

International comparisons of EU Regulation 261 enforcement

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Executive Summary

- Despite efforts by airlines, airports and air navigation service providers to operate flights as scheduled, 3.9% of flights in Europe suffered a delay of more than 60 minutes and 1.5% of planned flights were cancelled in 2017 (Eurocontrol, 2018), causing considerable inconvenience to affected passengers and incalculable costs to business.
- In 2004, the European Commission introduced new legislation governing passenger rights in the event of long delay, flight cancellation and denied boarding.
- EU Regulation 261/2004 (hereafter ‘the Regulation’) prescribes the conditions under which air passengers are entitled to compensation (and the level of compensation that is due) for delays, cancellation and denied boarding of flights to/from the EU that are operated by EU-registered airlines.
- Enforcement of the Regulation, and the imposition of carrier sanctions for non-compliance, is performed at a country level by designated National Enforcement Bodies (NEBs). The UK’s NEB is the Passenger Advice and Complaints Team (PACT) within the Civil Aviation Authority (CAA).
- The volume of passenger complaints received by individual NEBs, as well as the number and severity of carrier sanctions imposed, varies between EU Member States.
- The 2013 EU Alternative Dispute Resolution (ADR) Directive and growth of third-party ‘no win no fee’ Claims Management Companies (CMCs) has compounded the challenge of collating data on the total number and nature of passenger complaints.
- Comparing Regulation 261 enforcement across EU Member States is challenging due to the different size of national aviation markets; differing interpretations of the Regulation; the involvement of multiple entities and institutions; different levels of visibility and penetration of CMCs; and different levels of consumer awareness of their rights under the Regulation.
- In 2012, the average number of complaints received per million passengers by NEBs in the EU27 was 53.4. Portugal was the highest (218.7) and Greece the lowest (16). The UK figure was 19.8.
- Although legislation covering air passenger consumer rights exists in some non-EU nations, EU Regulation 261 currently offers the most unambiguous and comprehensive consumer protection for air passengers in the world. The average financial cost to an airline of the Regulation is estimated at between 0.6% and 1.8% of turnover (or approximately €1-3 per one-way ticket) (EC, 2014).

Context and scope of this briefing note

The progressive liberalisation of air transport within the European Union during the 1990s has delivered tangible benefits to consumers in the form of increased competition, greater choice of origin/destination airports, lower prices, unbundled airfares and innovative new products. The emergence, expansion and evolution of European low-cost operators from the mid-to-late 1990s, combined with the competitive response of incumbent Full Service Carriers (FSCs) to their arrival, have enabled more passengers to fly to more places more cheaply and more frequently than ever before. Yet rapidly rising levels of aeromobility, combined with Europe's fragmented airspace structure, the increasing frequency and severity of extreme weather events, industrial disputes, equipment failures and airline insolvency, have resulted in growing levels of congestion, delays, and inconvenience for passengers.

On February 11th 2004, the EU adopted Regulation (EC) 261/2004 of the European Parliament (hereafter referred to as 'the Regulation') which established '*common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights*' (OJEU, 2004 p1)¹. The Regulation, which came into force on 17th February 2005, repealed Regulation (EEC) No 295/91 of 4 February 1991, which had previously established common rules for a denied boarding compensation system in scheduled air transport. In 2016, the European Commission published a Notice of Interpretative Guidelines in recognition that the provisions of the Regulation were being interpreted in different ways, that enforcement and sanctions for non-compliance varied across Member States and that some passengers encountered difficulty in asserting their individual rights (EC, 2016). The purpose of this briefing note is to conduct a desktop review of the mechanisms through which the UK and other EU Member States enforce Regulation 261 and provide an international comparison of air passenger consumer rights in selected other non-EU nations.

Structure of the briefing note

The note is structured as follows: Section 1 details the regulatory environment as it currently pertains to air passenger rights in the EU (including the UK). Section 2 documents the scale and scope of air transport operations within the EU, with a particular focus on the UK. Section 3 reviews the available evidence concerning levels of compensation and the number of claims that are made to individual National Enforcement Bodies (NEBs) and Alternative Dispute Resolution (ADR) entities and contrasts the UK's approach with that of its European counterparts. Section 4 identifies extant air passenger rights legislation in other non-EU nations. Conclusions are presented in Section 5.

