

Special report 15/2021 – Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts

Special report

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FULL REPORT (OFFICIAL EU LANGUAGES) 

What we assessed and why

The COVID-19 pandemic has had a major impact on the travel and tourism sector across the EU. In March 2020, travel restrictions – introduced in an uncoordinated and unilateral manner by Member States – led to the cancellation of thousands of flights affecting millions of passengers in the EU. These passengers demanded refunds, which caused serious liquidity problems for airlines and package-tour operators. To prevent bankruptcies and allow airlines to continue operating, Member States quickly stepped in and provided billions of euros to help airlines survive the crisis.

We assessed whether the European Commission had successfully protected air passenger rights during the first year of the pandemic, from March 2020 to March 2021. In particular, we assessed:

- whether air passengers' rights of access to information and to reimbursement were safeguarded;
- whether Member States linked state aid paid out to airlines and package-tour operators to the protection of passenger rights; and
- whether the Commission made the necessary arrangements to protect the rights of air passengers.

In a 2018 report we had already highlighted several shortcomings in EU rules on the protection of passenger rights.

What we found

We found that air passengers were not aware of their key rights¹. According to Eurobarometer data, only 14 % of EU citizens knew that air passenger rights existed in the EU. When a flight is cancelled, passengers have the right either to be rerouted as soon as possible, or to receive a refund within 7 days (for flights only) or 14 days (for travel packages).

¹ EU Regulation 261/2004 sets out the rules on compensation and assistance to passengers in the event of denied boarding and of cancellation, or long flight delays. An EU Directive provides similar protection for package deals.



Initially, contrary to EU rules, many passengers did not receive refunds, or were forced to accept vouchers instead of cash reimbursements. This even happened with the Member States' agreement: 15 of them broke EU law by adopting exceptional measures to release airlines and package-tour operators from their usual obligation to reimburse passengers. At the same time, most tickets and vouchers were not protected against airline insolvency. Airlines only started refunding passengers from June onwards, with considerable delays. In Portugal, for example, refunds took between 31 and 59 days on average to be processed. Passengers who had booked their tickets through intermediaries (e.g. travel agencies) fared even worse: they were “ping-ponged” between the intermediaries and the airlines, and often only managed to secure a partial reimbursement, if any.

The absence of reporting requirements meant that there was no clear picture of the situation at EU level. For example, no EU-level data was available on the number of passengers claiming their money back or on the number of cases which remained unresolved after the legal deadline for doing so had expired. This lack is in itself an important part of the problem in enforcing air passenger rights.

The Commission approved measures to mitigate the impact of the pandemic on airlines and package-tour operators. Under the “Temporary Framework for State aid measures to support the economy in the current COVID-19 crisis”, it adopted 54 state-aid decisions in record time, amounting to €34.7 billion. The actual provision of state aid, however, varied significantly across the Member States. While Member States are required to ensure that state aid recipients report to the Commission on how this aid supported the EU's objectives related to the green and digital transformation, this was not required in relation to the reimbursement of air passengers. The Commission itself cannot impose conditions linking state aid to the reimbursement of passengers, but it made it clear that Member States could do so. Most of the aid (more than 90 %) went directly to airlines, but Member States failed to link the aid directly to the reimbursement of passengers. These reimbursements were left completely in the hands of the airlines, which followed their own priorities with regard to the use of the state aid.

Despite its limited ability to act in this area, the Commission launched several initiatives to protect air passenger rights, such as the Coronavirus response website, the “Digital Green Certificate” and the Re-Open EU website.

What we concluded

Passenger rights were not safeguarded during the first year of the COVID-19 pandemic. In our view, the limitations of the existing legal framework prevented the Commission from enforcing passenger rights effectively, while Member States did not implement the Commission's corresponding recommendation. To better protect EU passenger rights, we recommended that the Commission should:

- provide better information to air passengers about their rights;
- ensure that passengers receive reimbursements in line with EU law, even in times of crisis;
- facilitate better coordination of national measures;
- make state aid to airlines conditional on passenger refunds; and
- tighten the legislation for protecting air passenger rights.