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COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMISSION STAFF WORKING DOCUMENT

accompanying document to the

**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT AND THE COUNCIL**

pursuant to Article 17 of Regulation [EC]261/2004

**on the operation and the results of this Regulation establishing common rules on
compensation and assistance to passengers in the event of denied boarding and of
cancellation or long delay of flights**

(COM(2007) 168 final)

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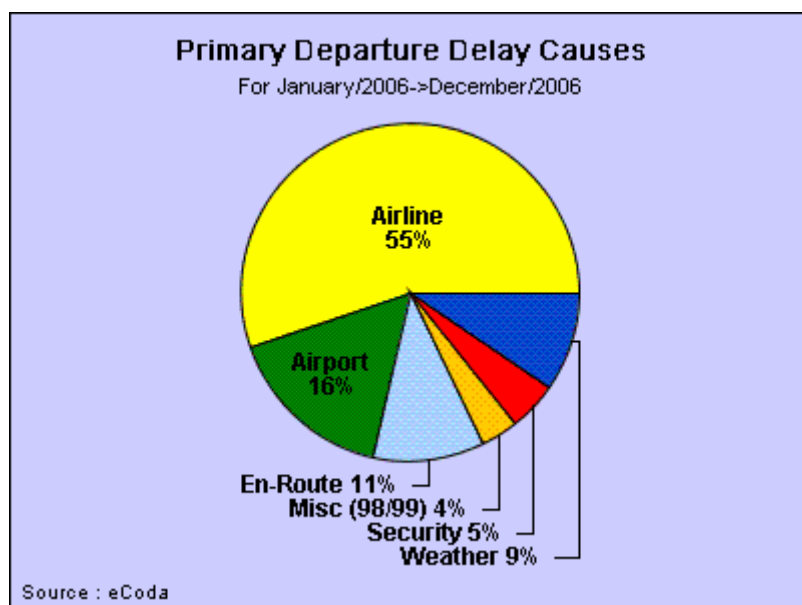
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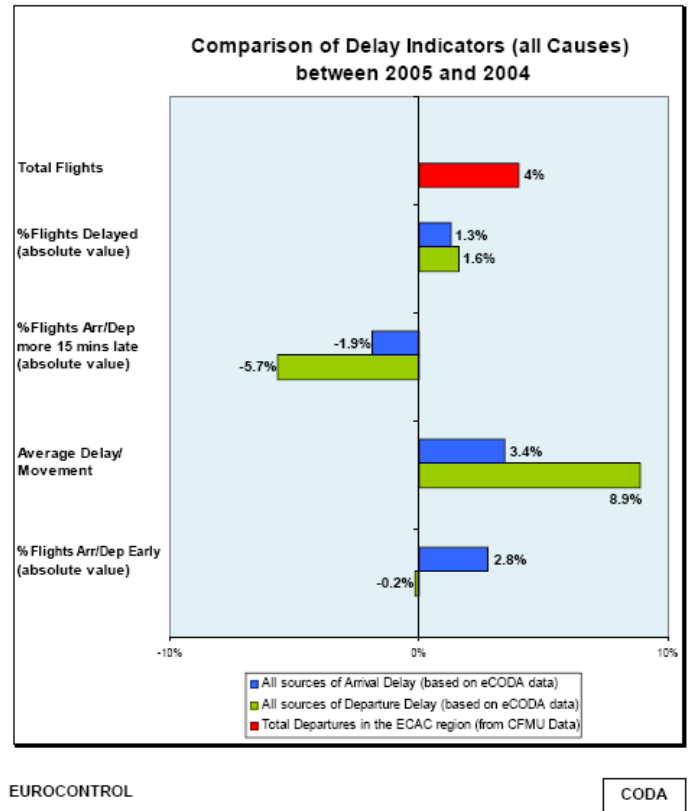
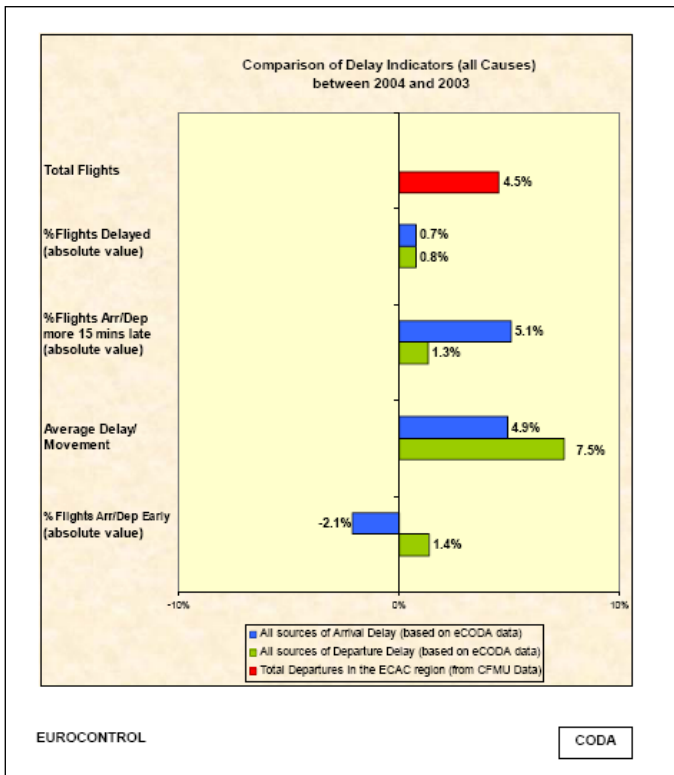
1. Delay Quantitative Data