¹ Note: air transport was the first transport mode for which the EU regulated passenger rights. Passenger rights for rail (with several national exemptions), waterborne transport and bus and coach transport did not occur until 2007, 2009 and 2010 and 2011 respectively (Juul, 2015).

1. Regulations governing air passenger rights in the EU

Commercial air transport operations within and between territories of EU Member States are governed by a complex series of international conventions, European Regulations and individual nations' national legislation.

The international regulatory framework concerning air passenger rights

Aviation is inherently international in scope and the potential conflict of laws that emerged in the early 20th century concerning international carriage by air was addressed through a series of international and multilateral agreements. As a result, international air travel is predominately governed by international conventions and standards (Bartsch and Williams, 2017). The first international convention concerning claims for damage to persons and property engaged in international air transport was signed in Warsaw in 1929. *The Convention for the Unification of Certain Rules relating to International Carriage by Air* (the Warsaw Convention, 1929) adopted a uniform set of rules governing international air travel and, in addition to establishing limits on a carrier's liability for death and bodily injury, established the rights of both passengers and owners or consignors of air cargo. However, the Warsaw Convention only applied to international flights and, combined with the fact that many countries did not ratify the convention or its subsequent amendments, meant that a non-uniform system of air carrier liability and passenger rights developed.

On 4 November 2003, the Montreal Convention, 1999 (*Convention for the Unification of Certain Rules for International Carriage by Air*), came into force and replaced, for those States that had ratified it in 2001, the 1929 Convention. One of the five guiding principles of the Montreal Convention was 'ensuring the protection of consumer interests... and the need for equitable compensation based upon the principle of restitution' (Bartsch and Williams, 2017 p18). In addition to clarifying air carrier liability and the extent of compensation for damage to baggage and cargo, Article 19 stated that a 'carrier is liable for damage occasioned by delay in the carriage by air of passenger, baggage or cargo'. However, it also stated that 'the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures' (Montreal Convention 1999, Article 19, p7). Despite being ratified by 131 States, the provisions of the 1999 Convention have been interpreted in different ways worldwide, with the EU adopting a relatively broad interpretation of them.

Air passenger rights within the EU

Within the EU, air passenger rights have developed through the adoption of international conventions and national legislation as well as amendments to early legislation concerning consumer protection and package travel (Juul, 2015). In 1991, the EU adopted (EEC) Regulation 295/91 - a denied-boarding compensation scheme for scheduled air transport to give passengers legal redress in cases of involuntary offloading and denied boarding.

In 2000, the Commission proposed modifying the Regulation to increase sanctions, oblige carriers to pay compensation for denied boarding and cancellation, establish rules for upgrading and downgrading and designate bodies (later named National Enforcement Bodies, or NEBs) to enforce the Regulation (Juul, 2015). The proposal was controversial with some low-cost operators, in particular, suggesting that the increased penalties may lead to passengers receiving more in compensation than the original price they had paid for their ticket. In response, the resulting Regulation (EC) 261/2004 set lower compensation levels and excluded flights that were cancelled for reasons that were beyond the airline's control.

The new Regulation applied to passengers departing from an airport located in the territory of an EU Member State to which the Treaty applies as well as passengers departing from an airport located in a third country and arriving in the EU (unless they had received benefits, compensation or assistance in the third country) if the airline they are travelling with is registered in the Community. The Regulation covers delay, denied boarding and cancellation and applies to passengers travelling on Frequent Flyer Programmes but not those travelling free of charge or at a reduced fare that is not available (either directly or indirectly) to the general public. Details of the level of compensation that is due is given in Table 1.

Table 1: Passenger entitlement to compensation under Regulation 261 (derived from Butcher, 2015 and OJEU, 2004)

Compensation for delay:

- Short-haul flights (under 1,500km) delayed by 3 hours or more: €250
- Medium-haul flights (1,500-3,500km) delayed by 3 or more hours: €400
- Long-haul flights (over 3,500km) 3-4 hour delay: €300. Over 4 hours: €600

For delays over 5 hours, passengers are entitled to a refund if they no longer wish to travel and a return flight to their origin airport if they have already commenced their journey.

