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Enforcing your Rights

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# Air Passenger Rights: Travel Smart!

Your Rights as an Air Passenger - from Reservation to Complaint



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## Travel Smart!

This brochure provides you with information on air passenger rights - concerning booking, delayed and cancelled flights, lost luggage - and shows possibilities how you can assert these rights and where to look for support. Furthermore, you will find plenty of advice and helpful addresses, especially concerning German airlines.



# YOUR RIGHTS AS PASSENGER TRAVEL SMART

## Do you know your rights?

As a result of the liberalisation of the air traffic in 1997, the European flight market began to expand rapidly. Air passengers benefit from the on-going standardization and improvement of their rights.

**But only a consumer who knows his rights can assert them.**

Although the EU Commission launched a campaign to inform passengers by displaying the so called „charter of passenger’s rights” in every European airport, a lot of passengers still do not know their rights.

For this reason, the brochure tries to inform you on your rights as an air passenger: What should you keep in mind when booking a flight? What to do in case of a delayed or cancelled flight or if your luggage gets lost?

And because being entitled to a certain right and enforcing this right are notoriously two different things, this brochure provides plenty of advice and helpful addresses where to find support.

**Passenger rights have improved fundamentally in recent years:**

- In order to enhance the **security of air traffic** and to promote honest pricing, the Regulation (EC) No 1008/2008 of 24 September 2008 commits providers to include all taxes and charges (such as airport charges etc.) in the air fares that they advertise.
- To promote a **punctual and smooth boarding**, the Regulation (EC) No 261/2004 of 11 February 2004 prescribes compensation and assistance to passengers in the event of delayed flights, cancellations and denied boarding.
- Disabled and elderly passengers benefit from the Regulation (EC) No 1107/2006 of 26 June 2008 which **assures non-discriminating transportation** by committing air carriers to provide assistance at all European airports as well as on board.
- In 1999 an international treaty, the “Montreal Convention”, established rules for **damage claims** of passengers in case of personal injury, damage of luggage or any financial losses due to the delay.



## SOURCES

Find a list of regulations on page 15.

# BEFORE DEPARTURE RESERVATION

*Whether you buy your tickets online or in a travel agency, you should know your rights already when booking your ticket.*

## Some helpful advice

- Take your time to read attentively the **general terms and conditions (GTC)** of the air carrier. By doing that you can avoid bad surprises and you will also find a lot of useful information on services you can expect, as well as on obligations you may have to fulfill.

This includes information such as

- how to identify yourself at the airport,
  - if it is necessary to confirm your reservation before departure,
  - how many pieces of luggage you are allowed to take with you, the admissible weight and the surcharges you have to pay for additional suitcases.
- In case you are not sure, ask your air carrier for a written explanation.
  - Check carefully the details when booking the ticket and compare them with the information written on the booking confirmation and on your ticket (name, day etc.).



## Booking tickets online

Nowadays more and more consumers buy their tickets online instead of using the services of a travel agency. This might be a more convenient and cheaper way, but without professional advice it is up to the consumer to pay close attention in order to find a safe provider. Here some advice for online booker:

Before booking please **clarify if you are about to book directly via the website of the airline or via an online agency** that might charge an agency fee.

The company has to specify **applicable air fare** or air rate as well as all applicable taxes, and charges, surcharges and fees. Optional price supplements shall be communicated in a clear way at the start of any booking process. Pay special attention to additional charges for payment with credit cards or for luggage.

## FURTHER INFORMATION

If you need more information about concluding contracts or paying via internet, have a look at the website of the eCommerce Verbindungsstelle Deutschland where you can find many helpful leaflets in English.

→ [www.ecom-stelle.de](http://www.ecom-stelle.de)

Ask for help when making a complaint. If you cannot resolve your problem with the concerned air company on your own, contact the competent ADR body in your country.

**Make sure you can trust the provider!** There should be no doubt about the identity of your contracting party. The full address (no post-office box), phone number and email address should be mentioned on the website and should be easily accessible. The same applies to the general terms and conditions. Furthermore, you should check if the website is a member of a trust mark scheme. This can be a sign for a reliable provider.

