

The Consumer Voice in Europe

THE REVISION OF THE AIR PASSENGER RIGHTS REGULATION

BEUC updated position paper



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Why it matters to consumers

Every day, thousands of European consumers travel by air, hoping to reach their destination safely and on time. Unfortunately, things may go south, and disruptions cause a lot of trouble and stress. In such cases, EU air passenger rights exist to provide consumers with the support they need. Today, only few consumers get to use them in practice due to overly lengthy, burdensome and ineffective enforcement procedures. This needs changing and consumers need their rights to protect them not only on paper but also in real life.

Summary

Although the European Commission's 2013 Proposal¹ includes several improvements regarding the current Air Passenger Rights Regulation 261/2004², it sharply diminishes EU Passenger rights in other areas. Moreover, the outdated proposal needs a revamp in light of developments in the aviation market, new actors (online booking intermediaries etc.) and would require significant amendments to effectively protect passengers under the upcoming Air Passenger Rights 2.0 framework. The revision should include:

1. **Enforcement and Redress** strong provisions as a top priority.
2. **Current compensation amounts and their eligibility** should be upheld.
3. **Clearer liability rules for passengers:** The *contracting carrier* should be liable toward consumers, not the *operating carrier*.
4. A **non-exhaustive list of extraordinary** and non-extraordinary circumstances (EC) should be defined in line with European Court of Justice (ECJ) case law.
5. Consumers should be protected for their whole **connected journey** (e.g. 2 flights under the same contract of carriage).
6. **Re-routing** should happen at the **earliest opportunity and with competitors** if needed. The text should mirror the 100-minutes timeline for re-routing defined in the Rail Passenger Rights Regulation³.
7. **Insolvency protection for airlines** should be made mandatory as jointly called with the tourism industry⁴.
8. **'No-show' clauses** for all types of flights⁵ must be prohibited.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52013PC0130>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32004R0261>

³ Article 18(3) of the *Rail Passenger Rights Regulation*.

⁴ <https://www.beuc.eu/letters/joint-call-european-consumers-industry-and-insurance-providers-urgent-need-mandatory>

⁵ For instance, OCU v Spanair 31 July 2012 (Juzgado Mercantil n 1 Barcelona; OCU v Iberia 11 September 2012 (Juzgado Mercantil n 12, Madrid); AG of Köln (Germany), 05/01/2005; AG of Frankfurt (Germany), 21/02/2006; Langericht Frankfurt Am Aim (Germany), 14/12/2007; Commercial Court n. 2 Barcelona (Spain), 22 March 2010; Audiencia Provincial (Court of appeal) of Madrid (Spain) 27/11/2009; Commercial court of Bilbao (Spain), 7 July 2008; Commercial court of Bilbao (Spain), 25 July 2008; Commercial court of Bilbao (Spain), 3 July 2009; Oberlandesgericht (Higher Regional Court) of Frankfurt (Germany), 18 December 2008; BGH (Federal Court of Justice, Germany), 29 April 2010; Handelsgericht of Vienna (Austria), March 2010; VKI v Lufthansa, Oberster Gerichtshof (Austria), 24 January 2013.

9. **Passenger care and assistance** should not be diluted in case of extraordinary circumstances and for shall haul flights.
10. **Minimum validity rules for vouchers** should be created in line with the EU Recommendation⁶.
11. **Airlines' luggage policies** should be made clearer and fairer and be in line with European Court of Justice (ECJ) case law.
12. **Tarmac delays**. BEUC supports the new right to assist passengers stuck for one hour, but passengers should be able to disembark after 2 hours.

1. Introduction

Consumers benefit from harmonised Air passenger legislation which protects their rights to mobility, information, assistance, and compensation in case of disruption. However, 20 years after the adoption of the EU Air Passenger Rights Regulation, consumers continue to face problems to enforce their rights.

In 2013, the Commission put forward a review of Regulation 261/2004, which after a successful first reading of the European Parliament in 2014, got stuck in the Council of the European Union for almost a decade. The Polish Presidency announced its willingness to rekindle negotiations under its mandate⁷.

