

Bringing the air passenger rights regulation up to date

Background

In 2013 a revision of the *Regulation of Air Passenger Rights* (Regulation (EC) 261/2004) was proposed by the Commission, but the negotiations in the Council foundered, and the much-needed revision is still pending. Thus, the regulatory framework on this area is in a stagnated state of condition. Since 2004 much development and significant events have happened regarding air passenger rights, and a new approach must be taken in order to get air passenger rights back on track and make it fit for purpose again.

Challenge

Today, too much regulation in this area is based on case law. This factor significantly complicates matters for passengers and carriers and obscures the regulation, leading to high costs for carriers and frustration for consumers. The Union is not served with the current patchwork of applicable case-law.

The case law challenge has triggered unsuitable expansion of the legislation, which were not envisioned in the regulation originally. This is the case for the inclusion of internal flights in non-EU countries if they are part of a journey that includes flights to the EU, which poses a special challenge that must be addressed. This challenge has direct consequences for internal flights in overseas territories that were not expected to be affected by the regulation. This includes among other things flights in Arctic conditions, for example in Greenland, which is characterized by extreme and unpredictable weather-conditions, which often lead to flight cancellations and delays. These delays are not intended to be in the scope of the EU passenger rights regulation, which is intended to operate under completely different conditions. The challenge can substantially hinder air traffic and connectivity to remote areas, that surely rely on connections to the Union.

Another issue that should be addressed, is the categorization of internal and external strikes, which as of today, are not categorized as extraordinary circumstances. This categorization is very much in risk of heavily skewing negotiations between employers and employees in favor of employees. This can create unfortunate incentives on the market to the disadvantage of consumers and mobility in the EU.

Proposal

We therefore find it important to resume negotiations on this essential file in Council. The ongoing negotiations on passenger rights in the context of multimodal journeys, enable and calls for recommencing the negotiations on Regulation (EC) 261/2004, in order to ensure streamlined and consistent regulation in the passenger rights acquis. Focus in the negotiations should be to:

- Transpose the current applicable case-law to clear, simple and transparent regulation, and thus not aim to pursue great regulatory changes of the area.
- Roll back unintended consequences of the current regulation, such as the unintended inclusion of internal flights in non-EU countries, if they are part of a journey that includes flights to the EU. Territories in certain weather conditions, such as Arctic weather conditions, should enjoy exemptions to the regulation.
- Adjust categorizations of strikes in the current regulation in order to ensure better balances in the sector's labour market to the benefit of consumers and mobility in the EU. Thus, internal and external strikes should be categorized as extraordinary circumstances. Alternative other categorizations of strikes should likewise consider the balances on the market as well as the consequences for airborne mobility in the Union.