**Watch out for a safe payment via credit card!** Make sure that only encrypted data are transferred. The address of the website will help you to find out: <https://www...> means that it is safe. Never enter your pin number, only enter your card number, the validity date and maybe the three-digit safety pin. If errors occur during the reservation, you generally have the right to withdraw the payment within four to six weeks. Contact your own bank or credit card provider for details.

### Low-cost carriers: misleading prices?

Since the 1st of November 2008 air companies have to display the actual prices in their advertisements according to Regulation (EC) No 1008/2008.

But you should not forget the so-called optional price supplements, as they can still be listed separately. Lots of discount providers make use of this possibility.

Costs included in the price	Allowed price supplements
Taxes	Payment by credit card
Charges (airport)	Seat reservation
Surcharges	Luggage
Fees	Insurances (e.g. for travel cancellation)

All optional price supplements have to be communicated in a clear, transparent and unambiguous way. Only if customers accept them explicitly, they can be charged for supplements.

# FLIGHT DISRUPTIONS WHAT ARE PASSENGER'S RIGHTS?

*Your flight is delayed or cancelled? Your boarding got denied? Flight disruptions are unfortunately common problems.*

## EU regulation



The essential part of the air passenger rights is regulated by the European Regulation No 261/2004 which since the 17th February 2005 specifies the service airlines have to provide and the amount of compensation they have to pay to passengers if the flight does not take place as scheduled. In case of denied boarding, cancellation or long delay of flights the passengers are entitled to compensation as well as to assistance.

Who benefits from the regulation?

- Passengers departing from an airport located within the EU;
- Passengers arriving at any airport located within the EU, if the air carrier is based in the EU (article 3).

During the check-in the air company has to ensure that the passengers are informed about their rights by a clearly legible notice (article 14). As soon as the passengers are not transported as scheduled, the airline has to provide each passenger affected with a written notice explaining their rights of compensation and assistance.

## EXCEPTION: PACKAGE HOLIDAY

- ➔ If problems occur during a package holiday, the traveller is free to decide whether he enforces his claims against the air carrier or against the tour operator.
- ➔ Don't wait too long: You only have one month to file a claim against the tour operator whereas the air passenger regulation is subject to a limitation period of three years in Germany.

## MISSED YOUR APPOINTMENT?

If due to the long delay the passenger's original travel plan does no longer serve any purpose or if the passenger has missed his connecting flight, the airline has to organise a return flight to the first point of departure.

## SECONDARY DAMAGES

Besides damage to luggage the Montreal Convention regularises further issues of damage: Up to 5,000 euro (4.150 SDR) is paid to each passenger suffering damages due to delayed luggage or flight delay. These so called consequential damages include for instance loss of salary and fruitless expenditures as well as expired reservations for hotels, rental cars, bus trips or concert tickets. However, you have to lodge these claims at court.

## Delayed flights

A flight is legally considered as delayed if the take-off happens at least two hours behind schedule. However, the patience a passenger has to exercise depends also on the flight distance:

Minimum waiting time	Flight distance
2 hours	less than 1.500 km
3 hours	1.500 km up to 3.500 km
4 hours	more than 3.500 km

In case of any delay of at least two hours passengers are entitled to free meals as well as refreshments. In addition, they have the right to make two phone calls free of charge or to send two faxes, telex or e-mails to inform others about the delay.

When passengers reach their final destination three hours or more behind schedule, they may seek compensation from 250 Euro up to 600 Euro. In November 2009, the European Court of Justice made a decision (C-402/07 and C-432/07) to that effect.

In the event of delay of at least five hours the passengers may demand a reimbursement of the full ticket price within seven days – no matter how long the flight distance is. Furthermore, the air carrier has to offer hotel accommodation as well as the transport between the airport and the hotel, if the stay of one or more nights is necessary.





## HINT

You do not have to wait until the air carrier offers you an alternative flight. Based upon an agreement with the airline you can book a flight on your own initiative. Either you ask the airline to pay instantly for the new ticket or you ask for a written confirmation that they agree with your rebooking in order to avoid any problems later on.

## BOARDING DENIED?

In case that the passenger's boarding is denied without good reason, the same rules apply as in the case of a cancellation. A valid reason would be the case of a security risk due to the passenger, if the flight would harm the health of the passenger or if important documents are missing (visa, passport etc.).

