31</sup> SWD(2023)386.

<sup>32</sup> COM(2023)168 final.

<sup>33</sup> Railway undertakings have already this obligation under Article 29 of Regulation (EU) No 2021/782 on rail passenger rights and obligations.

- **Detailed explanation of the specific provisions of the proposal**

The proposal will have limited impact on the structure of the five amended Regulations. It will complement the existing regulatory framework by adding to the existing modal-based rules a set of comprehensive requirements. The structure of the new Regulation will consist of the following articles.

#### Recitals

The recitals will put the focus on the contribution of the passenger rights to the common transport policy, the consumer protection policy, the objectives of the Sustainable and Smart Mobility Strategy. The recitals also highlight the problems and objectives addressed by the proposal and the rationale of the proposed measures.

#### Article 1: Amendments to Regulation (EC) 261/2004 (on air passenger rights)

The article contains definitions of the new elements in the amended Regulation and specific provisions for the new requirements: reimbursement when ticket was booked via an intermediary; improving information to passengers on their rights at the time of booking and during journey disruptions; service quality standards, common form for reimbursement and compensation requests, risk-based approach to the monitoring of compliance, sharing of information with national enforcement bodies and information about alternative dispute resolution ADR by national enforcement bodies.

#### Article 2: Amendments to Regulation (EC) No 1107/2006 (on rights of disabled persons and persons with reduced mobility when travelling by air)

Following definitions of the new elements in the amended Regulation, the article contains the specific provisions for the new requirements: service quality standards, common form for reimbursement and compensation requests, risk-based approach to the monitoring of compliance, sharing of information with national enforcement bodies, information about ADR by national enforcement bodies, cooperation between Member States and the Commission and Passenger Rights Committee.

#### Article 3: Amendments to Regulation (EU) No 1177/2010 (on waterborne passenger rights)

Following definitions of the new elements, the article contains the specific provisions for the new requirements amending the Regulation; common form for reimbursement and compensation requests, improving information to passengers on their rights at the time of booking and during journey disruptions; service quality standards, risk-based approach to the monitoring of compliance, sharing of information with national enforcement bodies, information about ADR by national enforcement bodies, cooperation between Member States and the Commission and Passenger Rights Committee.

#### Article 4: Amendments to Regulation (EU) No 181/2011 (on passenger rights for bus and coach)

Following definitions of the new elements in the amended Regulation, the article contains the specific provisions for the new requirements: common form for reimbursement and compensation requests, improving information to passengers on their rights at the time of booking and during journey disruptions; service quality standards, risk-based approach to the monitoring of compliance with passenger rights, sharing of information with national enforcement bodies, information about ADR by national enforcement bodies, cooperation between Member States and the Commission and Passenger Rights Committee.

#### Article 5: Amendments to Regulation (EU) 2021/782 (on rail passenger rights)

The article contains definitions of the new elements in the amended Regulation and the specific provisions for the new requirements: means of communication to passengers, the risk-based approach to the monitoring of compliance with passenger rights, and cooperation between Member States and the Commission.

Articles 6 contains the common provisions of the Regulation with regard to entry into force.

Finally, annexes of the Regulation contain detailed specifications dealing with service quality standards in all modes except rail.



Proposal for a

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

**amending Regulations (EC) No 261/2004, (EC) No 1107/2006, (EU) No 1177/2010, (EU) No 181/2011 and (EU) 2021/782 as regards enforcement of passenger rights in the Union**

(Text with EEA relevance)

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 91(1) and 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<sup>1</sup>  
 Having regard to the opinion of the Committee of the Regions<sup>2</sup>,  
 Acting in accordance with the ordinary legislative procedure,  
 Whereas:

- (1) A number of amendments should be made to Regulation (EC) No 261/2004,<sup>3</sup> Regulation (EC) No 1107/2006<sup>4</sup>, Regulation (EU) No 1177/2010<sup>5</sup>, Regulation (EU) No 181/2011<sup>6</sup>, and Regulation (EU) 2021/782<sup>7</sup>, of the European Parliament and of the Council, in order to ensure effective protection of passengers' rights in the Union when travelling by air, rail, sea and inland waterways and bus and coach transport.

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

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

<sup>3</sup> 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, and repealing Regulation (EEC) No 295/91, OJ L 46, 17.2.2004, p. 1, ELI: <http://data.europa.eu/eli/reg/2004/261/oj>.

<sup>4</sup> Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air, OJ L 204, 26.7.2006, p. 1, ELI: <http://data.europa.eu/eli/reg/2006/1107/oj>.

<sup>5</sup> Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004, OJ L 334, 17.12.2010, p. 1, ELI: <http://data.europa.eu/eli/reg/2010/1177/oj>.

<sup>6</sup> Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004, OJ L 55, 28.1.2011, p. 1, ELI: <http://data.europa.eu/eli/reg/2011/181/oj>.

<sup>7</sup> Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers' rights and obligations (recast) (OJ L 172, 17.5.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/782/oj>).

