



## **Passenger Rights Complaints in 2012**

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## **PASSENGER RIGHTS (EC REGULATION NO. 261/ 2004): 2012 OVERVIEW**

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2012 was another busy year in the field of air passenger rights. Whilst unlike previous years it was not characterised by any specific meteorological event, it was notable for two significant reasons:

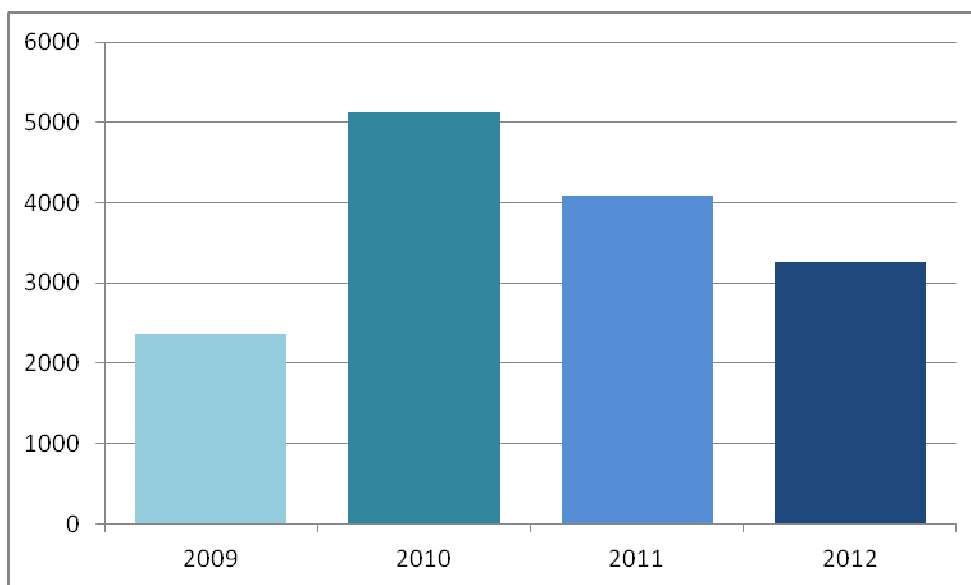
- In October 2012, the Court of Justice of the European Union (CJEU) handed down judgment in two cases which challenged an earlier CJEU ruling. In late 2009 the CJEU extended to passengers, who on account of a flight delay arrived at their final destination three hours or more after their scheduled arrival time, the same right to compensation available to passengers whose flights were cancelled - even though the former right was not set out explicitly in the Regulation. This decision (taken in the joined cases of *Sturgeon & Bock*) was challenged in the subsequent cases of *TUI Travel & Nelson*. The CJEU's judgment in the latter cases was handed down in October 2012. It confirmed the ruling in the *Sturgeon & Bock* cases with the result that there is now a right to compensation when flights are delayed as well as cancelled, as a matter of settled law.
- 2012 also saw the European Commission continue work on a revision of Regulation 261 which had commenced in 2011. By the end last year a draft recast of the legislation was almost finalised. The European Commission advise that the principal objective underpinning the recasting process is to refine and improve a piece of legislation which has the welfare of all air passengers at its heart.

## **SUMMARY OF VALID COMPLAINTS RECEIVED**

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In 2012 the Commission received 3,272 queries from the public. This represents a decrease of approximately 20 per cent from the 2011 level of 4,105<sup>1</sup>. As the chart below shows, the number of queries in 2012 remained above the level in 2009, despite falling back from the highs of 2010 and 2011.

**Figure 1: Annual Passenger Queries 2009 – 2012**



*Source: Commission*

Most of the cases (3256) related to Regulation 261 and were examined for possible infringements of that Regulation. The remainder (16) concerned Regulation 1107 dealing with passengers with reduced mobility (and are discussed later in this report). We established that 2,449 of the former queries related to matters outside the Commission's responsibilities. In these cases, we engaged with the individual and referred them to the body or authority competent to deal with their complaint (where known). The remaining 807 queries indicated a possible breach of the Regulation and were then treated as complaints.

