



Paris, 14 May 2020

FOREIGN AFFAIRS
COMMITTEE

POLITICAL OPINION

With the aim of guaranteeing the continued existence of the airlines registered within in the Union, whilst upholding air passengers' rights

The European affairs committee of the French Senate,

Having regard to Article 94 of the Treaty on the European Union,

Having regard to 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, in particular Articles 7, 8, 15 and 16,

Having regard to the Communication from the Commission "Guidelines on State aid to airports and airlines", published in the *Official Journal of the European Union* of 4 April 2014, (2014/C 99/03),

Having regard to the Communication from the Commission "Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty", published in the *Official Journal of the European Union* of 31 July 2014, (2014/C 249/01),

Having regard to the Communication from the Commission "Interpretative Guidelines on EU passenger rights regulations in the context of the developing situation with Covid-19", of 18 March 2020, C(2020) 1830 final,

Having regard to the Communication from the Commission "Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak", of 19 March 2020, C(2020) 1863 final,

Notes that the economic situation of the airlines is of a nature to threaten their viability, at global level and within the European Union;

Observes that within the space of a few weeks they have suffered a spectacular decline caused by the virtually complete cessation of international and domestic flights;

Emphasises that this cessation of flights is the result of decisions taken by the governments of very many States in order to curb the transmission of SARS-CoV-2, more commonly known as Covid-19;

Concludes that neither the airlines faced with the impossibility of providing the scheduled services nor the passengers who have been unable to make the journeys booked can justifiably be held liable for the failure to make said journeys;

Observes that the 2004 Regulation imposes different obligations on airlines in the event of boarding being denied, depending on whether or not the denial of boarding is due to "extraordinary circumstances";

Notes that on 4 April 2020 the European Commission published an interpretation of the applicable provisions in order to take account of the consequences of Covid-19, considered as "extraordinary circumstances" within the meaning of the 2004 Regulation;

Approves the interpretation of the Regulation thus made by the European Commission, which exempts airlines from any compensation over and above the reimbursement of unused tickets in accordance with Article 7 of the Regulation interpreted;

Observes that the application of Union law, however, formally imposes the reimbursement of tickets paid for but unused, to the exclusion of any additional compensation;

Shares the concerns expressed by the air transport sector, in particular the International Air Transport Association (IATA), concerning the airlines' cashflow in general and the burden that the refunding of unused tickets would represent in particular;

Recalls that the recovery of the financial health of said companies is conditional upon the application of fair rules of competition between operators based in the Member States and between the same operators, on the one hand, and those of third countries, on the other hand, in particular in the implementation of the new "European Green Deal";

Notes that numerous airlines have put forward a proposal to guarantee the reimbursement of unused air tickets, whereas the current cashflow situation of the European airlines makes the immediate implementation of this obligation imposed by Union law materially impossible;

Observes that the principle of reimbursement is not being challenged by anyone;

Considers that a temporary measure modifying the conditions of reimbursement is the only realistic way of guaranteeing the effectiveness of the rights granted to passengers by the aforementioned Regulation of 11 February 2004;

Emphasises that the level playing field principle imposes the abolition of all purely national provisions which increase certain charges – taxes in particular – or impose constraints, however legitimate they may be, when they are liable to disadvantage only national operators or only airports situated in the national territory;

Recalls that the 2004 Regulation allows airlines to issue travel vouchers to passengers who have been denied boarding instead of refunding them immediately, but that this is subject to the agreement of the passengers concerned;

Considers that this arrangement – perfectly appropriate in ordinary circumstances – is no longer appropriate in the hitherto unseen circumstances experienced by the air transport sector since the outbreak of the Covid-19 pandemic;

Therefore considers reasonable and balanced the request to revise the 2014 Regulation, with retroactive effect strictly limited to the flights cancelled during the lockdown period decided by the Government of each Member State;

Observes in this respect that the outlook for the global air transport sector over the next twelve months in no way suggests the likelihood that the operators will recover within that time;

Consequently argues that the time allowed for the cash reimbursement of unused credit notes should be long enough to guarantee the effectiveness of that reimbursement;

Reiterates its attachment to the upholding of the passenger rights guaranteed by Union law, and therefore the extraordinary and time-limited nature of the modification that should be made to the Regulation of 11 February 2004;

For all these reasons, hopes that the European Commission will:

- submit a proposal for a Regulation temporarily adjusting the implementation of Regulation (EC) no. 261/2004 of the European Parliament and of the Council of 11 February 2004, in order to adapt the method of compensating passengers in the event of denied boarding;
- authorise airlines to offer vouchers refundable at a later date if unused by their beneficiaries, without this form of reimbursement being subject to acceptance by passengers;
- limit the application of this temporary arrangement to flights cancelled during the lockdown decided by the government of the Member State in which the airport of embarkation is situated.