With this position paper, BEUC updates its position and adds new elements that have become relevant in the past 10 years, including:

- Important developments in ECJ case law,
- The COVID-19 pandemic.

Although the 2013 Commission proposal includes several improvements regarding Regulation 261/2004, it needs revamping in light of developments in the aviation market and needs significant amendments to effectively protect passengers. **Most importantly, the proposal diminishes important consumer rights which should be avoided.**

In November 2023, the European Commission published new legislative proposals under the Passenger Mobility Package⁸, revising the current Air Passenger Rights Regulation among other things. These proposals are currently in the legislative procedure and will need to be considered for any further discussions on the 2013 proposal.

2. BEUC priorities

A. A real focus on enforcement and redress is needed – (Article 16 and 16a)

“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”.⁹

⁶ <https://eur-lex.europa.eu/eli/reco/2020/648/oj/eng>

⁷ <https://polish-presidency.consilium.europa.eu/media/zkcno325/programme-of-the-polish-presidency-of-the-council-of-the-european-union.pdf>

⁸ https://transport.ec.europa.eu/news-events/news/passenger-mobility-package-2023-11-29_en

⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023PC0753>

This strong statement comes from the Commission's proposal **regarding passenger rights' enforcement in the Union, part of the Passenger Mobility Package adopted in 2023**. It clearly shows that enforcement is the weak point of Regulation 261/2004 and that a real focus on it is needed in the reform.

It appears that **only 38% of passengers eligible for compensation finally manage to exercise their rights**¹⁰. Claims agencies' data reveals that even fewer passengers eligible to compensation finally benefit from it (22%)¹¹. Overall, the Commission's studies consistently reveal enforcement issues on all "core passenger rights"¹².

This lack of enforcement is detrimental to all parties:

- Passengers who do not have their rights enforced,
- National Enforcement Bodies (NEBs)¹³ that are flooded with cases, as well as national courts,¹⁴
- Finally, airlines that face important administrative and legal costs, following the rise of claims agencies¹⁵.

The growing number of claim agencies clearly reveals systemic enforcement issues. By 2028, it is expected that 25% of air passengers entitled to compensation will use their services. Reasons include unsupportive airlines with sluggish, complicated and untransparent direct claim systems. **This highlights the need to focus on better enforcement and redress provisions in the revised text.**¹⁶

BEUC recommendations:

- **Automatic refund schemes** should be introduced following the European Court of Auditors' recommendation¹⁷. This is also the line taken in the US' 2024 Passenger Rights Bill¹⁸.
- Mandate the creation of **a complaints handling mechanism** and give passengers access to a **valid email address** and **free phone number**.
- Introducing a **seven-day deadline to pay compensation**.
- **Participation in ADR mechanisms should be mandatory** as per the Parliament's position¹⁹.
- **NEBs and ADRs' decisions should be legally binding** upon airlines and intermediaries.
- NEBs should have **stronger and harmonised investigative** and **sanctioning powers** across the EU and their network should be formalised. At minima, the powers granted under Article 9 of the CPC-Regulation.
- NEBs should all be able to deal with **individual complaints**.

¹⁰ Study on the current level of protection of air passenger rights in the EU, Final report, Study contract n°MOVE/B5/2018-541, 2020, p.39.

¹¹ Air Help (2023) - 2023 air travel and disruption

¹² Study on the current level of protection of air passenger rights in the EU, Final report, Study contract n°MOVE/B5/2018-541, 2020, p.39

¹³ Idem, p.223.

¹⁴ Idem, p.158.

¹⁵ Idem, p.221.

¹⁶ AirHelp, 2023 Air Travel and Disruption, A global Overview, May 2024. Available [here](#).

¹⁷ https://www.eca.europa.eu/Lists/ECADocuments/SR18_30/SR_PASSENGER_RIGHTS_EN.pdf

¹⁸ <https://www.transportation.gov/briefing-room/biden-harris-administration-announces-final-rule-requiring-automatic-refunds-airline>

¹⁹ Article 16a (3) of the European Parliament's position.

- Truly **dissuasive sanctions based on the percentage of airlines and intermediaries' annual turnover** should be introduced²⁰.