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<sup>1</sup> The 2011 figure also represented an almost 20% reduction on the 2010 figure.

## **TYPES OF VALID COMPLAINTS RECEIVED**

Of the 807 complaints received, most concerned cancellations and delays, rather than denied boarding or downgrades, as the table below shows. Almost 37% concerned flights departing from airports in other Member States or flights arriving into other Member States from third (i.e. non-EU) countries operated by Community-licensed carriers. We conducted preliminary screenings to satisfy ourselves that these complaints fell within the remit of the air passenger rights regulations before forwarding them on to the competent national enforcement bodies (NEB) for further investigation.

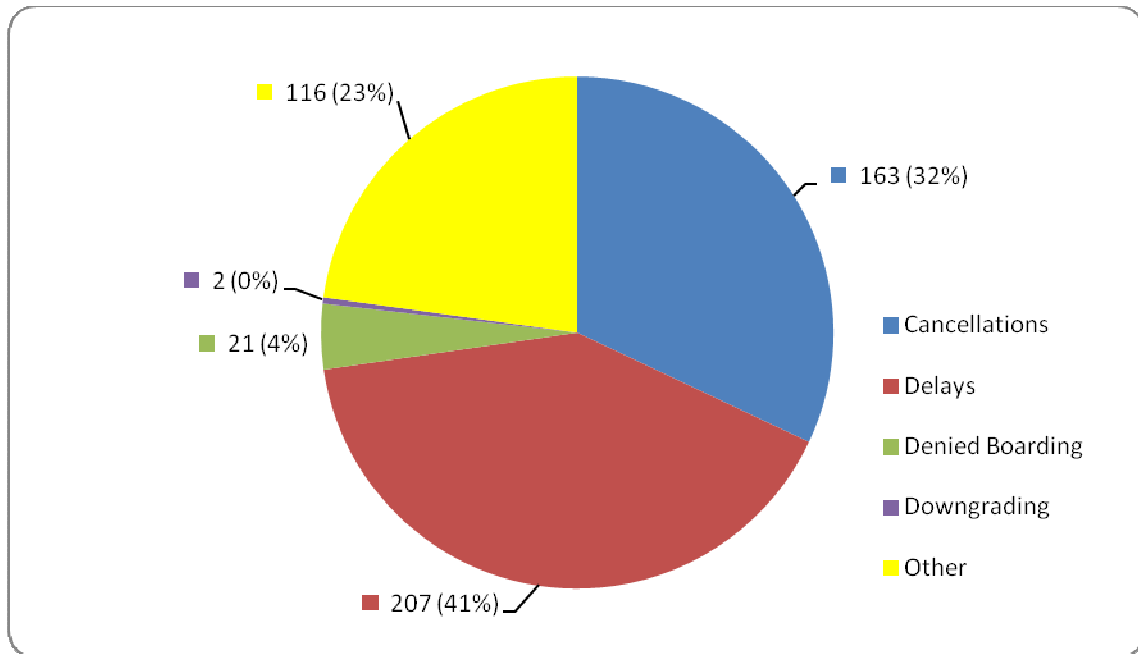
**Table 1: Breakdown of Air Passenger Rights Complaints in 2012**

<b>Type of Complaint</b>	<b>CAR</b>	<b>Other NEB</b>	<b>Total</b>	<b>%</b>
Cancellation	163	81	244	30
Long delay	207	150	357	44
Denied boarding	21	25	46	6
Downgrade	2	0	2	1
Other	116	42	158	19
<b>Total</b>	<b>509</b>	<b>298</b>	<b>807</b>	<b>100</b>

2012 was the first year in which such a high proportion of complaints related to delayed flights. This may be indicative of growing public awareness of the passenger rights regime and the 2009 EU Court of Justice (CJEU) ruling in the joined cases of *Sturgeon & Bock* which was mentioned earlier.

Figure 2 provides a graphical presentation of those complaints which fell within the remit of the Commission.

