



AUGUSTA ABOGADOS

INFORMATION ALERT

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The European Union Approves the Reform of Regulation (EC) No. 261/2004 and the Legal Framework for Passenger Air Transport

After more than a decade of institutional negotiations, the long-awaited reform of **Regulation (EC) No. 261/2004** -concerning air passengers' rights in the event of denied boarding, flight cancellations, and long flight delays- as well as **Regulation (EC) No. 2027/97**, on the liability of air carriers regarding the carriage of passengers and baggage, through **Regulation (EU) 2026/2202** of September 16, 2026. The reform enters into force 20 days after its publication, becoming part of Union law, although it provides for a transitional period for adaptation prior to its full implementation on October 23, 2027, thereby granting operators a specific timeframe to bring their procedures, systems, and commercial policies into compliance. The official text of the published regulation can be found at the following link: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202602202

The main objective of the reform is to revise and update various fundamental aspects of Regulation (EC) No. 261/2004, incorporating into the regulatory text itself interpretive solutions that, for more than twenty years, had been developed primarily through the case law of the Court of Justice of the European Union and through administrative enforcement criteria that were not always uniform.

However, the reform goes far beyond a mere revision of the compensation and assistance regime for passengers. The European legislature has taken advantage of

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this initiative to regulate, for the first time in an explicit and uniform manner throughout the European Union, various particularly relevant issues concerning air passenger transport contracts, which until now lacked specific regulation and had given rise to significant interpretive disputes among operators, national authorities, and courts.

In this regard, the reform aims to strengthen legal certainty and regulatory uniformity in matters essential to the operation of commercial air transport, reducing the existing fragmentation among Member States and providing a common regulatory framework for passengers, airlines, national authorities, and courts.

We view the European legislator's willingness to incorporate into the regulatory text solutions that until now depended largely on case law developments and scattered interpretive criteria as positive for the aviation sector. The reform provides greater regulatory predictability in areas particularly relevant to airlines' operations and contributes to a more uniform application of the rules throughout the European Union.

Notwithstanding the foregoing, it is also regrettable that the reform has missed the opportunity to offer more ambitious solutions to some of the issues that, in recent years, have caused the greatest operational difficulties and led to higher levels of litigation for air carriers. In particular, certain issues related to the operational management of incidents, the scope of airlines' liability regime, and the high costs associated with ongoing disputes continue to lack a fully satisfactory regulatory response.



This is particularly relevant in a context where the European aviation sector continues to face significant economic and operational challenges stemming from structural cost increases and growing regulatory and compliance requirements affecting its operations.

Nevertheless, the reform represents one of the most significant regulatory changes in the field of European commercial aviation in recent decades and will require airlines to thoroughly review numerous operational, commercial, and passenger service procedures.

Given the scope and complexity of the changes introduced, in the coming weeks we will publish a series of four informational alerts in which we will analyze the main changes brought about by the reform from a practical perspective for airlines and other operators in the sector:

1. Extraordinary Circumstances and Exemption from Liability

We will examine the new legal definition of “extraordinary circumstances,” the inclusion in the Regulation of a prescriptive list of reference scenarios, the new evidentiary requirements imposed on airlines, and the scope of the changes introduced with respect to the previous case law of the Court of Justice of the European Union.

2. Commercial Policies and Terms of the Contract of Carriage

We will analyze the new European regulations on seating policies, boarding passes, correction of passenger names, and the use of travel vouchers or coupons—matters



that until now had been largely subject to general conditions of carriage and non-harmonized commercial practices.

3. Hand Baggage and Fare Freedom

We will examine the new legal framework for hand baggage, the distinction between “personal items” and “hand baggage,” the implications for the marketing of airfares, and the consequences of the reform for business models based on the unbundling of services.

4. Claim Procedures and Compensation Management

We will discuss the creation of a harmonized European procedure for compensation requests and claims, the new obligations regarding information and responses to passengers, and the operational implications these changes will have for airlines' customer service, operations, and regulatory compliance departments.

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