- (2) Effective passenger rights should encourage an increase in travel by public transport, which is an objective set by the Sustainable and Smart Mobility Strategy adopted by the Commission in December 2020.
- (3) The Commission concluded in the comprehensive evaluations of Regulation (EC) No 1107/2006, Regulation (EU) No 1177/2010 and Regulation (EU) No 181/2011 which it carried out between 2019 and 2020 that the effectiveness of Union passenger rights legislation is compromised by a lack of awareness among passengers of their rights and the existing provisions about exercising them. In addition, these evaluations also concluded that passengers including persons with disabilities and persons with reduced mobility do not fully benefit from their rights due to shortcomings in their application by carriers, airport managing bodies, station managers, port terminal operators, bus terminal managing bodies and intermediaries, on the one hand, and shortcomings in their enforcement by the national enforcement authorities, on the other hand.<sup>8</sup>
- (4) Simplification, consistency and harmonisation of the rules of Regulation (EC) No 261/2004, Regulation (EC) No 1107/2006, Regulation (EU) No 1177/2010, and Regulation (EU) No 181/2011 is required especially as regards rules dealing with the information to passengers on their rights before and during the journey, enforcement of passenger rights and complaint handling for passengers. The existing rules in those Regulations should be amended to complement those of the recently adopted Regulation (EU) 2021/782 of the European Parliament and of the Council<sup>9</sup> as regards forms to request reimbursements and compensation, service quality standards, obligations for carriers to share information with national enforcement bodies, and information of passengers by national enforcement bodies on alternative dispute resolution.
- (5) At present, as regards air tickets booked via an intermediary, the reimbursement process is unclear and should therefore be clarified. The intermediaries are involved in the reimbursement process in two different ways: either they transmitted the passenger's (credit card) payment details directly to the carrier ('pass-through' intermediary), and the air carrier reverses the original payment flow so that the reimbursement arrives directly on the passenger's account. Or the intermediary paid the air carrier from its own account ('Merchant of Record' intermediary), and when the air carrier reverses the payment flow, the reimbursement payment arrives on the intermediary's account. The intermediary then transfers the final reimbursement payment to the passenger. Passengers are often not aware which reimbursement process the intermediary chooses. The intermediary and the air carrier should inform the passenger about the reimbursement process. In particular, the air carrier should state publicly whether it cooperates with intermediaries for the processing of reimbursements, and if so with which it does so.
- (6) Processing the reimbursement payment through the intermediary that made the payment to the air carrier from its own account ('Merchant of Record' intermediary) is a widespread air industry practice. This possibility should therefore be provided for the air carrier.

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<sup>8</sup> SWD(2021)417, SWD(2021)413 and SWD(2021)415.

<sup>9</sup> Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers' rights and obligations (recast) (OJ L 172, 17.5.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/782/oj>).

- (7) If the air carrier processes reimbursements through this type of intermediary, the payment deadline to the passenger should be extended to a maximum of 14 days to take account of the two steps in the reimbursement process. The air carrier should accordingly transfer the reimbursement payment to the intermediary within a maximum of seven days, and the intermediary should transfer it to the passenger within a further seven days. If the passenger is not reimbursed at the latest within 14 days, the passenger should however be entitled to receive the reimbursement directly from the operating air carrier.
- (8) Regulation (EU) 2016/679 of the European Parliament and the Council<sup>10</sup> applies to the processing of personal data by air carriers and intermediaries. Any processing of personal data must in particular take place in accordance with the requirements set out in Article 5(1) and Article 6(1) of Regulation (EU) 2016/679. It should be noted that the obligations to provide information to passengers concerning their rights are without prejudice to the obligation of the controller to provide information to the data subject pursuant to Articles 12, 13 and 14 of Regulation (EU) 2016/679.
- (9) When the passenger acquires a ticket from an intermediary, the air carrier should be able to contact the passenger directly where necessary in order to ensure that the passenger receives the relevant travel information, and that the air carrier fulfils its obligations under this Regulation and under applicable Union law on aviation safety and security and on the operating carrier under Regulation (EC) No 2111/2005<sup>11</sup>. The carrier may use these contact details exclusively for the purpose of fulfilling these obligations and should not process the contact details of the passengers for any other purposes. This personal data should be deleted within 72 hours after the completion of the contract of carriage unless further retention of the personal data is justified to fulfil obligations in respect of the passenger's right to re-routing, reimbursement or compensation.
- (10) A risk-based approach to the monitoring of compliance with passenger rights, which is based not only on complaints received but also on compliance monitoring activities such as inspections should ensure that national enforcement bodies are better able to detect and correct non-compliance by carriers and terminal managers with the existing rules.
- (11) Information provided to passengers on their rights before and during their journeys should lead to enhanced awareness. Such information should be concise and made easily, prominently, and directly available. It should be provided in a clear and comprehensible manner, and by electronic means as far as possible.
- (12) National enforcement bodies should cooperate with each other in order to ensure a harmonised interpretation and application of the Regulations concerned. A regular flow of information from carriers, terminal managers and intermediaries to national enforcement bodies on all aspects related to the application of the Regulations

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<sup>10</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance) (OJ L 119, 4.5.2016, p. 1).

<sup>11</sup> Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC (OJ L 344, 27.12.2004, p. 15).

concerned should enable national enforcement bodies to better fulfil their monitoring role.