1.1 EUROCONTROL: causes for delays

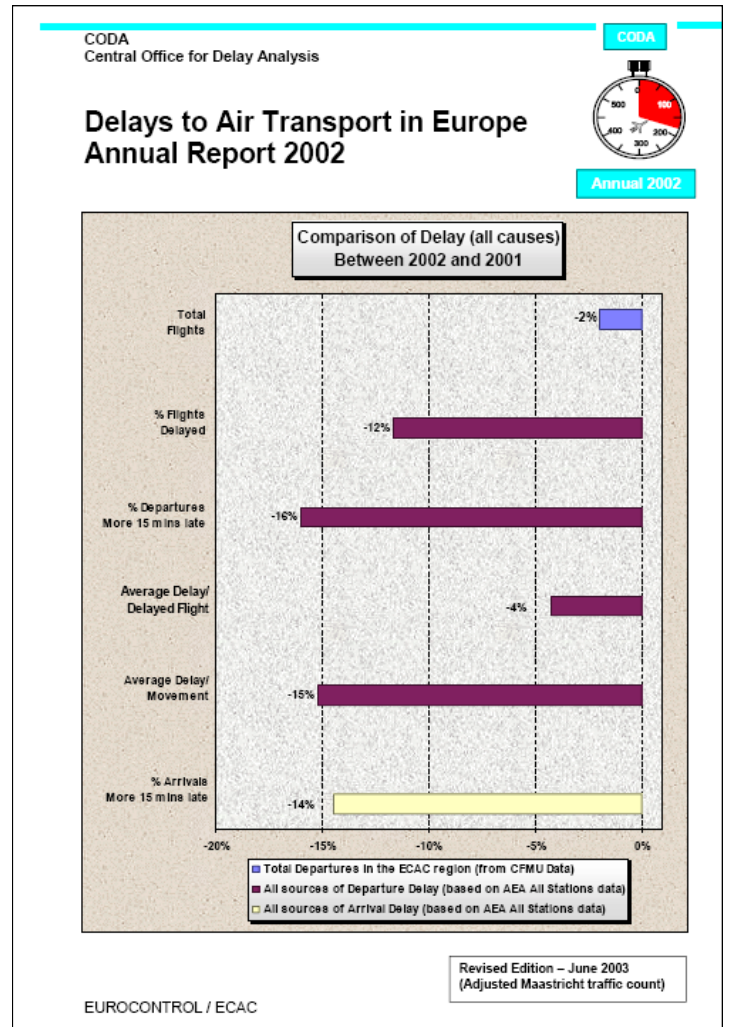
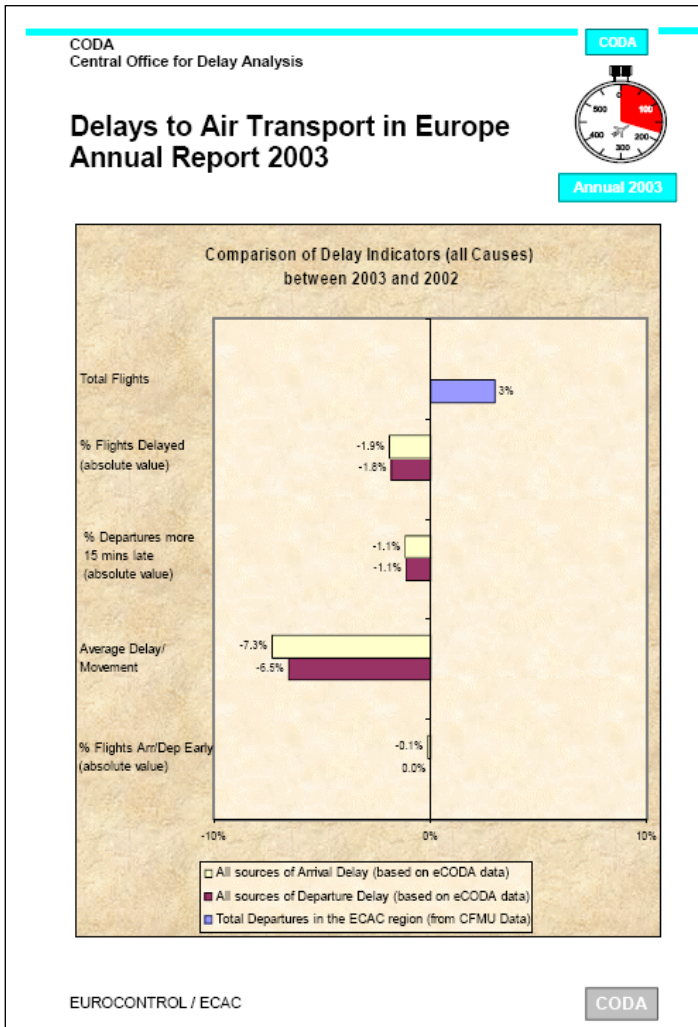


