

REGULATIONS
FOR THE OUT-OF-COURT RESOLUTION OF PASSENGER DISPUTES
BY THE PASSENGERS' RIGHTS OMBUDSMAN
AT THE PRESIDENT OF THE CIVIL AVIATION AUTHORITY

of 1 January 2024

§ 1

Definitions and general provisions

1. **The Act – Aviation Law** – the Act of 3 July 2002 Aviation Law (Journal of Laws of 2023, item 2110);
2. **The Act on the ADR** – the Act of 23 September 2016 on the out-of-court resolution of consumer disputes (Journal of Laws of 2016, item 1823);
3. **Regulation 261/2004/EC** – Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ EC L 46 of 17.02.2004 p. 1, with amendments);
4. **Regulation 2111/2005/EC** – Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC (OJ UE L 344 of 27.12.2005 p. 15, with amendments);
5. **Consumer** – a consumer within the meaning of the provisions of the Act of 23 April 1964 – Civil Code (Journal of Laws of 2023, item 1610, with amendments);
6. **Passenger** – a natural person that intends to perform, is performing or has performed an air travel based on the confirmed reservation within the meaning of Article 2 point g of the Regulation 261/2004/EC, regardless of whether the travel is for private purposes or related to business or professional activity;
7. **Applicant** - a person who is submitting an application, on his/her own behalf or with the authorization of another passenger;
8. **Air carrier** – an entity authorised to operate on the basis of a license – in the case of a Polish air carrier, or on the basis of an act of a competent authority of a foreign state – in the case of a foreign air carrier;
9. **Community carrier** – an air carrier with a valid operating licence granted by a Member State in accordance with the provisions of Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ UE L 293 of 31.10.2008, p. 3, with amendments);

10. **Third state** – a state other than a Member State of the European Union, the Swiss Confederation or a Member State of the European Free Trade Association (EFTA) – a party to the Agreement on the European Economic Area.
11. **ADR (Alternative Dispute Resolution) procedure** – a procedure regarding the out-of-court resolution of passenger disputes carried out by the Passengers’ Rights Ombudsman at the President of the Civil Aviation Authority;
12. **Passengers’ Rights Ombudsman**– an entity at the President of the Civil Aviation Authority authorised to carry out the ADR procedure, registered as an authorized entity by the President of the Office of Competition and Consumer Protection at number 11;
13. **Passengers’ Rights Ombudsman’s Office (PRO Office)** – an organizational unit in the Civil Aviation Authority that supports the Passengers’ Rights Ombudsman in ADR applications’ examining process.
14. **Person carrying out the ADR procedure on behalf of the Passengers’ Rights Ombudsman** – an employee of the PRO Office, authorised by the Passengers’ Rights Ombudsman to carry out the ADR procedure, a member of the team referred to in the Article 205a (4) of the Act - Aviation Law that fulfils the requirements specified in Article 205a (3) of the Act - Aviation Law.

§ 2

Subject of Regulation

1. Regulations of the out-of-court resolution of passenger disputes carried out by the Passengers’ Rights Ombudsman at the President of the Civil Aviation Authority (hereinafter referred to as “Regulations”) specify the rules of conduct regarding the ADR procedures.
2. The ADR procedure is a procedure aiming to amicably settle passenger disputes referred to in Article 205a (1) of the Act – Aviation Law, i.e. civil law disputes between the passenger and:
 - 1) an air carrier (concerning the claims resulting from the Regulation 261/2004/EC),
 - 2) an air carrier, a tour operator or an air ticket seller (concerning the claims resulting from the Regulation 2111/2005/EC)- hereinafter referred to as the “parties of the dispute”.
3. The dispute may also be conducted between entrepreneurs, to the extent that the passenger takes a flight in relation to their business or professional activity.
4. The Passengers’ Rights Ombudsman carries out the ADR procedure aimed at reconciling the positions of the parties to the procedure in order to resolve the dispute.
5. The Passengers’ Rights Ombudsman applies the following regulations during the ADR procedures:
 - 1) the Act – Aviation Law;

- 2) the Act on the ADR;
 - 3) Regulation 261/2004/EC;
 - 4) Regulation 2111/2005/EC.
6. The provisions of the Act of 14 June 1960 Code of Administrative Procedure (Journal of Laws of 2023, item 775, with amendments) do not apply to the ADR procedure carried out by the Passengers' Rights Ombudsman.