- (13) Carriers and terminal managers should define, manage and monitor service quality standards for all passenger services, reflecting the operational features of each mode. Those service quality standards should refer inter alia to delays, cancellations, assistance to persons with disabilities and persons with reduced mobility, complaint handling mechanisms, customer satisfaction, and cleanliness. Carriers should also make information on their service quality standards publicly available.
- (14) Regarding air passenger rights, air carriers should strive to establish industry standards on the weight and dimensions of hand luggage with a view to limiting the current proliferation of different practices and enhancing the passenger travel experience, and report on their adherence to those standards as part of their service quality management systems. The publication of implementation reports by carriers on their quality standards should allow users to compare and make informed choices, encourage competition based on the quality of services, and facilitate uniform monitoring and enforcement by the national enforcement bodies.
- (15) To make it easier for passengers to request reimbursement or compensation in accordance with the Regulations concerned, forms that are valid throughout the Union should be established for such requests. Passengers should have the possibility to submit their requests by using such a form.
- (16) Passengers seeking individual redress should be made aware about the possibilities to complain to alternative dispute resolution bodies about alleged infringements of the Regulations concerned. The national enforcement bodies are best placed to do this.
- (17) In the light of Article 9 of the United Nations Convention on the Rights of Persons with Disabilities and in order to give persons with disabilities and persons with reduced mobility opportunities for air travel comparable to those of other citizens, if an air carrier, its agents or a tour operator requires a person with disabilities or person with reduced mobility to be accompanied by another person who is capable of providing the assistance required by applicable safety requirements established by international, Union or national law or by the competent authorities, the accompanying person should travel free of charge. In addition, it should be aligned with the existing rights in rail, bus and coach and waterborne transport modes in the Union. In addition, if information to persons with disabilities and reduced mobility is provided in accessible formats, it should be provided in accordance with the applicable legislation such as the accessibility requirements set out in Annex I to Directive (EU) 2019/882<sup>12</sup>.
- (18) Since the objectives of this Regulation, namely ensuring the effective enforcement of air, rail, bus and coach, and waterborne passengers' rights, cannot be sufficiently achieved by the Member States, but can rather, by reason of the need to have the same rules within the single market, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

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<sup>12</sup> Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L 151, 7.6.2019, p. 70), ELI: <http://data.europa.eu/eli/dir/2019/882/oj>.

- (19) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>13</sup>. The examination procedure should be used for the adoption of the common forms for reimbursement and compensation requests.
- (20) This Regulation respects fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union, in particular Articles 21, 26, 38 and 47 concerning, respectively, the prohibition of any form of discrimination, the integration of persons with disabilities, the ensuring of a high level of consumer protection, and the right to an effective remedy and to a fair trial.
- (21) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council (<sup>14</sup>) and delivered an opinion on [ ],

HAVE ADOPTED THIS REGULATION:

### *Article 1*

#### **Amendments to Regulation (EC) No 261/2004**

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

- (1) in Article 2, the following definition is added:
- ‘(z) ‘intermediary’ means any ticket vendor, organiser or retailer as defined in points (8) and (9) respectively of Article 3 of Directive (EU) 2015/2302 other than a carrier.’;
- (2) the following Article 8a is inserted:

#### *‘Article 8a*

##### **Reimbursement when the ticket was booked through an intermediary**

1. Where the passenger has bought a ticket through an intermediary, the operating air carrier may make the reimbursement referred to in Article 8(1) point (a) through that intermediary in accordance with this Article.
2. The intermediary and the air carrier shall inform the passenger of the reimbursement process as provided for in this Article in a clear, comprehensible and easily accessible manner at the time of booking and on the booking confirmation.
3. Reimbursement through the intermediary shall be free of charge for passengers and all other parties concerned.
4. The air carrier shall state publicly, in a clear, comprehensible and easily accessible manner, whether it agrees to process reimbursements through intermediaries, and with which intermediaries it accepts to do so.

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<sup>13</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

<sup>14</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1245/2002/EC (OJ L 295, 21.11.2018, p. 39).

5. The following rules shall apply in the case of reimbursement through intermediaries which have paid the air carrier for tickets from their own accounts:

(a) the air carrier shall reimburse the intermediary within seven days, in one transaction through the same payment method which was used at the time of booking, and linking the payment to the original booking reference. The seven-day period shall start on the date of the passenger's choice of a reimbursement in accordance with Article 8 (1) (a), first indent. The intermediary shall reimburse the passenger via the original payment method, at the latest within a further seven days, and inform the passenger and the air carrier thereof.

(b) if the passenger does not receive the reimbursement within 14 days as of the date of choosing a reimbursement in accordance with Article 8 (1) (a), first indent, the operating air carrier shall contact the passenger at the latest on the day following the expiry of the 14-day period in order to receive the payment details for the reimbursement. Upon receipt of these payment details, the operating air carrier shall reimburse the passenger within seven days and inform the passenger and the intermediary thereof.

6. This Article shall not affect any obligations of operating air carriers under Directive (EU) 2015/2302.;

(3) the following Article 14a is inserted:

*‘Article 14a*

**Transfer of information**

1. The information for passengers under this Regulation shall be provided also by electronic means, where technically possible. Where information is provided by such means, air carriers and intermediaries shall ensure that the passenger can keep any written correspondence, including the date and time of such correspondence, on a durable medium. All means of communication shall enable the passenger to contact them quickly and to communicate effectively.

2. Where the passenger does not acquire a ticket directly from the air carrier, but through an intermediary, this intermediary shall provide the contact details of the passenger and the booking details to the air carrier. The air carrier may only use these contact details to the extent necessary to comply with its information, provision of care, reimbursement, re-routing and compensation obligations under this Regulation and to fulfil the air carrier's obligations under applicable Union law on aviation safety and security and to provide information to passengers on the operating carrier in accordance with its obligations under Chapter III of Regulation (EC) No 2111/2005.

3. The carrier shall delete the contact details within 72 hours after the completion of the contract of carriage unless further retention of the contact details is justified to fulfil obligations in respect of the passenger's right to re-routing, reimbursement or compensation.