1.2 Evolution in number of delays

1.2.1 Between 2003 – 2005



1.2.2 Between 2002 – 2003



2. Complaints handling at NEB

2005-2006		AT	BE	BG	CY	CZ	DK	EE	FI	FR	DE	EL	HU	IE	IT	LV	LT	LU	MT	PL	PT	RO	SK	SI	ES	SE	NL	UK	EUR-27	%	CH	IS
1. Number of complaints received		/ 496	91	41	459	45	50	2700	1589	248	51	160	2557	24	63	15	13	821	1654	59	/	/	162	900	6090	18288	100			19		
2. Number of complaints on delays		/ 128	74	20	124	11	30	1071	537	73	26	56	1032	2	11	8	7	194	520	21	/	/	73	231	2044	6293	34			12		
3. Number of complaints on cancellations		/ 181	14	15	262	30	20	729	858	109	20	85	973	6	29	5	4	352	237	20	/	/	71	502	1931	6453	35			3		
4. Number of complaints on denied boarding		/ 47	3	0	46	2	3	234	194	41	1	13	203	7	6	2	2	50	98	2	/	/	13	72	262	1301	7,1			1		
5. Number of complaints on other issues		/ 1	3	6	23	2	0	666	0	35	4	5	349	10	17	0	0	225	799	22	/	/	5	95	1853	4120	23			3		
6. a) Number of complaints from own national passengers		/ 396	35	22	321	38	45	-	-	133	40	-	22	61	12	6	721	-	52	/	/	139	750	-	2793	-			15			
b) Number of complaints from foreign passengers		/ 110	56	19	138	7	3	-	-	115	11	-	2	2	3	7	90	-	7	/	/	23	150	-	743	-			4			
7. a) Number of complaints in foreign language		/ 83	49	17	-	10	3	-	-	104	11	4	-	2	2	-	13	102	-	7	/	/	23	200	-	630	-			4		
b) Number of complaints in foreign language not covered		/ 0	9	1	0	0	1	-	-	0	2	0	-	0	0	0	0	10	-	0	/	/	4	1	-	28	-			1		
8. a) Number of cases solved and settled		/ 477	11	16	170	5	10	-	333	142	35	65	438	17	45	14	6	321	337	59	/	/	68	62	-	2631	14			17		
b) Number of cases engaged for sanctioning		/ 0	39	2	0	0	-	-	0	4	7	-	62	5	0	0	0	13	-	3	/	/	5	0	3	143	0,8			1		