Compensation for denied boarding:

- Short-haul flights (under 1,500km) delayed by under 2 hours: €125. Over 2 hours: €250
- Medium-haul flights (1,500-3,500km) delayed by under 3 hours: €200. Over 3 hours: €400
- Long-haul flights (over 3,500km) under 4 hours delay: €300. Over 4 hours: €600

Compensation can be paid in cash, usually by cheque or bank transfer. Airlines may also offer alternatives such as travel vouchers for a future flight. Passengers can choose which option to accept.

Compensation for cancellation:

- Providing the flight meets relevant requirements, any passenger whose flight is cancelled is entitled to compensation. The level of compensation is determined by the length of flight (short/medium/long haul), when the cancellation occurred (7-

14 days' notice or less than 7 days' notice), the length of time between the arrival of the original flight and the new one, and whether the new service departs more than 2 hours earlier than the original one (for full details see Butcher, 2015).

Article 9 of the Regulation also details passengers' 'right to care' in the event of disruption. This includes meals and refreshments in 'reasonable relation' to the delay, hotel accommodation where an overnight stay is necessary, transport between the airport and place of overnight accommodation, and two free telephone calls, emails, telex or fax messages. The Regulation also requires Member States to '*lay down rules and sanctions applicable to infringements of the provisions of this Regulation*' and ensure '*effective, proportionate and dissuasive*' sanctions are applied (OJEU, 2004 p2). Member States were also required to designate an appropriate body to carry out enforcement.

However, implementing and enforcing the Regulation proved problematic and the European Court of Justice (ECJ) had to rule on numerous disputes between airlines and passengers and clarify the conditions under which compensation is due. The Sturgeon case, for example, led the ECJ to rule that passengers whose flight arrival is delayed² by three hours or more have the same rights to compensation as passengers whose flight is cancelled. The Wallentin-Hermann case however specified derogations from the obligation to pay compensation if the carrier can prove that the cancellation or delay was due to 'extraordinary circumstances' outside its control. The conditions that constitute an 'extraordinary circumstance' were hotly debated, forcing the ECJ to rule that technical issues with an aircraft do not, in general, constitute an 'extraordinary circumstance'.

In 2013, the Commission proposed amending both Regulation 261/2004 and 2027/97 (which concerns the rights of passengers with reduced mobility) to address their perceived shortcomings and guarantee consistency with ECJ decisions (Juul, 2015). The proposal advocated introducing the right for passengers to disembark after a 5-hour tarmac delay, obliging airlines to correct spelling mistakes in a passenger's name on a reservation, free of charge, up to 48 hours before departure, and preventing airlines, in principle, of denying boarding to passengers who do not take the outward portion of a return flight. However, they also sought to limit payment for accommodation in the case of major disruption and increase the time threshold for delay compensation from 3 to 5 hours for intra-EU flights and to as much as 12 hours for services to/from third countries (depending on the length of the flight).

Passenger complaint handling in the EU

EU Regulations oblige Member States to nominate or create National Enforcement Bodies (NEBs) who can ensure transport operators are treating passengers in accordance with their rights. Most NEBs are national Civil Aviation Authorities or statutory consumer protection

² Arrival time is specified as the moment when the first passenger door on the aircraft is opened following arrival on stand as this is when passengers can deplane. However, the opening of a door does not always signal the prospect of immediate disembarkation for passengers travelling on aircraft which do not have integral airstairs as they may need to wait for mobile airstairs or an airbridge.

agencies (EC, 2018). The European Commission has sought to increase passenger awareness of their rights under Regulation 261 and make it easier for them to claim compensation they are owed through a dedicated consumer rights app.

Initially, all compensation claims were intended to be registered with, and handled by, the NEB in the country in which the incident occurred. By 2010 all NEBs (except Konsumentverket in Sweden) were handling complaints and sanctions on airlines for non-compliance had been imposed by 14 Member States (SDG, 2010). However, concern remained that inconsistent and ineffective enforcement was potentially distorting the single market for air services and not preventing 'regulatory shopping' from occurring across the continent (Ibid. 2010).

