

NEB - NEB

COMPLAINT HANDLING PROCEDURE UNDER REGULATION (EC) No 261/2004

Version February 2019

Basic principles

It is recalled that under Article 16(1) a NEB is responsible for the enforcement of the Regulation as regards flights from airports situated on its territory and as regards flights from a third country to its airports.

Allocation of complaints

1. For the purpose of this document:
 - a) a "flight" refers to all flights under a single booking (one and the same contract of carriage).
 - b) the Member State of departure of a flight is referred to as "MS A"; the Member State on whose territory a passenger has a connecting flight is called "MS B"; and the Member State on whose territory a passenger's flight or journey ends is referred to as "MS C".

Intra-EU flights

2. A NEB is competent for the complaints related to **delays or cancellations** of flights departing from its territory (MS A).

This applies also to complaints about a flight departing from MS A and arriving at the final destination¹ (MS C) with a "long" delay. The NEB of MS A remains competent for handling such complaints also in the case of a missed connection during an intra-EU connecting flight in MS B leading to a long delay at the final destination in MS C².

3. Notwithstanding the rule of point 2, the NEB of MS B is responsible if a cause of a travel disruption arises solely in MS B.

Extra- EU flights

4. In case of a flight from MS A with a transfer in a third country airport to another third country as the final destination, the NEB of MS A is competent.
5. In case of a flight operated by an EU carrier originating in a third country involving a transfer in a MS B with a final destination in MS C, and connecting flight which was missed in MS B, the NEB of MS B is competent.
6. For incidents happening outside the EU with EU licensed carriers, the competent NEB is the one of the MS of arrival (MS C); in the case of connecting flights it is the MS of the first arrival in the EU.

General points of cooperation

7. If, for linguistic or other reasons, passengers choose to file a complaint to an NEB which is not the competent NEB, the two NEBs agree on the transfer of the file, preferably by email, together with a summary in English or another language common to these NEBs.
8. Notwithstanding the rule above and in order to facilitate the procedure, the NEB can inform the passenger that another NEB is responsible and propose to the passenger to file the complaint directly with the responsible NEB. In case the passenger does not follow this proposal, the NEB will follow the procedure under point 7 and 9.
9. Such summary should include the following details: 1) passengers' names, 2) flight number and

¹ Joined cases C-402/07 and C-432/07, ECLI:EU:C:2009:716 'Sturgeon',

² C-11/11, ECLI:EU:C:2013:106, 'Folkerts'.

operating carrier, 3) date of the incident, 4) airport concerned, 5) type of incident, 6) if applicable, brief description of exceptional circumstances, 7) whether the operating carrier has been contacted and its reply to the passenger mentioning that the case has been transferred to another NEB.

10. NEBs shall coordinate among each other to avoid contradicting rulings.
11. NEBs are invited to closely collaborate with the European Consumer Centres (ECC- Net) in order to gather a maximum of data which might lead to procedures related to sanctioning.
12. The Consumer Protection Cooperation Network (CPC Network) created under Regulation (EC) No 2006/2004) can be consulted in order to resolve translation issues. In addition, it provides for Member States to cooperate on cross-border enforcement of EU regulations related to consumer protection, including Regulation (EC) No 261/2004.
13. NEBs should also react to press-publications or submissions by other organisations or authorities (active monitoring).

General complaint handling procedure

1. Acknowledgement of receipt and first analysis/filtering without undue delay.
2. Assessment whether similar complaints were received on that particular case.
3. Case submission to the airline requiring reply within at least 6 weeks from the date of receipt. If no reply is received from the airline, send a reminder to the airline adding an additional delay of 2 weeks (NEB to update the passenger).
4. In case of an airline reply: assessment on the basis of evidence received by all parties, followed by independent ruling communicated to complainant and airline.
5. In case of no reply: assessment and action on the basis of the passenger complaint.
6. Internal NEB examination of possible repetitive incidents with particular airline.
7. In cases of extraordinary circumstances:
 - 7.1. If information provided by airlines is of a coherent and detailed character, NEB are left with a margin of flexibility and can apply a system of random checks, respecting the principle of proportionality.
 - 7.2. If information is only provided in a generalised manner not allowing NEB to draw sound judgements, each incident has to be followed up on individual case-by-case assessment requesting for example, as matter of proof, logbooks, incident reports, maintenance manuals etc.
8. Registration in local database.
9. Complaint handling procedure to take a maximum of:
 - 3 - 4 months for clear cases;
 - 6 months for complex cases;
 - longer than 6 months for cases that are involving legal proceedings.

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[EC]261/2004**

Model of complaint transmission sheet to other NEB

1) Passenger(s) name(s):	
2) Flight number and operating carrier:	
3) Date of the incident:	
4) Airport where incident occurred:	
5) Type of incident:	
6) If applicable, brief description of exceptional circumstances:	
7) Operating carrier contacted: (non-mandatory under Regulation 261/2004) If Yes: please indicate WHEN and BY WHICH MEANS (e.g.: postal mail, e-mail, complain form on the carrier website, etc.)	Yes: <input type="checkbox"/> No: <input type="checkbox"/>
8) Attachments: a) Copy of passenger's complaint b) Reply of the operating carrier to the passenger (if applicable)	Yes: <input type="checkbox"/> No: <input type="checkbox"/> Yes: <input type="checkbox"/> No: <input type="checkbox"/>
9) Additional details on passenger claim to operating air carrier: EG: date of information of the cancellation; if rerouted: (when, which flight number), etc.	

NB: NEB receiving a complaint should send an acknowledgment of receipt to the transferring NEB.