2.1. Current time thresholds, compensation eligibility and levels in long delays and cancellation should be maintained – (Article 6)

Key finding:

Most delays are between **2 and 4 hours** on arrival.

According to [LENNOC](#) (a European Flight Intelligence company), the introduction of distance-based time thresholds of **5, 9 and 12 hours** as proposed by the European Commission and envisaged by the Council would **deprive 85% of passengers of a right to compensation**.

This would be **a significant reduction in the current standard of EU passenger protection** which is not acceptable.

In 2018, airlines were accountable for 66.9% of cancellations²¹ and 70% of delays²². Airlines point to implementation costs of Regulation 261/2004²³, particularly due to more passenger claims²⁴ and increased passenger rights awareness to justify inaction and legislative changes that are detrimental to consumers. Airlines should face strong dissuasive measures if they refuse to comply with their compensation duty (i.e. dissuasive fines based on their annual turnover, same goes for online booking intermediaries).

The 2020 Commission study highlights the need **to simplify and clarify the rules** for all stakeholders²⁵. It is important to remember that airlines have to compensate passenger **only** when delays or cancellations are imputable to them, **when they have not complied with the current Regulation and the relevant ECJ case law**.

For consistency, **BEUC calls for maintaining the current compensation rights conditions in the event of flight cancellation under the Air Passenger Rights Regulation**, as they are clear and straightforward.

Rules for compensation in case of long delays should take **ECJ rulings** (*Sturgeon, Nelson and Folkerts*) into account, **imposing a 3-hour minimum threshold** on arrival time for all flights irrelevant the distance. The new thresholds proposed would: complicate the law, create significant treatment disparities between passengers, strongly diminish compensation rights (see box above) and **in no way is a compliance guarantee for airlines**.

²⁰ This exists in other consumer law legislation: see Unfair Commercial Practices, Unfair Contract Terms Directive, Consumer Rights Directive but also GDPR and DSA.

²¹ Study on the current level of protection of air passenger rights in the EU, Final report, Study contract move/B5/2018-541, p.14.

²² *Idem*, p.21

²³ *Idem*

²⁴ *Idem*, p.103, p.234

²⁵ Study on the current level of protection of air passenger rights in the EU, Final report, Study contract move/B5/2018-541, 2020, figure 2.9.

Compensation amounts were set as a deterrent to correct inconveniences for victims of cancellations, denied boardings or long delays as recognised by the ECJ *Sturgeon* ruling²⁶. They should **have been adjusted to inflation** since the Regulation's application, which needs to be included in the revision.

Figure 1: Compensation rates due to cancellation or delay in air passenger rights and impact of inflation²⁷

Distance travelled	Compensation in euros in the Regulation (EC) No 261/2004	Theoretical equivalent in euros After inflation (2023)
1,500km or less	€250	€340
More than 1,500 km within the EU and all other flights between 1,500 and 3,500 km	€400	€544
More than 3,500 km	€600	€816

B. Passengers shall be protected for their entire journey and compensated for missed connections – (Article 6a)

The right to assistance and compensation for missed connected flights is inserted in the initial proposal and will apply to flights covered by the same contract. **This is an important development** but the right to assistance should be extended to connecting flights which are not covered by the same carriage contract, **at least in cases where the same carrier operates the flights**.

C. BEUC supports the introduction of a non-exhaustive list of extraordinary circumstances – (Annex 1)

Too frequently, airlines call upon 'extraordinary circumstances' clause in the existing Regulation to avoid paying compensation.

This has led to extensive court battles to define what 'extraordinary circumstances' are. Therefore, BEUC supports the introduction of **a clear definition of the concept** in line with ECJ case law²⁸ namely, circumstances which, by their nature are *not* inherent in the normal exercise of the activity of the airline and that are beyond its actual control.

BEUC also supports the introduction of a ***non-exhaustive list of extraordinary circumstances*** in the revised Regulation which could be revised (for instance, every five years). However, particular attention should be paid to **the content of this list**.

²⁶ Joined Cases C-402/07 and C-432/07 "*Sturgeon*".

²⁷ Source: Air Passenger Rights Regulation 261/2004 and BEUC Calculations.