AT [have not submitted any figures]	DE 01/06-09/06	PL 01/06-09/06	IS 02/05-09/06
BE 02/05-02/06	EL 02/05-11/06	PT 01/06-09/06	CH -
BG -	HU 01/06-09/06	RO -	
CY 01/05-10/06	IE 01/06-10/06	SK 02/05-10/06	
CZ from 1/07/2006	IT 01/06-09/06	SI [have not submitted any figures]	
DK 17/02/05-17/02/06	LV 02/05-02/06	ES [have not submitted any figures]	
EE 01/05-10/06	LT 02/05-02/06	SE 02/05-02/06	
FI 01/06-09/06	LU 01/06-11/06	NL 02/05-02/06	
FR 2005-1/07/06	MT 01/06-09/06	UK 17/02/05-17/02/06	

Update: 14/12/2006

For the period from February 2005 to September 2006, NEB received a total of 18288¹ complaints, which focussed to a large degree on delays (34%) and cancellations (35%). Complaints relating to denied boarding were fewer in number (7,1%). Only 14% of these complaints have been successfully resolved and settled. The number of cases initiated for sanctioning by the NEB do not even cover 1% (0,8%) of the total number of complaints and NEB have started only very recently and occasionally to apply sanctions against air carriers (*Annex 2*).

The correspondence received by the Commission confirms this picture. In fact, about 70% of the complaints received² (± 7000) are within the scope of Regulation [EC]261/2004 (denied boarding, delays, cancellation) while 30% are linked to other issues relating to air transport (baggage handling, bad service, ticketing, etc.). In addition, complaints addressed to the Commission show a number of deficiencies with regard to the enforcement process.³

¹ Information provided by Member States following a written consultation – the consultant, in charge of the independent study on Regulation [EC]261/2004 has information of a total of 31 543 complaints.

² From 2005 to November (included) 2006.

³ These findings are in line with the Report on Air Passenger Rights Complaints 2005 published by The European Consumer Centres' Network (ECC) in November 2006 :
(http://www.eccdublin.ie/publications/reports/ecc_reports/ECC-Net_Airline_Complaints_05.pdf)

3. Structure of NEB

Country	Organisation
Austria	Bundesministerium für Verkehr, Innovation und Technologie
Belgium	Direction Générale 'Transport aérien'
Cyprus	Department of Civil Aviation
Czech Republic	Civil Aviation Authority
Denmark	Statens Luftfartsvæsen (CAA Denmark)
Estonia	Tarbijakaitseamet (Consumer Protection Board)
Finland	Civil Aviation Authority Consumer Ombudsman & Agency Consumer Complaint Board
France	DGAC, Direction de la régulation économique Bureau de la facilitation et des clients
Germany	Luftfahrt-Bundesamt (LBA)
Greece	Hellenic Civil Aviation Authority
Hungary	Enforcement: Polgári Légiközlekedési Hatóság (PLH) Complaints: Fogyasztóvédelmi Főfelügyelőség
Ireland	Commission for Aviation Regulation
Italy	ENAC
Latvia	Consumer Rights Protection Centre
Lithuania	Civil Aviation Administration
Luxembourg	Direction de la Consommation du Ministère de l'Economie et du Commerce extérieur
Malta	Department of Civil Aviation
Netherlands	Civil Aviation Authority Netherlands - Flight Operations Inspectorate
Poland	Civil Aviation Office
Portugal	INAC, Legal Regulations Department
Slovakia	Slovenská obchodná inšpekcia (Regional Slovak Trade Inspectorate) ústredný inšpektorát (Central Slovak Trade Inspectorate)
Slovenia	Traffic Inspectorate
Spain	Dirección General de Aviación Civil, Sección de Atención al Usuario
Sweden	Enforcement: Swedish Consumer Agency Complaints: National Board for Consumer Complaints
UK	Enforcement: UK CAA Complaints: UK Air Transport Users Council

In several Member States, the NEB rulings are not legally valid, but they can be used by the passenger in a civil court as evidence that the airline has not complied with the Regulation.

Different arrangements for enforcement exist in a number of Member States:

- In the UK, Finland and Hungary, there is a separate organisation responsible for complaints handling.
- In Estonia, Latvia, Luxembourg, Slovakia and Sweden, the organisation responsible for implementation of the Regulation is a general consumer authority and the Civil Aviation Authority is not involved.
- In one Member State (Ireland), the organisation responsible for implementing the Regulation is an independent economic regulatory authority, with a remit that overlaps with that of the Civil Aviation Authority.

