



**Report on Passenger Rights Complaints
for year ended 31st December 2009**

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1. EC REGULATION NO. 261/ 2004

2009 marked the 4th year since the inception of EC Regulation No. 261/ 2004 ("Regulation 261"). Since that time, public awareness of the rights and entitlements afforded to passengers under the legislation has grown significantly.

As in 2008, the Commission for Aviation Regulation (the "Commission") hosted an information stand at the Holiday World Fair at the RDS. Once again the event proved to be very popular and afforded an excellent opportunity to engage with the travelling public and to promote the Regulation.

Throughout the course of the year, the Commission continued to liaise with the European Commission and with the national enforcement bodies of other Member States. This network proved to be a very useful forum of communication and discussions when in November 2008 the Court of Justice of the European Union (CJEU) delivered its ruling in the joined cases of *Sturgeon and Bock*¹. In these decisions, the CJEU stated that in accordance with the principle of "equal treatment", passengers who suffer a flight delay and who consequently arrive at their destination three hours or more after the scheduled arrival time may be entitled to compensation² unless the operating air carrier can prove that the flight delay was caused by extraordinary circumstances which could not have been avoided even if all reasonable measures were taken.

Given that this right is not expressly stated in the text of the Regulation, enforcement bodies were concerned to fully understand the implications and application of these judgments which are regarded as binding in all the Member States and are being implemented accordingly.

¹ Case C-402/ 07: *Christopher, Gabriel and Alana Sturgeon v. Condor Flugdienst GmbH* and Case C-432/ 07: *Stefan Bock and Cornelia Lepuschitz v. Air France SA*.

² The compensation amounts are those set out in Article 7 of the Regulation.

2. SUMMARY OF VALID COMPLAINTS RECEIVED

The Commission received 2,495 queries during the twelve month period from 1st January to the 31st December 2009. These queries ranged from health and safety issues to baggage difficulties. The Commission referred those passengers whose queries fell outside of its remit to the appropriate competent authorities.

The Commission received a total of 311 valid complaints under Regulation 261 during 2009. 172 of these complaints required to be forwarded to the enforcement bodies in other Member States in accordance with Article 16 of the legislation which states that "Each Member State shall designate a body 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...".

This means that the Commission has responsibility for investigating the 139 complaints which relate to departures from airports within Ireland and arrivals into such airports from 'third countries'³ where the operating air carrier was licensed in the European Union.

Table 1: Total number of valid complaints received by the Commission during the period 1st January – 31st December 2009

Origin of flight	Number of complaints	%
Departure from an Irish airport	125	40%
Arrival into an Irish airport from a non-EU airport on a Community licensed carrier	14	5%
Departure from airport situated in another Member State or arrival into same from a third country on a Community licensed carrier	172	55%
Total	311	100%

³ The phrase 'third country' is used extensively in the Regulation and it refers to any country to which the Treaty establishing the European Community does not apply.

3. TYPES OF VALID COMPLAINTS RECEIVED

As the national enforcement body for Regulation 261, the Commission is competent to address complaints arising from the four areas covered by the legislation. These are:

- flight cancellations;
- long delays;
- instances of denied boarding; and
- instances of up/ down grading.

The table below provides a comparative analysis of the 2008 and 2009 complaint figures.

Table 2: Comparative analysis of all valid complaints received during 2008 and 2009

Complaint Type	No. of Complaints received in 2009	No. of Complaints received in 2008	Percentage increase/ decrease
Cancellations	204	304	-33%
Long delay	60	70	-14%
Denied boarding	44	20	+120%
Up/ down grading	0	2	-100%
Other ⁴	3	17	-82%
Total	311	413	-25%