**Figure 2: 2012 Passenger Complaints**



Source: Commission

## RESOLUTION OF COMPLAINTS

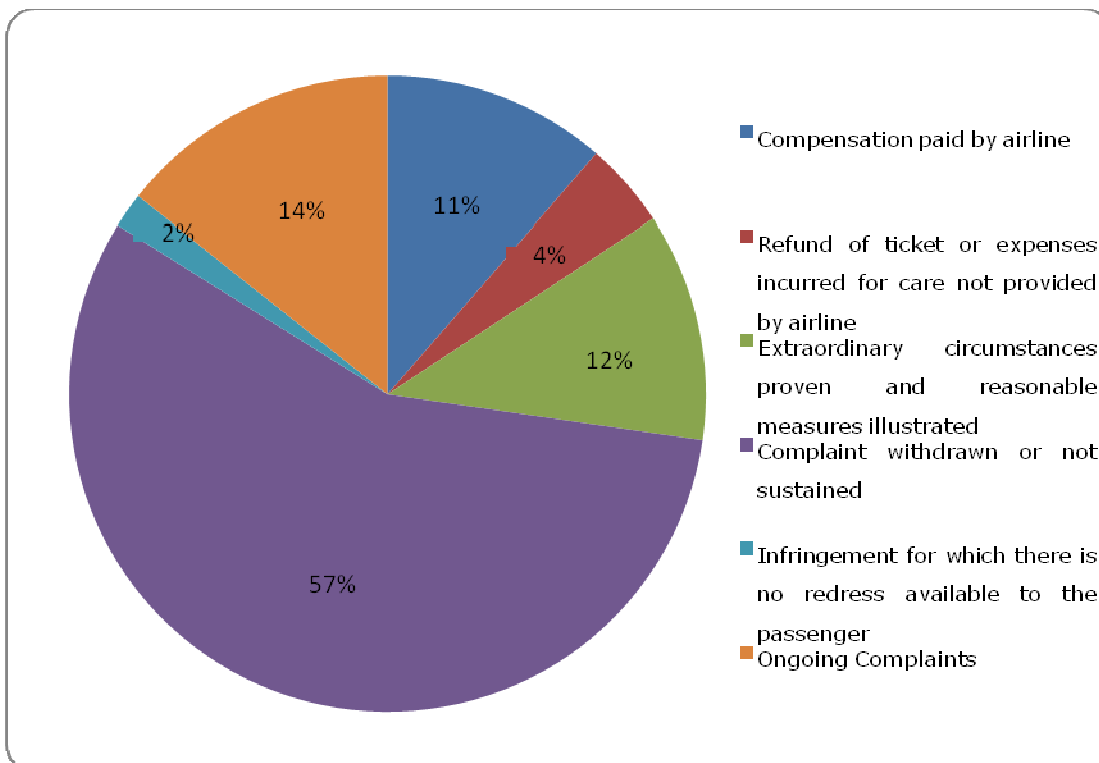
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The Commission investigated 509 complaints. The outcomes of these complaints are presented in Figure 3 below.

As of mid-February 2013, we had concluded 436 investigations while 73 were still in progress. In 297 cases, the complaint was found to be unsustainable under the Regulation, was withdrawn by the passenger, or related to an infringement for which there was no redress available to the passenger.

In 59 cases, extraordinary circumstances were found to apply and reasonable avoidance measures taken by the airline. In 58 cases, compensation was paid to the passenger, and in 22 further cases the customer received a refund of the cost of their ticket and/or their expenses were reimbursed.

**Figure 3: Outcomes of Complaints received in 2012**



Source: Commission

Table 2 below compares outcomes for the years 2010-2012.

**Table 2: Comparison of Complaint Outcomes**

<b>Resolution</b>	<b>2012</b>	<b>2011</b>	<b>2010</b>
Compensation paid by airline to passenger	58	18	5
Compensation not due – airline demonstrated exceptional circumstances and that it had taken all reasonable measures to avoid delay or cancellation	80	252	11
Airline refunded the cost of the ticket and/or reimbursed expenses	27	183	28

*Source: Commission*

The Commission continues to investigate 73 complaints received in 2012.