4. Where an intermediary acquires a ticket on behalf of a passenger, the intermediary shall inform the air carrier at the time of booking about the fact that it has booked the ticket as an intermediary. It shall provide the air carrier with its own postal and electronic contact details. If the intermediary requests to receive the information which the passenger receives from the air carrier to fulfil its obligations

in accordance with paragraph 2, it shall inform the air carrier thereof and the air carrier shall provide the information under paragraph 2 simultaneously to the intermediary and to the passenger.

5. The air carrier shall provide the possibility for the intermediary to transmit and to request the information under paragraphs 2 and 4 as part of the booking process.’;

(4) the following Article 15a is inserted:

*‘Article 15a*

**Service quality standards**

1. Air carriers shall establish service quality standards and implement a quality management system to maintain service quality. The service quality standards shall at least cover the items listed in Annex II.

2. Air carriers shall monitor their performance as reflected in the service quality standards. They shall publish a report on their service quality performance on their website by [2 years after the Regulation becomes applicable], and every two years thereafter. This report shall not contain personal data.

3. Airport managing bodies located in a Member State shall establish service quality standards based on the relevant items listed in Annex II. They shall monitor their performance pursuant to those standards and provide access to the information on their performance to the national public authorities on request.’;

(5) the following Article 16aa is inserted:

*‘Article 16aa*

**Common form for reimbursement and compensation requests**

1. The Commission shall adopt an implementing act establishing a common form for compensation and reimbursement requests under Articles 7 and 8. That common form shall be established in a format which is accessible to persons with disabilities and persons with reduced mobility. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 38 (2) of Regulation (EU) 2021/782 of the European Parliament and the Council<sup>15</sup>.

2. Passengers shall have the right to submit their requests using the common form referred to in paragraph 1. Operating air carriers and intermediaries shall not reject a request solely on the grounds that the passenger has not used that form. If a request is not sufficiently precise, the carrier shall ask the passenger to clarify the request and shall assist the passenger in doing so.

3. Air carriers and intermediaries shall provide details on their website such as an e-mail address, to which requests under paragraph 1 may be sent by electronic means. This requirement shall not apply where other electronic means of communication allowing passengers to request reimbursement or compensation exist, such as a form on a website or mobile applications, provided that such means offer the choice and information set out in the common form and are also available in an official language of the Union and in the language internationally accepted in this

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<sup>15</sup> Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers’ rights and obligations (recast) (OJ L 172, 17.5.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/782/oj>).



field. When using such means, passengers shall not be prevented from providing information in any of the languages of the Union.

4. The Commission shall make the common form available in all Union languages on its website. The body or bodies designated by Member States in accordance with Articles 16(1) and 16a(3) shall ensure that passengers have access to the common form.

(6) the following Articles 16ba, 16bb and 16bc are inserted:

*‘Article 16ba*

**Risk-based approach to the monitoring of compliance with passenger rights**

1. The national enforcement bodies shall develop a compliance monitoring programme to monitor compliance of air carriers, airport managing bodies and intermediaries with the obligations laid down in this Regulation on the basis of a risk assessment. The programme shall allow for the detection and correction of recurrent non-compliance in the implementation of passenger rights. The compliance monitoring programme shall include a representative sample of monitoring activities.

2. The risk assessment shall be based on a factual assessment that takes into account complaints made by passengers to these bodies, where available, as well as findings of the monitoring activities carried out by these bodies, information referred to in Article 16bb (1) and (3), and other sources of information pertaining to the application of this Regulation on the territory of the respective Member State.

3. The risk assessment shall be carried out for the first time by 30 June XXXX [1 year after the Regulation becomes applicable], and every two years thereafter.

4. Compliance monitoring activities shall be based on the assessment of risks and carried out by means of audits, inspections, interviews, verifications and examination of documents as appropriate. They shall include both announced and unannounced activities. The monitoring activities shall be proportionate to the risks identified.

5. National enforcement bodies shall ensure the swift rectification of non-compliance by air carriers, airport managing bodies and intermediaries as identified during their monitoring activities. They shall require carriers to submit an action plan to remedy non-compliance, as appropriate.

6. The compliance monitoring programme under paragraph 1, the risk assessment under paragraph 2 as well as their findings shall be communicated to the Commission by 30 June XXXX [2 years after the Regulation becomes applicable], and every two years thereafter.

*Article 16bb*

**Sharing of information with national enforcement bodies**

1. Carriers shall provide the national enforcement bodies with relevant documents and information at their request without undue delay and, in any event, within one month from the receipt of the request.

2. In complex cases, the national enforcement body may extend this period to a maximum of three months from the receipt of the request.

3. In carrying out their functions, the national enforcement bodies shall take account of the information submitted to them by the body designated to handle complaints, if this is a different body.

*Article 16bc*

**Information about alternative dispute resolution by national enforcement bodies**

The national enforcement body to which the passenger complains, or any other body designated by a Member State for that purpose, shall inform the complainant about his or her right to approach alternative dispute resolution bodies to seek individual redress.’;

- (7) Annex I to this Regulation is added as Annex II.

*Article 2*

**Amendments to Regulation (EC) No 1107/2006**

Regulation (EC) No 1107/2006 is amended as follows:

- (1) in Article 4 (2), the following sentence is added:

‘Air carriers, their agents or a tour operator shall ensure that such an accompanying person travels free of charge and, where practicable, sits next to the person with disabilities or to the person with reduced mobility.’;

- (2) the following Article 10a is inserted:

*‘Article 10a*

**Service quality standards for air carriers**

1. Air carriers shall establish service quality standards and implement a quality management system to maintain service quality. The service quality standards shall at least cover the items listed in Annex III.