²⁸ Case C-549/07, *Wallentin-Hermann v Alitalia*, 22/12/2008.

E.1. “Labour strike” and “staff shortage” should never be considered as extraordinary circumstances

The ECJ ruled that a “wildcat strike”²⁹ and strikes organised by a staff trade union or a carrier³⁰ do not constitute extraordinary circumstances, which should be standardised. **Airline employees’ strikes are intrinsically linked to the airline’s activity and organisation.**

In addition, the 2020 Commission study indicates that 10-25 % of cancellations are caused by crew shortages or staff-related problems³¹. Recent data suggests a high increase of “labour strikes” impact on airline disruptions³². Introducing such extraordinary circumstances would be dangerous for affected passengers **who should not suffer from these situations.**

It should also be noted that strikes in the **rail sector**³³ are **not considered extraordinary circumstances. Consistency between Passenger Rights Regulations is essential.**

E.2. “Technical failure” and “safety” related issues

We believe that in case of technical problems, **there should be a presumption that it was not caused by “extraordinary circumstances”**. Airlines should have to prove passengers and NEBs the occurrence of “extraordinary circumstances” – aside from providing proof of having made “reasonable efforts” to avoid the disturbance.

The proposal specifies that defects identified while operating a flight that affect safety will be considered “exceptional circumstances”. This is dangerous, as all aircraft technical problems are important for safety.

In practice, airlines may be tempted to hide behind this safety argument all the time to avoid their compensation duty. This is even more important as the 2020 Commission study proved that technical issues represent 30-50 % of cancellations³⁴.

Finally, Air carriers when invoking extraordinary circumstances, shall provide proactively consumers with **comprehensive information regarding the reasons of the travel disruption within 48 hours after the incident**. The carrier shall substantiate its claim by providing adequate evidence. Furthermore, the carrier shall demonstrate that all reasonable measures were taken to prevent the cancellation or delay of the flight in question.

The non-exhaustive list of Extraordinary Circumstances and non-extraordinary circumstances should take ECJ case law into consideration.

²⁹ Joined Cases C 195/17, C 197/17 to C 203/17, C 226/17, C 228/17, C 254/17, C 274/17, C 275/17, C 278/17 to C 286/17 and C 290/17 to C 292/17, *Helga Krusemann and Others v TUIfly*.

³⁰ Case C-28/20 *Airhelp Ltd v Scandinavian Airline System SAS*

³¹ Study on the current level of protection of air passenger rights in the EU, Final report, Study contract n° MOVE/B5/2018-541, 2020, p.15

³² AirHelp, 2023 Air Travel and Disruption, A global Overview, May 2024. Available [here](#)

³³ https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2021.172.01.0001.01.ENG&toc=OJ%3AL%3A2021%3A172%3AFULL

³⁴ Idem, p.15.

D. Insolvency protection for airlines: consensus between passenger and tourism representatives

BEUC and tourism stakeholders joined forces and called repeatedly for an alignment of the Package Travel Directive (PTD) and air passenger rights regimes³⁵.

Mandatory insolvency protection for airlines already exists in Denmark and has proved effective (see Figure 2). Introducing similar measures would also be a question of **fairness between tourism actors**, notably travel agencies and tour organisers who are, for more than 90%, SMEs and support airlines bankruptcies risks. Travel agencies have been subject to this obligation for decades, following Package Travel Directive rules.

According to the 2020 Commission study, there were 87 airline insolvencies from 2011 to 2019, affecting 5.6 million consumers. On average, **passengers incurred €431 in costs, 87% of which was not recoverable** because there is no protection mechanism in place³⁶. This number has increased in recent years.

Policymakers should urgently act to establish a mandatory guarantee scheme for airline insolvencies as the Parliament suggested in its first position³⁷ and in its 2019 resolution³⁸ to ensure stranded passengers are quickly repatriated and compensated. The 2020 Commission study also shows that such a protection mechanism needs to be coupled with increased oversight of airlines' financial health by national supervisory authorities³⁹.