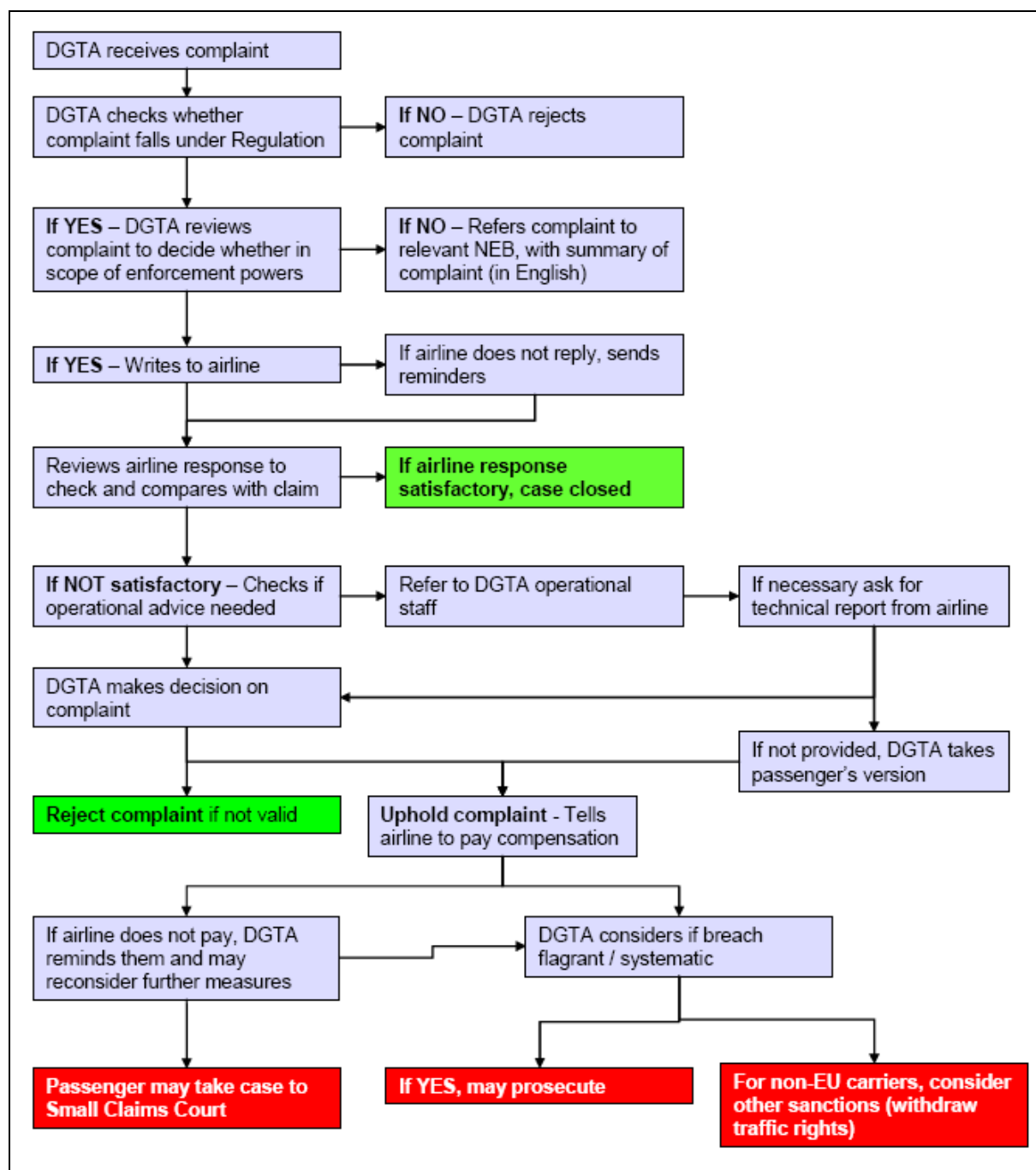
Member States with complaints handling bodies, separate from the CAA can be divided into two categories.

- In Finland and Hungary, the complaints handling body is a general consumer authority which functions as the main body responsible for implementing the Regulation. In these Member States, the consumer bodies function as a dispute resolution mechanism and the role of the CAA appears to be nominal.
- In the UK, the body responsible for handling complaints (the AUC – Air Transport Users Council) is a specific air passenger representative body. Its role is more limited, as it cannot function as a dispute resolution mechanism, and the CAA has a more extensive role in ensuring compliance with the Regulation.