2. Air carriers shall monitor their performance as reflected in the service quality standards. They shall publish a report on their service quality performance on their website by [2 years after the Regulation becomes applicable], and every two years thereafter. This report shall not contain personal data.’

- (3) the following Articles 14a to 14d are inserted:

*‘Article 14a*

**Risk-based approach to the monitoring of compliance with passenger rights**

1. The national enforcement bodies referred to in Article 14(1) shall develop a compliance monitoring programme to monitor compliance of air carriers, airport managing bodies and tour operators with the obligations laid down in this Regulation on the basis of a risk assessment. The programme shall allow for the detection and correction of recurrent non-compliance in the implementation of passenger rights. The compliance monitoring programme shall include a representative sample of monitoring activities.

2. The risk assessment shall be based on a factual assessment that takes into account complaints made by passengers to these bodies, where available, as well as findings of the monitoring activities carried out by these bodies, information referred to in Article 10a and Article 14b (1) and (3), and other sources of information pertaining to the application of this Regulation on the territory of the respective Member State.

3. The risk assessment shall be carried out for the first time by 30 June XXXX [1 year after the Regulation becomes applicable], and every two years thereafter.
4. Compliance monitoring activities shall be based on the assessment of risks and carried out by means of audits, inspections, interviews, verifications and examination of documents as appropriate. They shall include both announced and unannounced activities. The monitoring activities shall be proportionate to the risks identified.
5. National enforcement bodies shall ensure the swift rectification of non-compliance by air carriers, airport managing bodies and tour operators as identified during their monitoring activities. They shall require air carriers, airport managing bodies and tour operators to submit an action plan to remedy non-compliance, as appropriate.
6. The compliance monitoring programme under paragraph 1, the risk assessment under paragraph 2 as well as their findings shall be communicated to the Commission by 30 June XXXX [2 years after the Regulation becomes applicable], and every two years thereafter.

#### *Article 14b*

##### **Sharing of information with national enforcement bodies**

1. Air carriers, airport managing bodies and tour operators shall provide the national enforcement bodies with relevant documents and information at their request without undue delay and, in any event, within one month from the receipt of the request.
2. In complex cases, the national enforcement body may extend this period to a maximum of three months from the receipt of the request.
3. In carrying out its functions, the body designated in accordance with Article 14(1) shall take account of the information submitted to it by the body designated to handle complaints, if this is a different body.

#### *Article 14c*

##### **Information about alternative dispute resolution by national enforcement bodies**

The national enforcement body to which the passenger complains, or any other body designated by a Member State for that purpose under Article 15(2), shall inform the complainant about his or her right to approach to alternative dispute resolution bodies to seek individual redress.

#### *Article 14d*

##### **Cooperation between Member States and the Commission**

1. The Member States shall regularly send relevant information concerning the application of this Regulation to the Commission, which will make this information available in electronic form to other Member States.
2. At the request of the Commission, the national enforcement bodies shall investigate specific suspected practices of non-compliance with the obligations laid down in this Regulation by one or several air carriers, airport managing bodies and tour operators and report its findings to the Commission within four months of the request.

- (4) the following Article 16a is inserted:

*‘Article 16a*

**Passenger Rights Committee**

1. The Commission shall be assisted by the committee referred to in Article 38 of Regulation (EU) 2021/782 of the European Parliament and the Council<sup>16</sup>.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.’;

- (5) Annex II to this Regulation is added as Annex III.

*Article 3*

**Amendments to Regulation (EU) No 1177/2010**

Regulation (EU) No 1177/2010 is amended as follows:

- (1) Article 16 is amended as follows:

- (a) paragraph 1 is replaced by the following:

‘1. In the case of a cancellation or a delay in departure of a passenger service or a cruise, passengers departing from port terminals or, if possible, passengers departing from ports shall be informed by the carrier or, where appropriate, by the terminal operator, of the situation and of their passenger rights under this Regulation as soon as possible and in any event no later than 30 minutes after the scheduled time of departure, and of the estimated departure time and estimated arrival time as soon as that information is available.’;

- (b) the following paragraph is added:

‘4. The information required under paragraphs 1 and 2 shall be provided by electronic means to all passengers, within the time-limit stipulated in paragraph 1, if the passenger has agreed to it and has provided the necessary contact details to the carrier or, where appropriate, to the terminal operator, when purchasing the ticket.’;

- (2) the following Article 19a is inserted:

*‘Article 19a*

**Common form for reimbursement and compensation requests**

1. The Commission shall adopt an implementing act establishing a common form for reimbursement and compensation requests under Articles 18 and 19. That common form shall be established in a format which is accessible to persons with disabilities and persons with reduced mobility. That implementing act shall be

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<sup>16</sup> Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers’ rights and obligations (recast) (OJ L 172, 17.5.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/782/oj>).

adopted in accordance with the examination procedure referred to in Article 38 (2) of Regulation (EU) 2021/782.<sup>17</sup>

2. The passengers shall have the right to submit their requests using the common form referred to in paragraph 1. Carriers shall not reject a request for reimbursement or compensation solely on the grounds that the passenger has not used that form. If a request is not sufficiently precise, the carriers shall ask the passenger to clarify the request and shall assist the passenger in doing so.

3. Carriers shall have electronic means for passengers on their website, such as an e-mail address, to which requests under paragraph 1 may be sent. This requirement shall not apply where other electronic means of communication exist allowing passengers to request reimbursement or compensation, such as a form on a website or mobile applications, provided that such means offer the choice and information set out in the common form and are available in an official language of the Union and in the language internationally accepted in this field. When using such means, passengers shall not be prevented from providing information in any of the languages of the Union.