Figure 2: The Danish insolvency protection scheme in a nutshell

Danish Airline Insolvency Protection Fund in a nutshell:

In Denmark a fund was set up to protect against airline insolvencies:

- The Danish TGF covers travellers with a flight only ticket departing from and returning to a Danish airport.
- Domestic flights are not covered.
- The fund covers stranded travellers abroad who are repatriated by TGF.
- If there is sufficient money in the fund, travellers who were supposed to depart after the time of the bankruptcy will get their prepayment reimbursed with a deduction of EUR 134 per person.
- If the fund is insufficient, a proportional coverage will be calculated.
- The fund is separate from the package travel fund and is built up by contributions from all airlines departing from Danish airports.
- A fee of **€ 0.30** per passenger is paid to the Danish authorities (along with the safety contribution that all airlines must pay). The authorities transfer this money to the fund every month.
- When the fund reaches approximately €13.4 million., further contributions are not collected from the airlines.
- The limit of €13.4million. is a maximum limit, meaning that in case an airline bankruptcy cost more than that amount, it is not covered
- The limit of €13.4million. is defined by law and based on a political agreement.
- If the fund goes below €10million., contributions will be reactivated.
- If the fund goes below €3.5million., passenger contributions will be €0.60 until the fund again is built up to the maximum.
- Coverage of "flight only" was introduced in 2015, and in 2020 the fund stood at €14 million.

³⁵https://www.beuc.eu/sites/default/files/publications/BEUC-X-2022-126_Urgent_need_for_mandatory_insolvency_protection_scheme_in_the_airline_sector.pdf

³⁶ Study on the current level of protection of air passenger rights in the EU, Final report, Study contract n° MOVE/B5/2018-541, 2020, p.201.

³⁷ Amendment 11 of the European Parliament's position.

³⁸ https://www.europarl.europa.eu/doceo/document/TA-9-2019-0047_EN.pdf

³⁹ Study on the current level of protection of air passenger rights in the EU, Final report, Study contract n° MOVE/B5/2018-541, 2020, p.212.

E. Rules on re-routing need to be clarified – (Article 8(5))

The current text specifies that re-routing should be provided “*at the earliest opportunity*”. However, it does not give a clear definition, which, according to the 2020 Commission study, leads to different interpretations from one Member State to another. **Again, this is detrimental to passengers.**

The study also shows that passengers’ second priority in the event of disruption is to be re-routed to their destination as soon as possible⁴⁰. However, according to authorities, airlines are only very partially compliant⁴¹.

Consequently, BEUC strongly welcomes the Commission’s proposal to clarify that re-routing should also be possible through another carrier or different modes of transport. However, **the 12-hour threshold to benefit from re-routing is clearly disproportionate and should be deleted.** 12-hours is very long for passengers to wait for the “earliest opportunity” to reach their destination⁴². The reviewed Regulation should clearly establish that the right to re-routing should be “at the earliest opportunity” with other carriers as stated in the 2018 Austrian supreme court decision⁴³.

BEUC recommends mirroring the 100-minutes timeline for re-routing defined in the Rail Passenger Rights Regulation⁴⁴. It would improve clarity for consumers and coherence between passenger rights frameworks.

F. No limitation to the right to assistance in case of extraordinary circumstances – (Article 9(4))

Passengers facing flight cancellations or delays find themselves in tricky situations. **That is why the right to care for them should not be limited** to the maximum of three nights’ accommodation as proposed by the Commission, nor five nights as proposed by the Parliament in its position⁴⁵.

The 2020 Commission study clearly demonstrates that passengers’ first priorities in the event of disruption are to be informed and to benefit from effective “care and assistance”. Diminishing such **rights would be contrary to the study findings⁴⁶.**

BEUC is also **opposed to creating an exemption for regional airlines to provide assistance (accommodation) for flights under 250km with a maximum capacity of 80 seats.** In such situations, passengers face the same problems as passengers on longer flights and this would create unjustified treatment disparities between passengers in case of disruption.

⁴⁰ Idem, p. vii

⁴¹ Idem, p.139.

⁴² In its 2014 Position used an 8h-threshold which is also way too long to benefit from a re-routing, at the earliest opportunity. See [Am. 88] of the [European Parliament Position](#).