Quantitative data on complaints under Regulation 261

In the period 2010-2012 inclusive, NEBs received 201,879 complaints under Regulation 261 (EC, 2014). This ranged from 91,726 complaints in 2010 (due in part to the considerable disruption resulting from the airspace closures imposed as a consequence of the eruption of Eyjafjallajökull in Iceland) to 53,675 in 2011 and 56,478 in 2012 (Ibid, 2014).

Between 2011 and 2012, the number of complaints received by European NEBs concerning long delays increased 15% from 18,893 to 21,710. Complaints regarding cancellations rose 17% from 18,160 to 21,330, while the volume of complaints concerning denied boarding remained stable at around 3,700 a year (figures derived from University of Westminster, 2015). However, a report by SDG (2010) suggested that these figures are likely to represent only a small number of complaints as around 30% of the 1 million complaints made to EU airlines in 2008 concerned Regulation 261/2004 (SDG, 2010).

The number of total complaints individual NEBs receive under Regulation 261 varies significantly. This variation can, in part, be explained by the different size of the aviation markets in individual countries as well as different national reporting structures and passengers' awareness of their rights. In 2012, the highest number of complaints (15,733) was registered in Spain (in part due to the collapse of carrier Spanair in January that year) and the lowest (52) in Slovenia. The UK registered 4,016 complaints (7.1% of total complaints) (EC, 2014). Data concerning the top five complaint receiving counties (note: not all the complaints were necessarily upheld) in the years 2010-2012 is provided in Table 2. Note that the Regulation requires complaints to be registered with the NEB of the country in which the incident occurred and not with the NEB which corresponds to the country of registration of the carrier or the nationality of the complainant³. In 2012, 8% (4435 complaints) were transferred to another NEB (EC, 2014).

³ Note: language may be pertinent here. For example, the UK NEB only accepts complaints in another language if officially translated into English (which will incur additional time and expense). Although some NEBs accept complaints in their official national language and English, not all do and this may act to suppress complaints.

Table 2: Top 5 complaint receiving countries under Regulation 261, 2010-2012 inclusive

Rank	2010	2011	2012
1	Spain (32,651)	Spain (10,848)	Spain (15,733)
2	UK (8,843)	Germany (4,477)	Portugal (6,165)
3	Netherlands (8,761)	Italy (4,257)	Germany (5,105)
4	Portugal (8,328)	France (4,126)	Poland (4,021)
5	France (5,347)	Rep of Ireland (4,084)	UK (4,016)

Source: Figures derived from EC, 2014 pp10-21

Interestingly, the relationship between the size of a country's aviation market and the number of complaints received is not straightforward (see Table 3). Possible explanations for this include the different types of air traffic (especially the prevalence of charter and low-cost flights in some markets), the extent of the seasonality of demand and air traffic congestion in certain countries at particular times of the year and the availability of supporting infrastructure (both the provision of adequate runway/terminal space but also labour in the form of handling agents and ramp staff to efficiently off/load aircraft).

Table 3: Comparison of 5 biggest EU air passenger markets and top 5 complaint receiving countries, 2012

Rank	Biggest markets (000s passengers) ¹	Complaints received ²
1	UK (203 067)	Spain (15,733)
2	Germany (178 591)	Portugal (6,165)
3	Spain (159 771)	Germany (5,105)
4	France (135 006)	Poland (4,021)
5	Italy (116 067)	UK (4,016)

Source: ¹ Derived from Europa.eu, 2013 p2 ² Derived from EC, 2014 pp10-21

Across the EU27 (excluding Croatia⁴), the average number of complaints received per million passengers in respect of the Regulation in 2012 was 53.4. The highest number of complaints received was in Portugal (218.7 complaints received per million passengers) and the lowest was Greece (16 complaints received per million passengers). The UK figure was 19.8, the 5th lowest – see Table 4.