4. The Commission shall make the common form available in all Union languages on its website. The body or bodies designated by Member States in accordance with Article 25(1) and (3) shall ensure that passengers have access to the common form.’;

(3) Article 23 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the following sentence is inserted before the first sentence:

‘When selling tickets for services falling within the scope of this Regulation, carriers, ticket vendors, travel agents, tour operators and terminal operators shall, within their respective areas of competence, ensure that passengers are provided with appropriate and comprehensible information regarding their rights under this Regulation.’;

(ii) the second sentence is replaced by the following:

‘Carriers, terminal operators and, when applicable, port authorities, shall also, within their respective areas of competence, ensure that information on the rights of passengers under this Regulation is publicly available on board ships, in ports, if possible, and in port terminals.’;

(b) paragraph 3 is replaced by the following:

‘3. Carriers, terminal operators and, when applicable, port authorities shall inform passengers in an appropriate manner on board ships, in ports, if possible, and in port terminals, of their contact details and the contact details of the enforcement body designated by the Member State concerned pursuant to Article 25(1).’;

(4) the following Article 23a is inserted:

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<sup>17</sup> Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers’ rights and obligations (recast) (OJ L 172, 17.5.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/782/oj>).

*‘Article 23a*

**Means of communication with passengers**

The information referred to in Articles 16, 22 and 23 shall be provided in the most appropriate format, where technically possible by electronic means.

Where information is provided by electronic means of communication, carriers, terminal operators, port authorities, travel agents, tour operators and ticket vendors shall ensure that the passenger can keep any written correspondence, including the date and time of such correspondence, on a durable medium. All means of communication shall enable the passenger to contact them quickly and communicate efficiently.’;

- (5) the following Article 24a is inserted:

*‘Article 24a*

**Service quality standards**

1. Carriers shall establish service quality standards and implement a quality management system to maintain service quality. The service quality standards shall at least cover the items listed in Annex V.

2. Carriers shall monitor their performance as reflected in the service quality standards. They shall publish a report on their service quality performance on the Internet by [2 years after the day of application of this Regulation], and every two years thereafter. This report shall not contain personal data.

3. Terminal operators shall establish service quality standards based on the relevant items listed in Annex V. They shall monitor their performance pursuant to those standards and provide access to the information on their performance to the national public authorities on request.’;

- (6) the following Articles 25a, 25b and 25c are inserted:

*‘Article 25a*

**Risk-based approach to the monitoring of compliance with passenger rights**

1. The national enforcement bodies shall develop a compliance monitoring programme to monitor compliance of carriers, terminal operators, port authorities, travel agents, tour operators and ticket vendors with the obligations laid down in this Regulation on the basis of a risk assessment. The programme shall allow for the detection and correction of recurrent non-compliance in the implementation of passenger rights. The compliance monitoring programme shall include a representative sample of monitoring activities.

2. The risk assessment shall be based on a factual assessment that takes into account complaints made by passengers to these bodies, where available, as well as findings of the monitoring activities carried out by these bodies, information referred to in Article 25b(1) and (3), and other sources of information pertaining to the application of this Regulation on the territory of the respective Member State.

3. The risk assessment shall be carried out for the first time by 30 June XXXX [1 year after the Regulation becomes applicable], and every two years thereafter.

4. Compliance monitoring activities shall be based on the assessment of risks and carried out by means of audits, inspections, interviews, verifications and examination

of documents as appropriate. They shall include both announced and unannounced activities. The monitoring activities shall be proportionate to the risks identified.

5. National enforcement bodies shall ensure the swift rectification of non-compliance by carriers, terminal operators, port authorities, travel agents, tour operators and ticket vendors, when applicable, as identified during their monitoring activities. They shall require carriers to submit an action plan to remedy non-compliance, as appropriate.

6. The compliance monitoring programme under paragraph 1, the risk assessment under paragraph 2 as well as their findings shall be communicated to the Commission by 30 June XXXX [2 years after the Regulation becomes applicable], and every two years thereafter. Where applicable, they shall be included in the reports referred to in Article 26.

#### *Article 25b*

##### **Sharing of information with national enforcement bodies**

1. Carriers, terminal operators and port authorities, when applicable, shall provide national enforcement bodies with relevant documents and information at their request without undue delay and, in any event, within one month from the receipt of the request.

2. In complex cases, the national enforcement body may extend this period to a maximum of three months from the receipt of the request.

3. In carrying out their functions, the national enforcement bodies shall take account of the information submitted to them by the body designated under Article 25(3) to handle complaints, if this is a different body.

#### *Article 25c*

##### **Information about alternative dispute resolution by national enforcement bodies**

The national enforcement body to which the passenger complains, or any other body designated by a Member State for that purpose under Article 25(3), shall inform the complainant about his or her right to approach alternative dispute resolution bodies to seek individual redress.’;

(7) the following Article 27a is inserted:

#### *Article 27a*

##### **Cooperation between Member States and the Commission**

1. The Member States shall regularly send relevant information concerning the application of this Regulation to the Commission, which shall make this information available in electronic form to other Member States.

2. At the request of the Commission, the national enforcement bodies shall investigate specific suspected practices of non-compliance with the obligations laid down in this Regulation by one or several carriers, terminal operators, port authorities, travel agents, ticket vendors and tour operators and report its findings to the Commission within four months of the request.’;

(8) the following Article 28a is inserted:



*‘Article 28a*

**Passenger Rights Committee**

1. The Commission shall be assisted by the committee referred to in Article 38 of Regulation (EU) 2021/782<sup>18</sup>.
  2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.’;
- (9) Annex III to this Regulation is added as Annex V.