## COMPLAINTS BY AIRLINE

As noted, the Commission received 807 complaints from passengers during 2012. Figure 4 below shows the total complaints for Aer Lingus, Ryanair and an 'Other' category. The 'Other' category represents the sum of all complaints in respect of other airlines received by the Commission. Complaints were recorded in respect of 50 other air carriers during 2012.

**Figure 4: Total 2012 complaints for Aer Lingus, Ryanair and other air carriers**

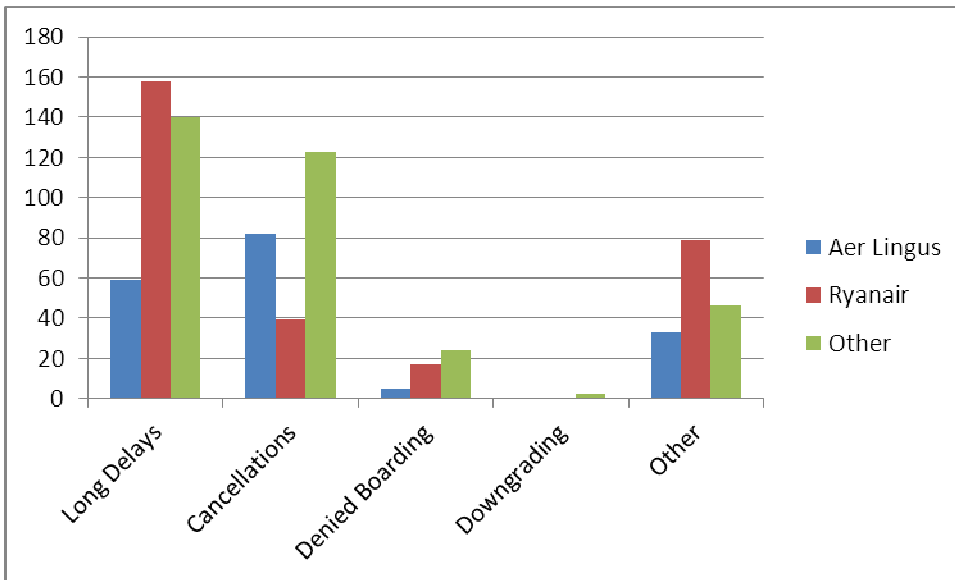


Table 4 below analyses the complaints made by passengers departing from Dublin, Cork and Shannon airports - a total of 376 cases. In 2012, 22.8 million passengers used these three airports.

**Table 3: 2012 complaints at Dublin, Cork and Shannon Airports**

<b>Airline</b>	<b>Total Complaints<sup>2</sup></b>	<b>Total passengers at 3 airports<sup>3</sup></b>	<b>Complaints per mppa</b>
Aer Lingus	91	9,187,164	9.90
Ryanair	90	8,258,660	10.89
Other	195	5,388,721	36.19
<b>Total</b>	<b>376</b>	<b>22,834,545</b>	<b>8.53</b>

<sup>2</sup> These figures reflect the total number of complaints received in relation to the named air carriers in respect of departures from Dublin, Cork & Shannon airports only.

<sup>3</sup> These passenger figures relate to Dublin, Cork & Shannon only.

