

NEB – NEB
COMPLAINT HANDLING PROCEDURE UNDER REGULATION [EC]261/2004
Version 3.1 / 04-2017

Basic principles

1. It is recalled that under Article 16(1), each NEB is responsible for the enforcement of this Regulation as regards flights from airports situated on its territory and flights from a third country to such airports.
2. The following rules should be used by NEBs for answering passengers' complaints:
3. NEB to be competent for the complaints related to incidents happening on its territory, including in case of long delay at final destination¹ (most efficient level of data availability on the events causing the flight disruption; effective enforcement).
4. In case of missed connection during an intra EU connecting flight leading to a long delay at final destination², resulting from an incident which did not take place at the airport of departure., the competent NEB is the one of the connecting point where the connecting flight was missed.
5. In case of transfer in a third country airport to another third country final destination of a flight originating in an EU MS, it is the NEB of this MS which is competent.
6. In case of a flight operated by an EU carrier originating in a non-EU MS involving a transfer in an EU MS with final destination in the EU, the competent NEB is the one where the connecting flight was missed.

General

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, together with a summary in English or any other relevant language.
8. Such summary should include the following details: 1) passengers names, 2) flight number and 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.
9. NEBs to coordinate among each other to avoid contradicting rulings.
10. NEBs are invited to closely collaborate with the ECC (European Consumer Centres) in order to gather a maximum of data which might lead to procedures related to sanctioning.
11. The CPC Network (consumer protection cooperation network created under Regulation [EC]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]261/2004.
12. For incidents happening outside the EU with EU licensed carriers, NEB to be competent in the Member State of destination.

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'.

13. NEBs should also react to press-publications or submissions by other organisations or authorities (active monitoring).
14. As an exemption from paragraphs above, NEB can enlarge the scope of complaints handling and extend its responsibilities to all residents of its country, even if the incident took place in another country. However, in this case, the NEB carries the responsibility of enforcement and communication.

General complaint handling procedure

1. Acknowledgement of receipt within 2 weeks and first analysis/filtering.
2. Assessment whether similar complaints were received on that particular case.
3. Case submission to the airline requiring reply within 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.

* * *

**COMPLAINT HANDLING PROCEDURE UNDER REGULATION
[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 re-routed: (when, which flight number), etc.	

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