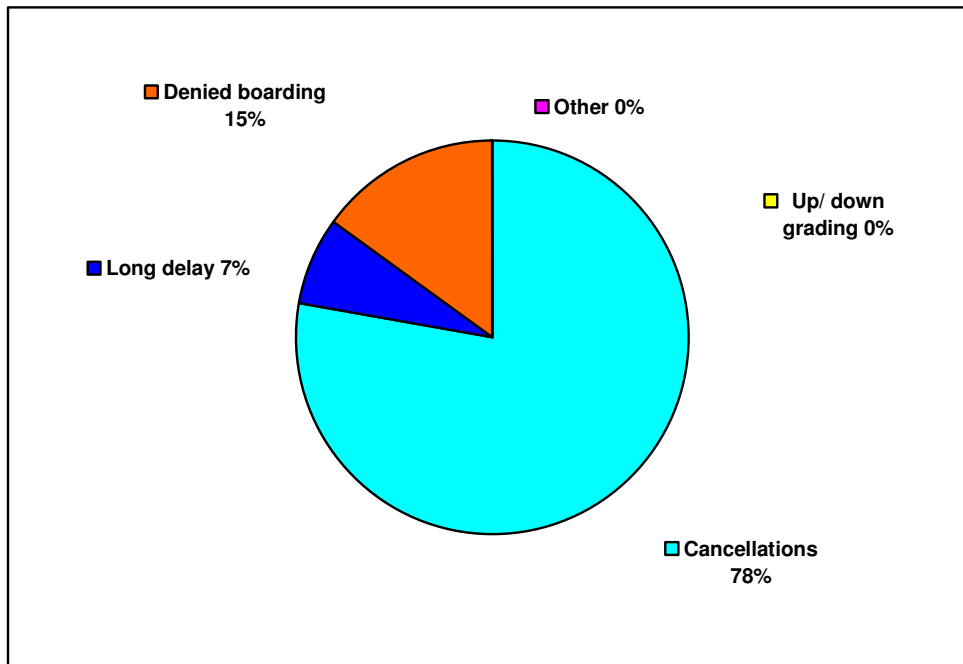
Table 3 and Figure 1 illustrate this type of distribution in respect of those complaints which, in accordance with Article 16, fall within the remit of the Commission.

⁴ Occasionally, complaints are received by this office, which initially appear to fall within the remit of Regulation 261/2004 but investigation later reveals that they are best dealt with in another forum. The "other" category represents this group of complaints.

Table 3: Analysis of those valid complaints received during the period from the 1st January 2008 to the 31st December 2009 which fall within the remit of the Commission

Complaint Type	No. of Complaints received in 2009	No. of Complaints received in 2008	Percentage increase/ decrease
Cancellations	108	141	-23%
Long delay	10	25	-60%
Denied boarding	21	7	+200%
Up/ down grading	0	1	-100%
Other ⁵	0	12	-100%
Total	139	186	-25%