⁴ As no data on the number of complaints received in 2012 was available

Table 4: Number of complaints received per million passengers EU27, 2012

Country	Passengers ¹	Complaints received ²	Complaints per million pax
Croatia	5,423,000	<i>No data</i>	<i>No data</i>
Portugal	28,186,000	6,165	218.7
Poland	21,791,000	4,021	184.5
Ireland	23,594,000	3,256	138.0
Sweden	3,031,000	349	115.1
Spain	159,771,000	15,733	98.5
Austria	25,966,000	1,342	51.7
Netherlands	55,680,000	2,600	46.7
Slovenia	1,168,000	52	44.5
Estonia	2,202,000	87	39.5
Belgium	25,914,000	1,022	39.4
Hungary	8,430,000	328	38.9
Slovakia	1,563,000	59	37.7
Romania	9,674,000	365	37.7
Lithuania	3,167,000	100	31.6
Germany	178,591,000	5,105	28.6
Latvia	4,755,000	133	28.0
Italy	116,067,000	3,163	27.3
France	135,006,000	3,491	25.9
Bulgaria	6,819,000	169	24.8
Denmark	26,528,000	584	22.0
Malta	3,650,000	80	21.9
UK	203,067,000	4,016	19.8
Finland	16,459,000	287	17.4
Czech rep	11,742,000	197	16.8
Cyprus	7,328,000	122	16.6
Greece	31,576,000	504	16.0

Source: ¹ Derived from Europa.eu, 2013 p2 ² Derived from EC, 2014 pp10-21

In 2012, 38% of all complaints made to NEBs under Regulation 261 in 2012 concerned long delays, a further 38% concerned cancellations, 7% were in respect of denied boarding and 15% were categorised as 'other' (EC, 2014). The figures for the UK were 62%, 30%, 7% and 0.5% respectively (EC, 2014).

The difficulty of capturing comparable data on complaints has been complicated by the European ADR (Alternative Dispute Resolution) Directive 2013/11/EU and various ECJ rulings which have resulted in a proliferation of private Claims Management Companies (CMCs) establishing operations in Europe. These CMCs, which include companies trading as euclaim.co.uk, airhelp.com, claimair.com, flightcomp.co.uk, refundmyticket.net, flight-delayed.co.uk, as well as multiple other providers, typically operate on a 'no win no fee' basis and pursue compensation claims on behalf of consumers. Although it appears from desktop searches of selected CMC's websites that some report data to the relevant NEB many do not state this information on publicly accessible areas of their websites.

Air passenger rights in the UK

As an EU Member, the UK is bound by the provisions of the Montreal Convention 1999 and (EC) Regulation 261/2004. The UK's NEB is the Passenger Complaints Unit (PACT) within the CAA (EC, 2018) as designated by the UK Civil Aviation (Denied Boarding, Compensation and Assistance) Regulations, Statutory Instrument number 975 (2005).

Passenger complaint handling in the UK

From the early 1970s until 2011, passenger complaints about airline services in the UK were handled by the CAA's AUC (Air Transport Users' Council). The AUC had two principal functions: advocate consumer interests and resolve passenger complaints. Prior to Regulation 261/2004 entering force in 2005, the AUC received 500-1,000 complaints annually. However, between 2005 and 2010 complaint volumes increased to 5,000-6,000 a year. In 2010, the number of complaints reached almost 12,000 due to the disruption caused by the eruption of Iceland's Eyjafjallajökull volcano (CAA, 2017). This figure of almost 12,000 complaints is considerably higher than that reported in EC (2014) and Table 2 in this document and indicate the difficulties associated with accurate data capture and reporting.

In 2011, AUC's consumer advocacy role was taken over by the CAA's newly-formed Passenger Advice and Complaints Team (PACT) and annual complaints returned to their near pre-eruption levels of 6,000-7,000 per annum (again, a discrepancy between the UK and EC figures is apparent). The 2012 ECJ ruling in the case of TUI/Nelson, which extended the rules on financial compensation in Regulation 261/2004 to include long delays, prompted the number of passenger complaints to increase to nearly 27,000 in 2013. As the CAA noted (2017, p9) this volume of complaints '*put a significant strain on the CAA's complaint handling capability and exposed a number of structural weaknesses in how the CAA was set up to handle individual passenger complaints*'. Questions surrounding the compatibility of the CAA's role as enforcer and complaint handling entity, its inability to issue legally binding rulings and the fact that the PACT funding mechanism offered little incentive for airlines to resolve

complaints in-house while imposing costs solely on UK registered carriers, provided a compelling case for reform (see CAA, 2017).