**HINT:** If you run the risk of missing your flight due to heavy traffic at the check-in counter, you should approach the airline's ground staff. No help in sight? You should ask your fellow passengers to confirm that you have been there in time, by means of a written confirmation.

## Cancelled flights

If a flight is cancelled, passengers concerned have the choice between reimbursement of the ticket costs or re-routing to their final destination.

### A) Reimbursement of the ticket

In case the passenger renounces the re-routing to the final destination, the air carrier has to reimburse the full cost of the ticket.

Moreover, he has the right to full compensation:

Distance	Compensation
< 1.500 km	<b>250 Euro</b> (125 Euro if alternative flight is delayed less than 2 hours)
1.500 km - 3.500 km	<b>400 Euro</b> (200 Euro if alternative flight is delayed less than 3 hours)
> 3.500 km	<b>600 Euro</b> (300 Euro if alternative flight is delayed less than 4 hours)

### B) Alternative flight

If the passenger refuses being re-routed, the ticket price is not refunded. Nevertheless, he is entitled to compensation according to his travelling distance and the length of delay (as mentioned above).

If the flight is no longer serving any purpose, the parts of the journey already made have to be reimbursed.

By the way: passengers can also choose to fly to another destination.

The airline has to offer free meals and refreshments and if necessary also a hotel accommodation in case the alternative flight leaves more than 2 hours later than the original one. Moreover, passengers affected have the right to inform others about the delay.





## TWO EXCEPTIONS

### Time limit for cancellation

Whether the passenger is entitled to compensation, depends on the date on which he has been informed about the cancellation. If it takes place two weeks before departure, the passenger is not entitled to compensation. Information about the cancellation:

Information about the cancellation	Alternative Transport	
	Departure	Arrival
7 up to 14 days in advance	max. 2 hours earlier	max. 4 hours later
0 up to 7 days in advance	max. 1 hour earlier	max. 2 hours later

### Extraordinary circumstances

Furthermore, passengers have no right for compensation, if the airline is able to prove that the cancellation was caused by extraordinary circumstances. That means that the cancellation could not have been avoided even if all reasonable measures had been taken by the airline. Such circumstances are political instability, meteorological conditions incompatible with the operation of the flight, security risks or unexpected flight safety shortcomings.

However, technical problems are not considered as extraordinary circumstances. Indeed, the European Court of Justice decided (C-549/07) that air carriers have to pay compensation to passengers in case of cancellation due to technical problems. This applies to all technical problems that occur during normal aircraft activity and not in connection with the calling back of a machine by the aircraft manufacturer.

## EXAMPLE

Three days before departure, you are informed that your flight will start 30 minutes earlier, but reaches its final destination one hour later than originally scheduled. In this case, you have no right to compensation. But if the flight is four hours delayed, the case is different. In this situation, the air carrier has to pay compensation.

## STRIKE

It is still not yet defined if strikes can be considered as an extraordinary circumstance. In contrast to a strike of air traffic controllers, the airline may be charged in case of a strike of their own staff.

# YOUR RIGHTS CARRY- ON AND CHECKED BAGGAGE

*Which items are allowed in your carry-on? What to do if your luggage gets damaged or lost on a flight?*

## HINT

Please think twice which items you want to put in your checked baggage. Due to the limitation of liability (see next page) it is not likely that you will receive full compensation for money, jewellery, keys, electronic devices or other valuable articles if your luggage gets lost.

## Regulations

Please keep in mind that there are some restrictions for luggage transport by air. Please note that there are specific regulations depending on the air carrier. To be clear, take a look at the General Terms and Conditions of the airline you want to travel with.

## Carry-on baggage

Since the 6th November 2006 passengers departing from airports within the EU, Norway, Iceland or Switzerland can only take small amounts of liquids on board. Whether toothpaste, a bottle of water or hand lotion – you are not supposed to have more than 100 millilitres each. Also, they have to be transported in separate containers which should be carried in a clear plastic food storage type bag with a capacity of no more than 20 x 20 cm.



## Lost or damaged baggage

### Compensation

If your luggage is lost or damaged during a flight, the **Montreal Convention** will help you. It regulates the right of compensation air passengers have against the air carrier in case of lost or damaged luggage.