Figure 1: Graphical Representation of the above information vis-à-vis 2009 only

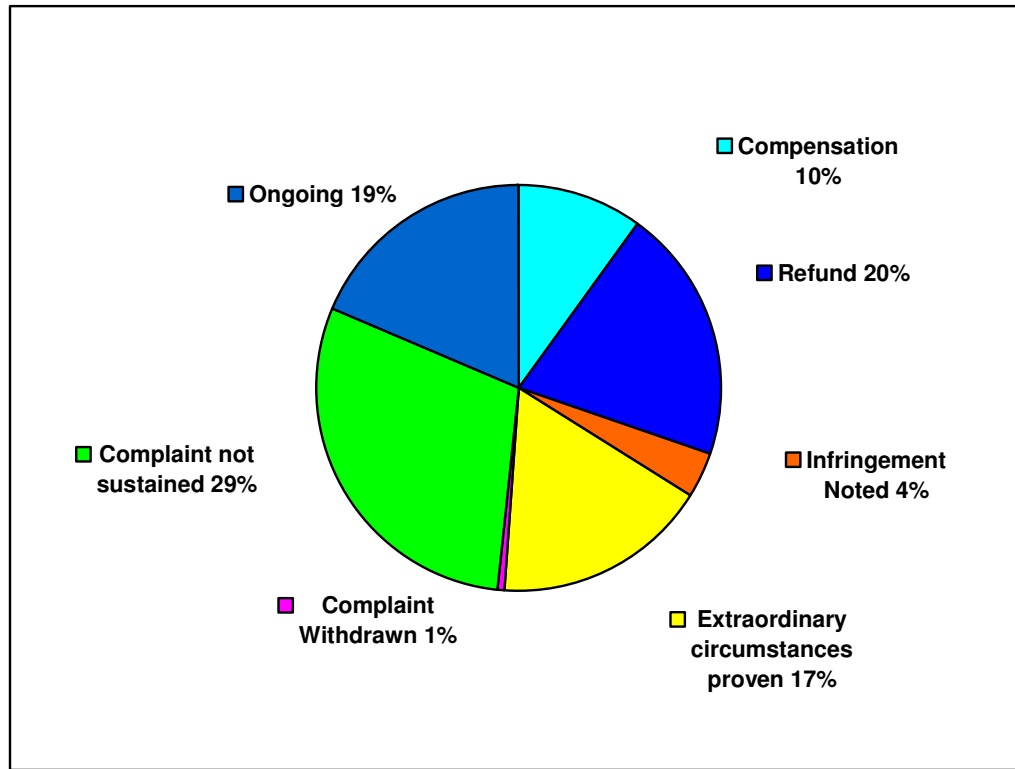


⁵ Occasionally, complaints are received by this office, which initially appear to fall within the remit of Regulation 261/2004 but investigation later reveals that they are best dealt with in another forum. The "other" category represents this group of complaints.

4. RESOLUTION OF COMPLAINTS

As of the 1st July 2010, 113 of the 139 complaints received by this office during 2009 had been investigated and brought to a conclusion. Figure 2 provides a graphic representation of the conclusions reached.

Figure 2: Outcome of Commission investigations in the aforementioned 113 cases



5. ANALYSIS OF COMPLAINTS AT ALL IRISH AIRPORTS

The following table presents the breakdown of the 125 complaints received by the Commission from the 1st January 2009 to the 31st December 2009 relating to departures from Irish airports.

Table 4: Details of complaints received at all Irish Airports

Airport	Total Complaints	Cancellation	Long Delay	Denied Boarding	Down-grading
Cork	21	20	1		
Donegal	0				
Dublin	87	62	6	19	
Galway	0				
Kerry	1	1			
Knock	11	10		1	
Shannon	5	4	1		
Sligo	0				
Waterford	0				
Total	125	97	8	20	0

Table 5 below analyses the complaints made by passengers departing from Dublin, Cork and Shannon. It will be noted from Table 4 above that in total there were 113 complaints at these airports. The total number of passengers that used these three airports between 1st January 2009 and the 31st December 2009 (as reported to the Commission) was just over 26 million.

Table 5: Complaints at Dublin, Cork and Shannon Airports

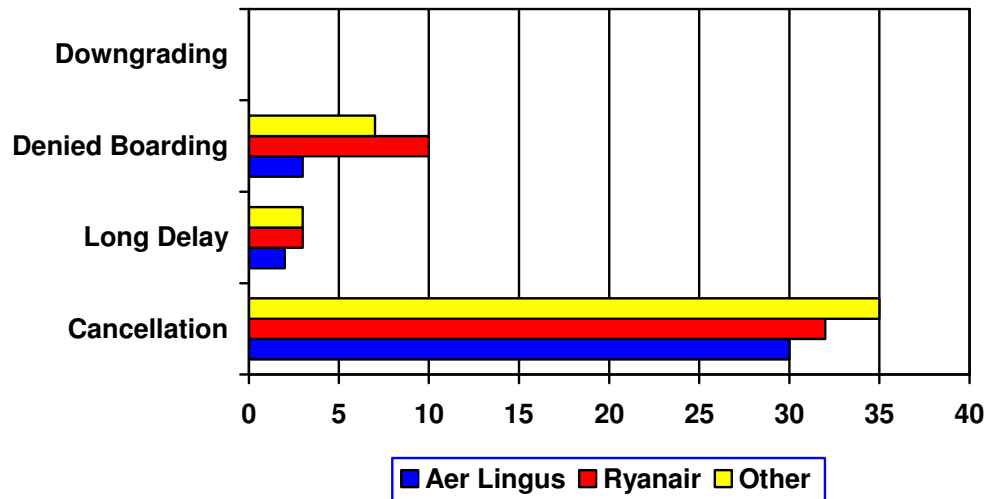
Airline	Total complaints⁶	Total passengers at 3 airports *	Complaints per million passengers per annum
Aer Lingus	35	9,231,558	3.79
Ryanair	42	11,152,657	3.76
Other	36	5,683,073	6.33
Total	113	26,067,288	4.33

⁶ At Dublin, Cork & Shannon airports only.