The introduction into UK law of the European ADR Directive offered an opportunity to reform the ways in which passenger complaints relating to Regulation 261/2004 in the UK were handled. The CAA advocated the creation of a voluntary private ADR system for complaints. This was to be set up and directly funded by the airlines, although the CAA retained independent governance and regulatory oversight. The CAA, as the UK's 'competent authority', currently approves two 'ADR entities' (CEDR and Consumer Dispute Resolution Ltd, trading as AviationADR) to which consumers can take their complaints. Airlines can also signpost consumers to non-UK based ADR entities providing certain quality conditions are met (see CAP 1408). These currently include ARN, CRPC, Czech Trade Inspection Authority and SOP of Germany. Unlike some other European NEBs, the UK will accept complaints in all major languages providing they are professionally translated into English.

Although many airlines signed up to the voluntary ADR system, a number, including Jet2, Aer Lingus, Emirates, American Airlines and United Airlines did not, which prevented the CAA from achieving full sector coverage. Nevertheless, based on 2016 data, 78% of passengers flying into and out of the UK were covered by a voluntary ADR scheme. Between January 2016 and the end of March 2017, UK approved ADR entities received just under 10,000 consumer complaints, of which nearly 9,000 related to Regulation 261/2004. The average value of successful claims was reported to be just over £800 per complaint (CAA, 2017).

2. Air transport operations within the EU and UK

In the calendar year 2017, 10.6 million commercial flights were performed within European airspace. According to data published by Eurocontrol's Central Office for Delay Statistics (CODA), 79.7% of flights arrived within 15 minutes of their scheduled time of arrival and 3.9% of flights suffered a delay of more than 60 minutes (Eurocontrol, 2018). Operational cancellations also decreased from 1.6% of planned flights in 2016 to 1.5% in 2017. The same source reports that 5 of the top 10 European airports for arrival delays were in the UK, with London Gatwick top with 46.9% of arrivals being delayed with an average delay per delayed arrival of 46 minutes (Eurocontrol, 2018)⁵. Nationwide, around 1% of all flights departing from, and arriving at, UK airports are either cancelled or encounter a long delay, meaning a large number of passengers are potentially entitled to compensation.

3. Sanctions for non-compliance, a UK-EU comparison

One of the key issues surrounding Regulation 261/2004 is the different ways in which it has been implemented, interpreted and enforced across EU Member States and the different levels of technical and human resources that are available to NEBs (see SDG, 2010). Significant variations exist in the sanctions that can be imposed (from unlimited fines in the case of some

⁵ The other UK airports in the top 10 for arrival delays were Manchester (2nd), London Luton (4th), London Stansted (5th) and Birmingham (7th) Source: Eurocontrol, 2018.

NEBs to sanctions which are so low they are not an effective incentive to comply) (SDG, 2010). Other inconsistencies are evident in the ways in which NEBs consider claims, with some applying sanctions per offence rather than per passenger. Further issues arise from the fact that not all NEBs capture data in the same way, making direct comparisons impossible, and not all NEBs keep data on the outcome of complaints.

SDG (2010) concluded that, in their opinion, only Hungary was compliant with Article 16 in terms of applying sanctions that were 'effective, proportionate and dissuasive'. The UK was considered non-compliant as the need for a criminal prosecution (with associated standards of evidence) and the availability of a due diligence defence to airlines meant it was difficult to impose sanctions and even then, the maximum fine was only €5,750. The same report identified Denmark, Ireland and the Netherlands as offering, in SDG's opinion, best practice when it came to the effectiveness of handling complaints.

In 2014, a report by the European Commission noted that the maximum level of sanctions that can be imposed for non-compliance vary considerably from country to country. Denmark and Sweden can impose unlimited fines whereas the maximum fine in Romania is only €563 (EC, 2014). The average maximum sanction (excluding Belgium and Spain) is €43,617, considerably higher than the maximum fine that can be imposed in the UK (SDG, 2010; EC, 2014).