In two Member States the industry might have a certain (indirect) influence over the enforcement process.

- In Finland, complaints are ruled on by a Consumer Complaints Board which has both industry and consumer representatives.
- In the UK, the CAA is required to consult the industry about its budget, including resources allocated to the complaints handling body (the AUC).

4. Complaints handling procedure in Belgium (best practice example)

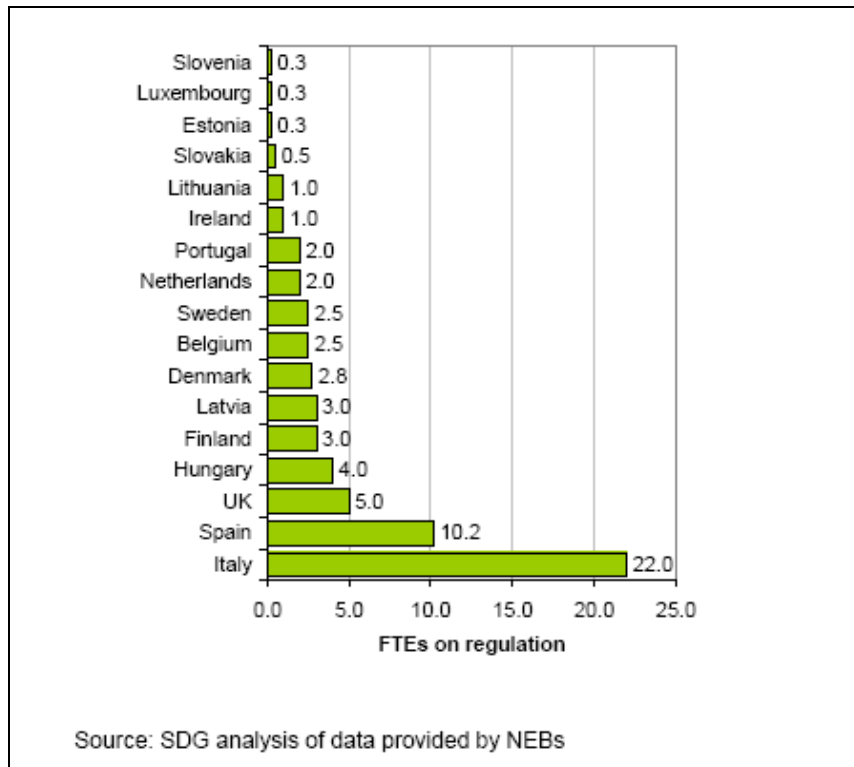


Legally trained staff are used to review each complaint and, if appropriate, also to hire technically qualified employees to undertake a detailed assessment in each case in order to make an informed ruling on whether or not a complaint is valid. They also refer complaints to the appropriate NEB in another Member State if they do not have jurisdiction themselves.

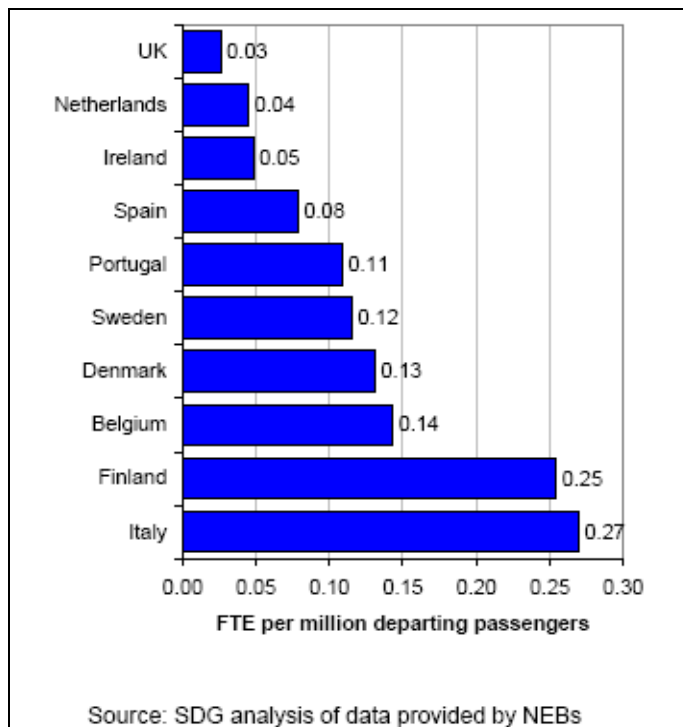
In the case of Belgium and Denmark, there are significant sanction schemes which could be applied, but this is considered unlikely to be necessary, because the process of ensuring that airlines comply in individual cases is so effective.