- It is the present value of the object which is decisive for the computation of the claim. Only if the object is brand-new, the purchase price is completely refunded.
- The passenger has to prove which objects got damaged or lost as well as their value.
- The Montreal Convention has fixed the maximum liability of airlines for lost baggage to an amount of about 1,350 euro<sup>1</sup>.
- If your bag has been damaged the air carrier may sometimes offer you vouchers for a new one, instead of money.
- Many air carriers consider little damages as insignificant – the passenger has to accept that this may happen during transportation.

### Necessary goods

If the luggage is delayed, affected passengers may purchase the most important things. But before buying them you should ask what the air carrier considers to be “necessary goods”. **Whether the purchase of a toothbrush or pants – you should always save the bill in order to document your expenses.** However, the air carrier often pays a standard daily rate: In this case each passenger concerned receives a certain amount per day until a maximum number of days. The air carrier will consider this amount of compensation as definite no matter what the actual damage was.

<sup>1</sup> The maximum amount of damages adds up to 1,131 Special Drawing Rights (SDR), which is about 1.350 euro (date: 20th of June 2012). The daily updated exchange rate is published on the website of the International Monetary Fund [http://www.imf.org/external/np/fin/data/rms\\_five.aspx](http://www.imf.org/external/np/fin/data/rms_five.aspx)

## HINTS

In case of luggage irregularities, especially in case of damaged luggage, ask someone at the “lost-luggage counter” to provide you with a written confirmation of the irregularities – a so called PIR, Property Irregularity Report.

If you have taken out additional luggage insurance, you should show the report to your insurer as soon as possible.

List all objects in your luggage before departure – and save the sales slip.

Personalise your luggage for an easier spotting and put in a card showing the phone numbers and addresses you can currently be contacted at.

Be quick: You have seven days to report damaged luggage and 21 days for delayed luggage.

## TIMELY NOTICE

In case of **damaged luggage**, immediately ask a competent person at the airport to confirm the damage and then complain in writing to the air carrier within seven days (article 21).

In case of **delayed luggage**, the complaint must be made in written form within 21 days after arrival of the luggage.

In the event of **lost luggage** you are not obliged to respect any time limits but nevertheless it is always recommended.

# REDUCED MOBILITY SUPPORT AND ASSISTANCE

*Disabled passengers or passengers with reduced mobility should have the same opportunity to travel by plane comparable to those of other citizens when departing from airports within the EU<sup>2</sup>.*

## HINT

According to the Regulation, air passengers wishing to engage assistance have to inform the air carrier or tour operator at least 48 hours before departure. For transportation of electric wheelchairs or other dangerous goods, the carrier has to be informed 48 hours prior to departure.

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## Everyone has the right to travel

This includes, of course, that air carriers and travel agencies must not refuse booking or transport services to these persons.

If passengers with reduced mobility are of the opinion that their rights have not been respected they should inform the airport management or the air carrier concerned.

If you cannot find a satisfying solution there, you should contact the national complaint body in your country. In Germany, the respective enforcement body is the Luftfahrt-Bundesamt (LBA) in Braunschweig (Address on page 14).

## Assistance at European airports

Airports shall provide specific services to all passengers with reduced mobility in order to ensure a high quality of assistance that runs smoothly:

- **From the point of arrival at the airport to an aircraft:** The passengers affected should be met at the information desk, be accompanied to the check-in counter, through the security, passport, and customs check to the passenger holding area.
- **During the flight:** On flights departing from an EU airport the air carrier has to provide certain services free of charge, e.g. transportation of wheelchairs or guide dogs.
- **From the aircraft to the terminal exit or to another aircraft (for connecting flights):** Passengers shall be accompanied to the next aircraft (for connecting flights) or to the luggage claim area. Help in carrying the luggage to the designated point of departure must be provided.

<sup>2</sup>Regulation (EC) Nr. 1107/2006 of 5 July 2006

# HOW TO ASSERT YOUR RIGHTS COMPLAINT

## What you can do

**First of all, it is advisable to contact the air carrier directly and to file your complaint there.**

Which documents are necessary? Save all hotel, taxi or restaurant receipts for expenses due to delay, cancellation or denied boarding in order to get them reimbursed. In the event of lost luggage it is always useful to have the original documents and receipts of the luggage contents.