6. DISTRIBUTION OF COMPLAINTS PER AIR CARRIER

The Commission received a total of 125 complaints from passengers for flights departing from all nine Irish airports⁷ during 2009. Figure 3 below shows the total complaints for Aer Lingus and Ryanair plus an 'Other' category. The 'Other' category is the sum of all airlines that were the basis of the complaints received by the Commission during this period of time. Complaints were recorded in respect of 13 other air carriers.

Figure 3: Total complaints for Aer Lingus, Ryanair and Other received by the Commission during 2009 in respect of all Irish Airports



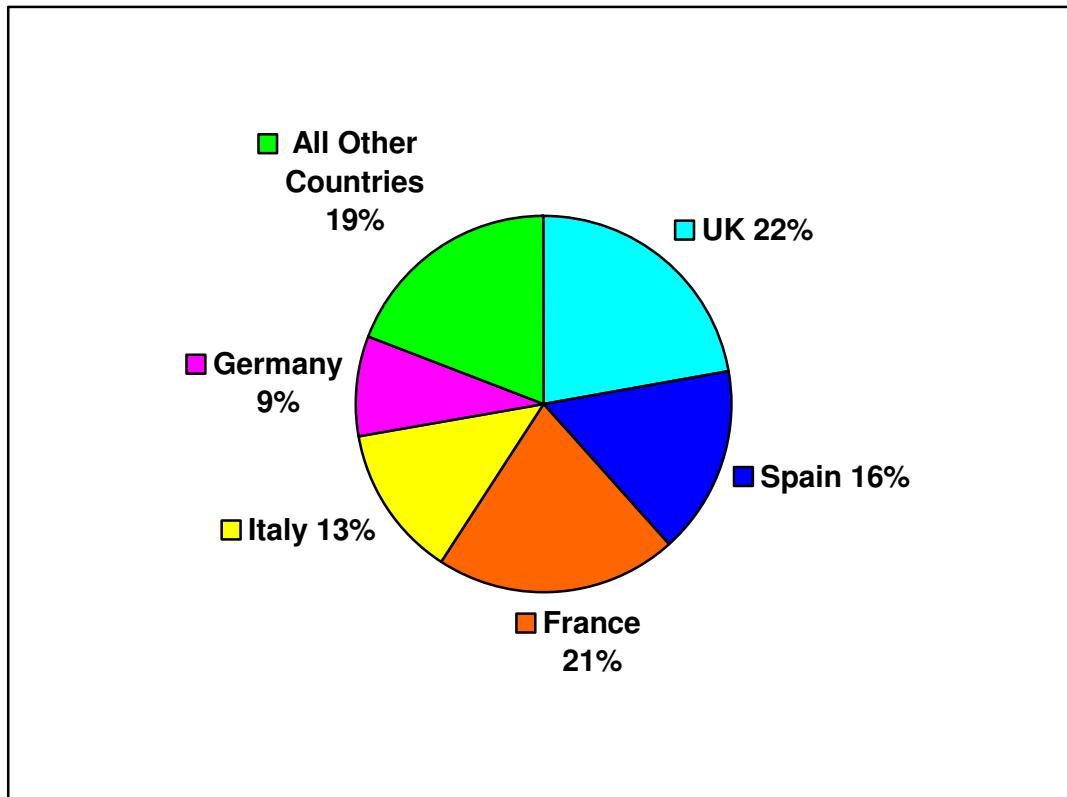
⁷ The nine Irish airports are: Dublin, Cork, Shannon, Ireland West (Knock), Galway, Kerry, Donegal, Waterford and Sligo.

7. COMPLAINTS SENT TO OTHER ENFORCEMENT BODIES

During 2009, the Commission received 172 valid complaints which related either to departures from airports located within other Member States or to arrivals from third countries into such airports on Community licensed carriers.

The majority (81%) of complaints received related to departures from (or arrivals from third countries on Community Licensed air carriers into) airports in the UK, Spain, France, Italy and Germany. Figure 4 below illustrates this distribution.

Figure 4: Graphical Representation of percentage complaints referred to other National Enforcement Bodies



8. EC REGULATION 1107/ 2006

Regulation (EC) No. 1107/2006 ("Regulation 1107") which concerns the rights of disabled persons and persons with reduced mobility when travelling by air came into effect across all Member States on the 26th July 2008. Essentially it aims to afford these passengers travel opportunities that are comparable to those of other passengers by protecting them against discrimination and ensuring that they receive assistance.

