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COMMUNICATION TO THE COMMISSION

Approval of the content of a draft Commission Notice on the Interpretative Guidelines on Regulation (EC) No 261/2004 of the European Parliament and of the Council establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and on Council Regulation (EC) No 2027/97 on air carrier liability in the event of accidents

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The Commission adopted interpretative guidelines on Regulation (EC) No 261/2004 and on Council Regulation (EC) No 2027/97 ⁽¹⁾ in 2016.

Case-law has had a significant impact on the interpretation of Regulation (EC) No 261/2004. On many occasions, the Court of Justice of the European Union (the ‘Court’) has been requested by national courts to clarify certain provisions, including key aspects of the Regulation. The Guidelines thus aimed at ensuring a common understanding and proper enforcement of Regulation (EC) No 261/2004 across the EU.

The Interpretative Guidelines now to be adopted update the previous Guidelines on air passenger rights to include the relevant Court rulings handed down between 2016 and July 2024. Among other things, they aim to provide greater clarity on a number of provisions contained in Regulation (EC) No 261/2004, in particular in the light of the Court’s case-law ⁽²⁾. This should allow the current rules to be more effectively and consistently enforced. A new section on massive travel disruptions has been added.

These Guidelines are intended to tackle the issues most frequently raised by national enforcement bodies, passengers and their associations, the European Parliament and industry representatives. They do not seek to cover all provisions in an exhaustive manner, nor do they create any new legal provisions. It should also be noted that interpretative guidelines have no bearing on the interpretation of EU law provided by the Court ⁽³⁾.

These Guidelines also relate to Regulation (EC) No 2027/97 and to the Convention for the Unification of Certain Rules for International Carriage by Air (the ‘Montreal Convention’) ⁽⁴⁾. Regulation (EC) No 2027/97 serves a twofold purpose: firstly, aligning EU legislation on air carriers’ liability in respect of passengers and their baggage with the provisions of the Montreal Convention, to which the EU is one of the contracting parties, and secondly, extending the application of the Convention’s rules to cover air services provided in the territory of a Member State.

⁽¹⁾ Council Regulation (EC) No 2027/97 on air carrier liability in the event of accidents (OJ L 285, 17.10.1997, p. 1, ELI: <http://data.europa.eu/eli/reg/1997/2027/oj>).

⁽²⁾ Clear references to the relevant Court cases are systematically mentioned in the text; if there is no such reference, it corresponds to the Commission’s interpretation of the Regulation.

⁽³⁾ See Article 19(1) of the Treaty on European Union.

⁽⁴⁾ Council Decision 2001/539/EC of 5 April 2001 on the conclusion by the European Community of the Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention) (OJ L 194, 18.7.2001, p. 38, ELI: <http://data.europa.eu/eli/convention/2001/539/oj>).

In addition, these Guidelines address questions of jurisdiction in relation to Regulation (EU) No 1215/2012 of the European Parliament and of the Council ⁽⁵⁾.

The Commission is therefore called upon to approve the content of a draft Commission Notice on the Interpretative Guidelines on Regulation (EC) No 261/2004 of the European Parliament and of the Council establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and on Council Regulation (EC) No 2027/97 on air carrier liability in the event of accidents.

The draft Commission Notice on the Interpretative Guidelines on Regulation (EC) No 261/2004 of the European Parliament and of the Council establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and on Council Regulation (EC) No 2027/97 on air carrier liability in the event of accidents will be formally adopted by the Commission later, when all language versions are available. It is only from that moment that the Notice will be applicable. The intention is to adopt the Notice before 31 October 2024. The text of the draft Commission Notice is enclosed as Annex to this Communication.

⁽⁵⁾ Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1, ELI: <http://data.europa.eu/eli/reg/2012/1215/oj>).