Demand a written confirmation of the delay, cancellation or denied boarding from the staff of the air carrier directly at the airport, specifying the exact circumstances, if possible. If denied, ask your fellow passengers to confirm the situation in writing and collect witness' statements. By that you can enhance your legal position, if the air carrier denies you compensation.

## Complaint bodies

### European Consumer Centre Germany (ECC)

The ECC Germany is in charge of all cross-border complaints against airlines. A cross-border complaint would be for instance a German customer against an Irish airline or a French customer against a German airline. In those cases the consumer should contact the ECC in his respective country whereupon the ECC lawyers will support them in finding an out-of-court solution with the airlines concerned in the name of the consumer.

## ADDRESS

→ **ECC Germany**

c/o Zentrum für Europäischen  
Verbraucherschutz e.V.

Bahnhofsplatz 3  
77694 Kehl  
Germany

Phone: +49 7851 99148-0  
(Tue to Thu, 9 am-12 pm and 1  
pm-5 pm)

Fax: +49 7851 99148-11

Email: [info@cec-zev.eu](mailto:info@cec-zev.eu)

Web: [www.eu-verbraucher.de](http://www.eu-verbraucher.de)



## ADDRESS

### → LBA

Hermann-Blenk-Str. 26  
38108 Braunschweig  
Germany

Phone: +49 531 2355 115  
(Mon to Fri 9 am to 12 pm)

Fax: +49 531 2355 707

Email: [buergerinfo@lba.de](mailto:buergerinfo@lba.de)

Web: [www.lba.de](http://www.lba.de)

## Luftfahrt-Bundesamt (LBA) (Federal Office of Civil Aviation)

Throughout Europe, complaint bodies for air passenger rights are established in nearly every country. Their role is to protect the air passenger rights – in case of cancellation, delay or denied boarding (Regulation No 261/2004) – as well as rights of disabled persons and persons with reduced mobility when travelling by air (Regulation No 1107/2006).

In Germany, the Luftfahrt-Bundesamt is the official complaints and enforcement body. The LBA receives reports of air passengers stating an infringement of EU Regulation 261/2004 and can impose a fine on the airline for regulatory offences. However, the LBA is **not responsible for enforcing individual consumer claims.**

## Extrajudicial Settlement

In Germany, there is a conciliation board mediating in case of problems with public transport. By now, it does not take care of problems concerning air traffic.

## LINK

For further information on this procedure please visit the website of the European Consumer Centre Germany:

→ <http://www.eu-verbraucher.de/en/consumer-topics/enforcing-your-rights/>

## Taking a court action?

If an amicable solution of a dispute is not possible, you still have the option of making a court claim. If the amount of your demand is less than 2000 euro and if it concerns a cross-border litigation, you have the possibility to open a European Small Claims procedure. It is a simplified, predominantly written procedure, legally based upon Regulation EC 861/2007.



# SOURCES OF LAW

## REGULATIONS AND CONVENTIONS

### European regulations

- **Regulation (EC) No 261/2004** of the European Parliament and the European Council of 11 February 2004 establishing common rules on compensation and assistance to passenger in the event of denied boarding and of cancellation or long delay of flights and repealing Regulation (EC) NO 295/91
- **Regulation (EC) No 1107/2006** of the European Parliament and Council of 5 June 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air
- **Regulation (EC) No 1008/2008** of the European Parliament and Council of 24 September 2008 on common rules for operation of air services in the Community

### International treaties

- Convention for the unification of certain rules for international carriage by air (**Montreal Convention** of 28 May 1999)
- Convention for the unification of certain rules relating to international carriage by air (**Warsaw Convention** of the 12th October 1929)





[www.cec-zev.eu](http://www.cec-zev.eu)

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## European Consumer Centre Germany

Member of the European Consumer Centres Network



The ECC Germany is sponsored by the Federal Ministry of Justice (Germany) and the Federal Ministry of Food, Agriculture and Consumer Protection (Germany), following a decision of the German Parliament, as well as by the European Commission.