⁴³ In 2018, the Supreme Court of Austria issued a decision - [OGH 1 Ob 133/18t](#) – concerning the re-routing of passengers. The ruling states that airlines are required to re-route passengers on competing airlines.

⁴⁴ Article 18(3) of the [Rail Passenger Rights Regulation](#).

⁴⁵ See [Am. 96] of the European Parliament Position.

⁴⁶ Study on the current level of protection of air passenger rights in the EU, Final report, Study contract n° MOVE/B5/2018-541, 2020, p.229.

G. Better information and complaint handling policies are needed – (Article 14)

As previously stated, in case of disruption, passengers' top priority for passengers is to be informed as quickly as possible about situation and the causes of the disruptions. We support the Commission study's 'way forwards,' which advocates for better communication between airlines and passengers, providing clear and evidence-based reasons for disruptions and explaining airlines' decisions⁴⁷.

The study also reveals that passengers often struggle exercising their rights and getting prompt and detailed responses from airlines to their complaints. **BEUC therefore supports the Commission and Parliament's proposal to introduce clear, short and harmonised deadlines (e.g. 14 days) for airlines to respond to complaints in the reviewed text.**

H. No additional timeframe to submit complaints to airlines – (Article 16a2)

Key findings:

According to LENNOC, consumer case files are on average filled 84 days after the incident. Of all the claims filed:

- **65% were submitted within 90 days** of the flight disruption,
- If applied, consequently, **35% of consumers will see their rights time-barred.**

BEUC strongly opposes the introduction of a timeframe for passengers to submit their complaints. They are already subject to procedural deadlines set in Member States' national law. **The 2020 Commission study highlights that the review's objective is to simplify the Regulation and to improve claim handling procedures.**

The reviewed text should also refrain from imposing **a three-month deadline, which is very short** and would be counterproductive and even more confusing for passengers. **It would also limit consumers' right to launch legal proceedings in all Member States.**⁴⁸

I. "No-show" clauses should be fully banned – Article 4(4)

"No-show" clauses⁴⁹ are used by many airlines and are very controversial. In these situations, passengers must buy another ticket (subject to availability) or to pay disproportionate fees. The Commission has tried to tackle the issue in its 2013 proposal, but **it does not go far enough and does not provide for a full ban.**

For years, BEUC and its members have criticised such clauses for being unfair. Several national courts already recognised this at the time of the proposal (e.g. Austria, Germany and Spain)⁵⁰.

⁴⁷ Study on the current level of protection of air passenger rights in the EU, Final report, Study contract n° MOVE/B5/2018-541, 2020, p.231.

⁴⁸ Under national law, consumers benefit from a minimum of ten months in Latvia, to five years in France or Spain, to ten years in Luxembourg for filing a claim under the Air Passenger Rights Regulation. All legal deadlines are available [here](#).

⁴⁹ Such no-show policies results in situations where passengers who missed a flight or decide not to take it for whatever reason are denied boarding on the outgoing or return legs of their tickets.

⁵⁰ Idem, p60.

Since the 2013 proposal, several additional legal proceedings have resulted in a judgment declaring, again, no-show clauses to be unfair^{51 52}.

Therefore, BEUC encourages policymakers to protect consumers against these unfair clauses and to rekindle discussions on the topic. Different rules for point-to-point journeys or connected journeys would mean passengers facing the same situation are treated differently.

J. Luggage policies of airlines should be scrutinised – (Article 2 – amendments to the Regulation 2027/97)

Key finding:

Our Dutch Member **Consumentenbond** conducted in 2024 a survey among their members on passengers' experiences and expectations with hand luggage:

78% of them want clearer rules on hand luggagees.

86% of the people who travelled by airplane in the last 3 years, believe that:

- a **hand trolley** and,
- a **small item** should be the absolute bare minimum to be included with any ticket.

BEUC and its members notice that airline's different luggage policies create confusion and are a source of distress, especially at check-in and boarding times. Regulation 1008/2008 requires airlines to include all taxes and charges that are "unavoidable" and "foreseeable" at price publication time. However, neither Regulation 1008/2008 nor the Air Passenger Rights Regulation 261/2004 provide a list of "unavoidable" and "foreseeable" elements.