*Article 4*

**Amendments to Regulation (EU) No 181/2011**

Regulation (EU) No 181/2011 is amended as follows:

- (1) the following Article 19a is inserted:

*‘Article 19a*

**Common form for reimbursement and compensation requests**

1. The Commission shall adopt an implementing act establishing a common form for reimbursement and compensation requests under Article 19 of this Regulation. That common form shall be established in a format which is accessible to persons with disabilities and persons with reduced mobility. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 38 (2) of Regulation (EU) 2021/782<sup>19</sup>.
2. The passengers shall have the right to submit their requests using the common form referred to in paragraph 1. Carriers shall not reject a request for reimbursement or compensation solely on the grounds that the passenger has not used that form. If a request is not sufficiently precise, the carrier shall ask the passenger to clarify the request and shall assist the passenger in doing so.
3. Carriers shall have electronic means for passengers on their website, such as an e-mail address, to which requests under paragraph 1 may be sent. This requirement shall not apply where other electronic means of communication allowing passengers to request reimbursement or compensation exist, such as a form on a website or mobile applications, provided that such means offer the choice and information set out in the common form and are available in an official language of the Union and in the language internationally accepted in this field. When using such means, passengers shall not be prevented from providing information in any of the languages of the Union.
4. The Commission shall make the common form available in all Union languages on its website. The body or bodies designated by Member States in accordance with Article 28(1) and (3) shall ensure that passengers have access to the common form.’;

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<sup>18</sup> Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers’ rights and obligations (recast) (OJ L 172, 17.5.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/782/oj>.

<sup>19</sup> Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers’ rights and obligations (recast) (OJ L 172, 17.5.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/782/oj>.

- (2) Article 20 is amended as follows:
- (a) paragraph 1 is replaced by the following:

‘1. In the event of cancellation or delay in departure of a regular service, passengers departing from terminals shall be informed by the carrier or, where appropriate, the terminal managing body, of the situation and of their passenger rights under this Regulation as soon as possible and in any event no later than 30 minutes after the scheduled departure time, and of the estimated departure time as soon as this information is available.’;
  - (b) paragraph 4 is replaced by the following:

‘4. The information required under paragraphs 1 and 2 shall also be provided by electronic means to all passengers, including those departing from bus stops, within the time-limit provided in paragraph 1, if the passenger has agreed to it and has provided the necessary contact details to the carrier or, where appropriate, to the terminal managing body, when purchasing the ticket.’;
- (3) the title of Chapter V is replaced by ‘General rules, quality of service and complaints’;
- (4) Article 24 is amended as follows:
- (a) the first sentence is replaced by the following:

‘Carriers and terminal managing bodies shall, within their respective areas of competence, provide passengers with adequate information throughout their travel in formats which are accessible to all and in the same languages as those in which information is generally made available to all passengers.’;
  - (b) the second sentence is deleted;
- (5) in Article 25, paragraph 1 is replaced by the following:
- ‘1. When selling tickets for bus and coach services, carriers and terminal managing bodies shall, within their respective areas of competence, ensure that passengers are provided with:
- (a) appropriate and comprehensible information regarding their rights and obligations under this Regulation,
  - (b) contact details of carriers or, where appropriate, terminal managing bodies,
  - (c) contact details of the enforcement body or bodies designated by the Member State pursuant to Article 28(1).
- This information shall also be provided by electronic means if feasible including at terminals and, where applicable, on the Internet. At the request of a person with disabilities or person with reduced mobility the information shall be provided, where feasible, in an accessible format.’;

- (6) the following Article 25a is inserted:

*‘Article 25a*

**Means of communication with passengers**

The information referred to in Article 20, Article 24 and Article 25(1) shall be provided in the most appropriate format, where technically possible by electronic means.

Where information is provided by electronic means of communication, carriers, terminal managing bodies, ticket vendors, travel agents and tour operators shall ensure that the passenger can keep any written correspondence, including the date and time of such correspondence, on a durable medium. All means of communication shall enable the passenger to contact them quickly and communicate efficiently.’;

- (7) the following Article 26a is inserted:

*‘Article 26a*

**Service quality standards**

1. Carriers shall establish service quality standards and implement a quality management system to maintain service quality. The service quality standards shall at least cover the items listed in Annex III.
2. Carriers shall monitor their performance as reflected in the service quality standards. They shall publish a report on their service quality performance on the Internet by [2 years after the day on which this Regulation becomes applicable], and every two years thereafter. This report shall not contain personal data.
3. Terminal managing bodies shall establish service quality standards based on the relevant items listed in Annex III. They shall monitor their performance pursuant to those standards and provide access to the information on their performance to the national public authorities on request.’;

- (8) the following Articles 28a, 28b and 28c are inserted:

*‘Article 28a*

**Risk-based approach to the monitoring of compliance with passenger rights**

1. The national enforcement bodies shall develop a compliance monitoring programme to monitor compliance of carriers, terminal managing bodies, travel agents, ticket vendors and tour operators with the obligations laid down in this Regulation on the basis of a risk assessment. The programme shall allow for the detection and correction of recurrent non-compliance in the implementation of passenger rights. The compliance monitoring programme shall include a representative sample of monitoring activities.
2. The risk assessment shall be based on a factual assessment that takes into account complaints made by passengers to these bodies, where available, as well as findings of the monitoring activities carried out by these bodies, information referred to in Article 28b (1) and (3), and other sources of information pertaining to the application of this Regulation on the territory of the respective Member State.
3. The risk assessment shall be carried out for the first time by 30 June XXXX [1 year after the Regulation becomes applicable], and every two years thereafter.
4. Compliance monitoring activities shall be based on the assessment of risks and carried out by means of audits, inspections, interviews, verifications and examination of documents as appropriate. They shall include both announced and unannounced activities. The monitoring activities shall be proportionate to the risks identified.