The Regulation focuses predominantly on the roles and responsibilities of airport management bodies and air carriers in realising this objective. Annexes 1 and 2 of the Regulation clearly set out the principal obligations placed on each of these parties under the Regulation.

Annex 1 advises that the managing bodies of airports are responsible for facilitating passenger movements from designated points of arrival at the airport to check-in and subsequently through to the aircraft (inclusive of emigration, customs and security procedures). They are responsible for assisting passengers with actual boarding of the aircraft, with seating and with the stowage of baggage. The airport management body is also responsible for the provision of assistance to passengers on arriving flights and flights which are transiting through the airport.

Annex 2 outlines the responsibilities conferred on air carriers by the Regulation. It states that they must communicate all essential flight information to the passenger in accessible formats. If necessary, they must also assist the passenger in moving to the toilet facilities. Furthermore air carriers must facilitate the carriage of medical equipment and mobility equipment subject to limitations on space and subject to relevant "Dangerous Goods" legislation. Air carriers must also facilitate the carriage of recognised assistance dogs subject to national regulations.

Article 15 sets out the complaint procedure to be employed in the event that a disabled person or person with reduced mobility feels that an infringement of the Regulation has occurred. It states that the complaint should first be brought to the attention of the management body of the airport or the air carrier as appropriate. In

the event that the matter is not satisfactorily resolved at this level the complaint can be escalated to the appropriate enforcement body.

With the exception of situations where wheelchairs or other mobility equipment or assistive devices are lost or damaged whilst being handled at the airport or transported on board the aircraft, there is no provision for compensation under this Regulation.

10. TOTAL COMPLAINTS RECEIVED

During the course of 2009 the Commission received a total of 14 complaints. 12 of these related to alleged infringements of the Regulation by air carriers and 2 related to alleged infringements by airport management bodies. In addition the Office received numerous queries which related to matters that do not constitute breaches of the Regulation⁸.

As in 2008, those complaints which were received varied widely in their scope reflecting the wide range of activities covered by the Regulation. The issues addresses included:

- seating;
- the carriage of oxygen equipment;
- assistance in moving to the toilet facilities whilst onboard the aircraft;
- carriage of guide dogs; and
- the transmission of requests for assistance to the airports.

All 14 complaints have been concluded.

⁸ That is that notwithstanding the concerns which may have been raised, the passengers themselves either decided not to proceed with the booking or alternatively, proceeded to travel within the parameters permitted by the air carrier.

11. OTHER WORK

PRM Charges

The Commission's analysis of the PRM levy dispute which arose at Dublin Airport in 2008 continued for a large part of 2009. Notwithstanding the fact that the relevant parties had indicated their willingness to resolve the impasse, no substantive progress was made in the first half of 2009. Consequently the Commission was obliged to undertake its role as the competent authority for Article 8 of the Regulation and determine whether the €0.33 charge levied at Dublin airport was in compliance with Article 8(4) of Regulation 1107.

On consideration of all the facts, the Commission concluded that the charge was in compliance with the Regulation and that it should stand. The Commission's decision is set out in full in CN1/ 2009.

Inspections

The Commission carried out 11 inspections at the 9 Irish airports in 2009. The purpose of these inspections is to monitor compliance with Regulation 1107 on the ground by airport management bodies or any companies contracted by them for the purpose of providing assistance to disabled persons or persons with reduced mobility and to monitor compliance with Regulation 261 by operating air carriers.

Consultations

The Commission participated in 3 consultations during the course of 2009. These consultations were very comprehensive and were initiated to obtain an overview of the application and enforcement of both Regulations across the Member States.

12. CONCLUSION

As can be seen from the figures provided earlier in this report, the Commission noted a decrease in the number of valid complaints received in relation to Regulation 261 in 2009 on the numbers received in 2008. This decrease is to be welcomed as it suggests fewer incidents of non-compliance with the Regulation and a greater awareness of their responsibilities by air carriers.

Given the very limited resources in the Consumer Protection section and the wide range of functions which require to be fulfilled in the area, the Commission is pleased that staff were able to deliver the services expected of them under both Regulations. The Commission will continue to handle complaints, monitor compliance and carry out inspections in relation to both Regulations during the course of 2010.

Further information on EC Regulation 261/2004 and indeed on EC Regulation 1107/2006 can be found on the Commission for Aviation Regulation's website: www.aviationreg.ie