4. Non-EU approaches to air passenger rights

The EU is not alone in having liberalised its air transport market. Other nation states and regional Communities have also taken steps to deregulate their aviation markets and have experienced similar outcomes in terms of the emergence of low cost carriers, falling cost of airfares, greater consumer choice, enhanced network coverage, increased passenger numbers and growing levels of congestion. It is therefore prudent to consider approaches to passenger rights beyond, as well as within, the EU. Table 5 details the passenger rights in the largest (defined as passenger traffic to, from and within each country) and most rapidly growing non-EU aviation markets.

Table 5: Air passenger rights in selected non-EU markets. Nations listed in italics are forecast to be the biggest passenger markets by 2036 according to IATA, 2016 (relative placing in brackets)

Country	National passenger rights legislation	Delays	Cancellation	Denied boarding	Notes
Australia	None identified (although individual carriers do have internal policies)	None identified	None identified	None identified	Australian Government has set up an 'Airline Customer Advocate' to handle complaints
Brazil	Resolution 141, 9 th March 2010	Yes	Yes	Yes	Obliges airlines to have a dedicated complaints desk at major airports as well as receive complaints by phone and email
Canada	Flight Rights Canada (voluntary scheme)	Yes	Yes	As for cancellations	Includes tarmac delay
<i>China (1)</i>	<i>Flight Regularity Administrative Regulations (2016)</i>	<i>Yes (policy dependent on individual airline)</i>	<i>Yes (policy dependent on individual airline)</i>	<i>Uncertain</i>	<i>Consumers are encouraged to take out their own insurance to compensate them for delays and cancellations</i>
<i>India (3)</i>	<i>Civil Aviation Requirements Section 3 – Air Transport</i>	Yes	Yes	Yes	
<i>Indonesia (4)</i>	<i>Article 1 No.30 in Act No. 1 Law on Aviation (2009)</i>	Yes	Yes	Yes	<i>Airlines must provide refreshments and compensation commensurate with the length of delay</i>

<i>Japan (5)</i>	<i>Unable to determine</i>	<i>Yes (dependent on airline)</i>	<i>Yes (dependent on airline)</i>	-	<i>Note: Overbooking culturally unlikely</i>
<i>Mexico</i>	<i>Some consumer protection offered by the Civil Aviation Law</i>	-	-	-	
<i>New Zealand</i>	<i>Some provisions within Civil Aviation Act (as amended in 2004) concerning airline liability</i>	<i>Yes</i>	-	-	
<i>South Africa</i>	<i>None identified</i>	-	-	-	
<i>Thailand (7)</i>	<i>International Air Carriage Act (Air Carriage Act), 2015</i>	<i>Yes - The carrier's liability for damage to passengers caused by delays is limited to SDR 4,694.</i>	<i>No</i>	<i>No</i>	<i>Mostly covers liability for death, bodily injury and baggage</i>
<i>Turkey (6)</i>	<i>Regulation on Air Passenger Rights</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Similar in scope to EU Regulation 261</i>
<i>United States (2)</i>	<i>Enhancing Airline Passenger Protections; final Rule; 25 April 2011</i>	<i>Passengers entitled to information</i>	<i>Passengers entitled to information</i>	<i>Yes</i>	<i>Includes tarmac delays. Note that compliance with economic regulations, including passenger rights, is a license condition (see SDG, 2010).</i>

Source: Based on an original table prepared by SDG (2012 p43) with authors' additions and amendments

In addition to national legislation, many non-EU airlines have their own internal company policies for dealing with disruption. Typically, these policies outline a passenger's right to care and/or compensation in cases of delay, cancellation, rerouting or denied boarding.

5. Conclusion

This briefing note has identified the legislative framework that underpins air passenger rights in the EU. A desktop review of available data and literature indicates that while issues concerning Regulation 261 enforcement and sanctions remain, the EU mechanism affords the clearest and most comprehensive air passenger rights protection in the world.

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