Airlines' ticket prices advertising policies are increasingly misleading as they heavily rely on ancillary services and hidden fees⁵³. For example, despite an ECJ decision⁵⁴ requiring airlines to allow hand luggage in the cabin without additional charges, some still apply contrary policies, resulting in different fines at national level (e.g. in Italy⁵⁵ and Spain⁵⁶).

BEUC urges policymakers to **clarify what services should be included in the basic ticket price** and to **define the hand luggage's "reasonable size and weight"**. This will allow **better transparency** and **price comparability** for passengers and **ensure legal certainty**. Such harmonisation will also have **a positive impact for airports**⁵⁷.

⁵¹ VKI against KLM –15 July 2019: (OLG Wien 11.6.2019, 1 R 73/19s) and VKI against Brussels Airlines –29 March 2019 (HG Wien 29.03.2019, 39 Cg 55/17g).

⁵² https://www.beuc.eu/publications/beuc-web-2018-046_unfair_no-show_clause_in_airline_tickets.pdf

⁵³ Study on the current level of protection of air passenger rights in the EU, Final report, Study contract n° MOVE/B5/2018-541, 2020, p.60.

⁵⁴ Case C-487/12, *Vueling Airlines SA v Instituto Galego de Consumo de la Xunta de Galicia*, 18/09/2014.

⁵⁵ Study on the current level of protection of air passenger rights in the EU, Final report, Study contract n° MOVE/B5/2018-541, 2020, p.60

⁵⁶ <https://www.beuc.eu/press-releases/spain-fines-four-airlines-hand-luggage-policies-important-step-consumers>

⁵⁷ Indeed, the study also shows that the new baggage policies practiced by airlines have a negative impact not only on passengers but also on airports. Passengers facing additional costs no longer buy in airport shops, resulting in a significant loss of revenue for them, p118.

K. Minimum validity rules for vouchers – (New article needed)

Currently, if a standalone transport ticket is cancelled and passengers opt for a refund, it should be monetary unless passengers expressly agree otherwise. But many operators offer vouchers instead while EU law does not set clear rules on their validity. This led to frustration for consumers during the pandemic.

BEUC recommends **putting the Commission’s Recommendation on vouchers into law**, to define **minimum validity rules** as the Commission proposed in the ongoing Package Travel Directive revision. This would create consistency between frameworks.

L. Contracting carriers should be liable toward consumers

The “operating carrier” is responsible for obligations under the 261/2004 Regulation. This provision creates confusion for consumers and redress access problems. Passengers often do not know why they must complain to a different airline than the one they contracted with. This information is typically not provided upfront, and passengers only discover it after their initial complaint to the operating carrier is denied. “Code-sharing” or disruption on connected flights with non-EU carriers further complicate the application of the Regulation.

The “**contracting carrier**” should be responsible, not the “operating” carrier. The right to **redress** for the “contracting carrier” should be reinforced in parallel.

M. Tarmac Delays – Article 6(5)

BEUC supports the new passenger right to assistance for those stuck on planes for one hour (toilets, drinking water, air conditioning and medical assistance). However, we believe that airlines should also offer a snack to passengers after one hour. The inconvenience and anxiety caused to passengers waiting inside the aircraft or on a bus on the tarmac should be treated differently than delays in the terminal building.

More importantly, **passengers should not be forced to stay on the plane for 5 hours but should rather be able to disembark after a two-hour delay** as proposed in the European Parliament's position.

3. Conclusion

The European Commission’s Regulation 261/2004 is a key achievement for EU air passengers and has helped strengthen their protection by giving them clear rights. However, enforcement is its weak point, and the 2020 Commission study clearly reveals airlines do not properly implement passengers’ ten core rights. Consumers need their rights protected, not only on paper, but also in real life.

In the meantime, successive crises such as the COVID-19 pandemic highlighted the need to correct legal gaps and harmonise Passenger Rights and the Package Travel Directive.

The current review should represent the opportunity to simplify the rules to the benefit of all stakeholders (passengers, airlines, intermediaries, enforcers etc.), introduce fairness between tourism stakeholders and improve the Regulation’s enforcement but it shall not diminish passenger rights.