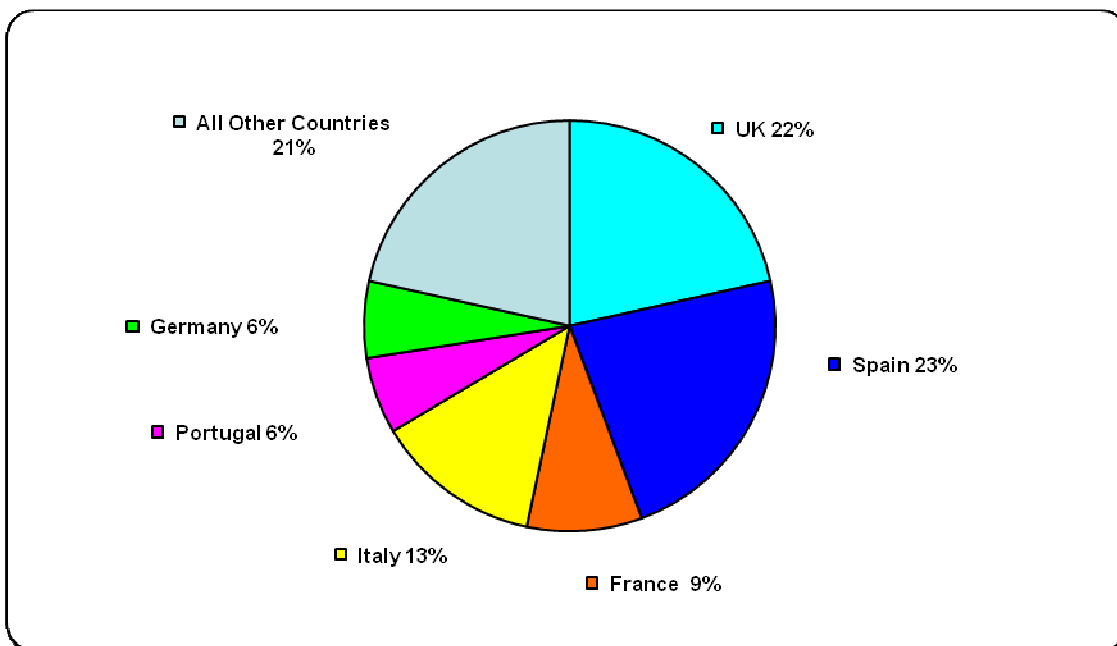
## **COMPLAINTS SENT TO OTHER EU COUNTRIES**

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During 2012, 298 of the valid complaints received by the Commission related either to departures from airports in other EU countries or to arrivals from third countries into such airports on Community-licensed carriers.

The majority (79%) of complaints received related to six other Member States; the UK, Spain, France, Italy and Germany, Portugal and France. Figure 5 below illustrates the distribution.

**Figure 5: Graphical representation of percentage complaints referred to other National Enforcement Bodies**



## **PERSONS WITH REDUCED MOBILITY (EC REGULATION 1107/2006)**

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The Commission received 16 queries relating to persons with reduced mobility during 2012. Seven of these concerned pre-booking issues but did not constitute infringements of the Regulation. The remaining 9 were valid complaints that related to assistance either:

- At the time of booking;
- From the airport management body at the airport;
- On-board the aircraft from the air carrier.

Four of these complaints were appropriate to NEBs in other Member States and were forwarded for investigation once preliminary reviews were completed. Three complaints fell within the remit of the Commission and were duly investigated and concluded. No infringements of the Regulation were found in any of the cases. The remaining two complaints required joint investigation by both the Commission and another NEB. In both instances the Commission has concluded its part of the investigations and the cases currently rest with other NEBs.

## **OTHER WORK**

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Aside from handling enquiries and complaints, in 2012 the Commission continued to seek to raise consumer awareness about passenger rights. We hosted our annual information stand at the 2012 Holiday World Fair in Dublin and we participated at the second annual APR Day event which took place at Dublin Airport in July.

We also undertook eight airport inspections to ensure that

- air carriers were complying with the air passenger regulations; and
- airport management bodies were meeting their obligations to passengers with disabilities and reduced mobility.

The Commission also continued to engage with the EU and other NEBs to facilitate a harmonised approach to the application of the Regulations. In 2012 we assisted with the drafting and completion of the 'Interpretative Guidelines on the application of Regulation 1107' and at the request of the European Commission, we also participated in a Working Group tasked with examining the 'extraordinary circumstances' provision of Regulation 261 in light of the expected recast of this legislation. It is expected that on foot of these exercises non-binding guidance material will be published in 2013 to assist all parties with application of the 'extraordinary circumstances' provision.