5. Human Resources allocated to complaints handling in the National Enforcement Bodies (FTE = Full Time Equivalents)

5.1 Number of staff working on Regulation [EC]261/2004 (when data available)



5.2 Number of staff per million passengers (when data available)



6. Scale of sanctions

Country	Law	Key dates
Austria	Amendment to Austrian Civil Aviation Law	1 July 2006
Belgium	Amendment to article 32 of Law of 27 June 1937	Passed 15 May 2006, came into force 25 May 2006
Cyprus	Aviation Law 2002 amended by Statutory Instrument 283/2005	16 June 2005
Czech Republic	Amendment to Aviation Act no. 49 1997	1 July 2006
Denmark	SLV designated as NEB for all infringements of EU law under the Danish Air Navigation Act	Pre-existing power
Estonia	Amendment to Aviation Act designates CPB as NEB	1 January 2005
France	Law for penalties not yet passed, but before Conseil d'État	-
Finland	Previous legislation implements all EU Regulations.	Pre-existing power
Germany	Amendment to Luftverkehrs-Zulassungs-Ordnung (Aircraft Licensing Act)	27 July 2005
Greece	Decision D1/D/49859/3247 designated Air Economic Sector of the Division of Air Transport Affairs as NEB	9 December 2004
Hungary	Previous legislation implements all EU Regulations.	Pre-existing power
Ireland	Statutory Instrument 274 established CAR as NEB Amendment to Aviation Act of 2001 granted enforcement powers.	31 May 2006 4 April 2006
Italy	Penalties enabled through Legislative Decree of 27 Jan 2006 NEB started to apply sanctions	Passed 27 Jan 2006, took effect 21 March 2006 July 2006
Latvia	Information not provided (requested)	
Lithuania	Previous legislation implements all EU law. Amendment of Government Decision Nr. 285 allows some penalties. Proposal to allow fines currently before parliament.	11 July 2006
Luxembourg	Previous legislation implements all EU Regulations.	Pre-existing powers
Malta	Subsidiary Legislation 232.09 defines enforcement regime Subsidiary Legislation 232.22 defines sanctions	17 February 2005 19 August 2005
Netherlands	Previous legislation implements all EU Regulations.	Pre-existing powers
Poland	Amendment to Aviation Act of 3 July 2002 established department for passenger rights	5 October 2005
Portugal	Previous legislation implements all EU Regulations.	Pre-existing powers
Slovakia	Previous legislation implements all EU Regulations.	Pre-existing powers
Slovenia	Aviation Act defines all aviation enforcement, including this Regulation	9 August 2006
Spain	DGAC designated as NEB under Royal Decree 1476/2004 Powers to impose sanctions under Law 21/2003 NEB took on sufficient staff to allow enforcement Further amendments expected	effect Pre-existing powers April 2006 2007
Sweden	Decree (2005:388) Changing the Decree (1994:1808) about Competent Authorities in the Civil Aviation Area appointed the Consumer Agency as NEB	1 July 2005
UK	Civil Aviation (Denied Boarding, Compensation and Assistance) Regulations 2005, Statutory Instrument number 975 (2005) designated CAA as NEB and established fine	23 April 2005

In Denmark, Hungary and the Netherlands, unlimited fines can be imposed for non-compliance.

The highest defined maximum penalties are in Spain (€4.5 million), although in practice the penalty imposed in Spain has to be in relation to the amount that the airline could have saved through non-compliance. Thus, any actual penalty would probably be well below the amount of €4.5 million.

In certain other countries, the maximum penalties are much lower: in the most extreme case, Latvia, the maximum penalty is approximately €215, significantly less than the amount that an airline would typically have to pay as compensation.

In Finland, Lithuania and Luxembourg, the NEB do not yet have the legal authority to impose penalties. These Member States are therefore not compliant with Article 16 of the Regulation, which states that the NEB should be able to impose dissuasive penalties.

Finland considers that the publication of airlines names on a blacklist is a sufficiently strong disincentive.