5. National enforcement bodies shall ensure the swift rectification of non-compliance by carriers, terminal managing bodies, travel agents, ticket vendors and tour operators as identified during their monitoring activities. They shall require carriers to submit an action plan to remedy non-compliance, as appropriate.

6. The compliance monitoring programme under paragraph 1, the risk assessment under paragraph 2 as well as their findings shall be communicated to the Commission by 30 June XXXX [2 years after the Regulation becomes applicable], and every two years thereafter. Where applicable, they shall be included in the reports referred to in Article 29.

#### *Article 28b*

##### **Sharing of information with national enforcement bodies**

1. Carriers and terminal managing bodies shall provide the national enforcement bodies with relevant documents and information at their request without undue delay and, in any event, within one month from the receipt of the request.

2. In complex cases, the national enforcement body may extend this period to a maximum of three months from the receipt of the request.

3. In carrying out their functions, the national enforcement bodies shall take account of the information submitted to them by the body designated under Article 28(3) to handle complaints, if this is a different body.

#### *Article 28c*

##### **Information about alternative dispute resolution by national enforcement bodies**

The national enforcement body to which the passenger complains, or any other body designated by a Member State for that purpose under Article 28(3), shall inform the complainant about his or her right to approach alternative dispute resolution bodies to seek individual redress.’;

(9) the following Article 30a is inserted:

#### *Article 30a*

##### **Cooperation between Member States and the Commission**

1. The Member States shall regularly send relevant information concerning the application of this Regulation to the Commission, which will make this information available in electronic form to other Member States.

2. At the request of the Commission, the national enforcement bodies shall investigate specific suspected practices of non-compliance with the obligations laid down in this Regulation by one or several carriers, terminal managing bodies, ticket vendors, travel agents and tour operators and report its findings to the Commission within four months of the request.’;

(10) the following Article 31a is inserted:

#### *Article 31a*

##### **Passenger Rights Committee**

1. The Commission shall be assisted by the committee referred to in Article 38 of Regulation (EU) 2021/782<sup>20</sup>.
  2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.’;
- (11) Annex IV to this Regulation is inserted as Annex III.

#### *Article 5*

#### **Amendments to Regulation (EU) 2021/782**

Regulation (EU) 2021/782 is amended as follows:

- (1) the following Article 30a is inserted:

#### *‘Article 30a*

#### **Means of communication with passengers**

Where information under this Regulation is provided to passengers by electronic means of communication, railway undertakings, station managers, ticket vendors and tour operators shall ensure that the passenger can keep any written correspondence, including the date and time of such correspondence, on a durable medium. All means of communication shall enable the passenger to contact them quickly and communicate efficiently.’;

- (2) the following Article 32a is inserted:

#### *‘Article 32a*

#### **Risk-based approach to the monitoring of compliance with passenger rights**

1. The national enforcement bodies shall develop a compliance monitoring programme to monitor compliance of railway undertakings, station managers, ticket vendors and tour operators with the obligations laid down in this Regulation on the basis of a risk assessment. The programme shall allow for the detection and correction of recurrent non-compliance in the implementation of passenger rights. The compliance monitoring programme shall include a representative sample of monitoring activities.
2. The risk assessment shall be based on a factual assessment that takes into account complaints made by passengers to these bodies, where available, as well as findings of the monitoring activities carried out by these bodies, information referred to in Article 32(2), and other sources of information pertaining to the application of this Regulation on the territory of the respective Member State.
3. The risk assessment shall be carried out for the first time by 30 June XXXX [1 year after the Regulation becomes applicable], and every two years thereafter.
4. Compliance monitoring activities shall be based on the assessment of risks and carried out by means of audits, inspections, interviews, verifications and examination of documents as appropriate. They shall include both announced and unannounced activities. The monitoring activities shall be proportionate to the risks identified.

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<sup>20</sup> Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers’ rights and obligations (recast) (OJ L 172, 17.5.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/782/oj>).

5. National enforcement bodies shall ensure the swift rectification of non-compliance by railway undertakings, station managers, ticket vendors and tour operators as identified during their monitoring activities. They shall require carriers to submit an action plan to remedy non-compliance, as appropriate.

6. The compliance monitoring programme under paragraph 1, the risk assessment under paragraph 2 as well as their findings shall be communicated to the Commission by 30 June XXXX [2 years after the Regulation becomes applicable], and every two years thereafter. Where applicable, they shall be included in the reports referred to in Article 32(3).’;

(3) the following Article 34a is inserted:

*‘Article 34a*

#### **Cooperation between Member States and the Commission**

1. The Member States shall regularly send relevant information concerning application of this Regulation to the Commission, which will make this information available in electronic form to other Member States.

2. At the request of the Commission, the national enforcement bodies shall investigate specific suspected practices of non-compliance with the obligations laid down in this Regulation by one or several railway undertakings, infrastructure managers, station managers, ticket vendors and tour operators and report its findings to the Commission within four months of the request.’.

*Article 7*

#### **Entry into force and application**

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

It shall apply as of [1 year after entry into force].

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*