§ 3

The scope of the Regulations

1. Within the framework of the ADR procedures, the Passengers' Rights Ombudsman handles the resolution of civil law disputes regarding compensation claims arising from the provisions of Regulation 261/2004/EC or Regulation 2111/2005/EC.
2. The ADR procedures apply to flights from airports located in the territory of the Republic of Poland and flights from third countries to these airports, serviced by Community air carriers.
3. Passengers' Rights Ombudsman is supported by the team consisting of the employees of the Civil Aviation Authority, hereinafter referred as the "CAA", (PRO Office). They fulfil the requirements of the Article 205a (3) of the Act - Aviation Law.
4. The ADR procedure is carried out by the Passengers' Rights Ombudsman in accordance with the following rules:
 - 1) **voluntariness** – which means that the initiation of the ADR procedure and its continuation at any stage depends on the will of the parties;
 - 2) **confidentiality** – which means that both the Passengers' Rights Ombudsman and persons carrying out the ADR procedure on behalf of the Passengers' Rights Ombudsman, as well as the parties and other persons involved in the ADR procedure, are obliged to keep confidential the facts, proposals or positions presented during the ADR procedure;
 - 3) **acceptability** – which means that at every stage of the ADR procedure the parties fully accept and comply with the content of the Regulations and accept the person of the Passengers' Rights Ombudsman or the person carrying out the ADR procedure on behalf of the Passengers' Rights Ombudsman. If these conditions are not met, the ADR procedure may be terminated;
 - 4) **impartiality** – which means that neither the Passengers' Rights Ombudsman nor the person carrying out the ADR procedure on behalf of the Passengers' Rights Ombudsman do not represent any of the parties, treating them equally in the course of the ADR procedure;

5) **neutrality** – which means that neither the Passengers’ Rights Ombudsman nor the person carrying out the ADR procedure on behalf of the Passengers’ Rights Ombudsman have interest in concluding the ADR procedure in a manner preferred by one of the parties.

§ 4

Submission of an application

1. The ADR procedure is carried out at the passenger’s request.
2. An application submitted to the Passengers’ Rights Ombudsman regarding a civil law dispute between the parties to the dispute includes at least:
 - 1) a designation of the parties to the dispute;
 - 2) an indication of the type of procedure*;
 - 3) a clear specification of the demand;
 - 4) a signature of the applicant.
3. The following information and documents must accompany the application:
 - 1) a description of the circumstances justifying the demand;
 - 2) documents confirming information included in the application, among others a copy of the documentation from the completed complaint procedure (complaint submitted to an air carrier, a tour operator or an air ticket seller, a confirmation of submitting the complaint and the answer to the complaint) or the statement that the answer was not given within 30 days since it was submitted;
 - 3) a copy of the confirmed reservation for a given flight within the meaning of Article 2 point g of the Regulation 261/2004/EC (i.e. a confirmation of the fact that the passenger has a ticket or other proof that the reservation has been accepted and registered by the air carrier or tour operator);
 - 4) an indication of the place of residence or registered office and postal address of the parties to the dispute;
 - 5) the date of birth of the passenger;
 - 6) an indication of whether the flight was directly related to the passenger’s business or professional activity;
 - 7) information on whether the Passengers’ Rights Ombudsman has been already requested to consider the dispute in question in the ADR procedure;
 - 8) a statement confirming that a case regarding the same claim between the same parties is not pending or has not already been considered by another competent entity or a court;

- 9) information whether the applicant agrees to the correspondence in the ADR procedure being sent via electronic mail;
 - 10) current telephone number and the e-mail address of the applicant, if the consent referred to in point 9 is given;
 - 11) a declaration of having read and accepted the Regulations and complying with their provisions during the course of the ADR procedure.
 - 12) a declaration of the applicant and of the passengers, to which the application applies, that they got acquainted with an information duty regarding the personal data. The information is in the application form referred to in paragraph 8 (1 and 2).
4. If the dispute refers to more than one disrupted flight, then there must be a separate application submitted to each of them.
 5. The application may be submitted by several passengers together, if the complaint is related to the same flight, they have a common interest in resolving the dispute and apply together for the ADR procedure to be conducted. The passengers may authorize one passenger to exchange mails on their behalf (the Applicant).
 6. In the case of a request referred to in paragraph 5, data indicated in paragraph 2(1) and paragraph 3(1-8) refer to each passenger.
 7. The application may be submitted not earlier than 30 days after the complaint was submitted to the air carrier (when it refers to the Regulation 261/2004/EC) or to the air carrier, a tour operator or an air ticket seller (when it refers to the Regulation 2111/2005/EC), and not later than within one year from the day on which the flight subject to the application was operated or was to be operated.

The complaint procedure is deemed to have been exhausted when an air carrier, a tour operator or an air ticket seller has processed the complaint or the deadline for complaint processing has passed.

8. The application may be submitted to the Passengers' Rights Ombudsman:

- 1) in paper form, by sending to the address:

Civil Aviation Authority
Rzecznik Praw Pasażerów
ul. Marcina Flisa 2 02-247 Warsaw

(the form of the application is available on the dedicated website <https://pasazerlotniczy.ulc.gov.pl> under the tab SUBMIT AN APPLICATION);

- 2) in electronic form via:

- a) the electronic platform of the public administration services (ePUAP),

- b) an interactive form posted on the Ombudsman's website (<https://pasazerlotniczy.ulc.gov.pl>) under the tab SUBMIT AN APPLICATION and in the Public Information Bulletin of the Civil Aviation Authority.
9. An Applicant who has submitted an application in a manner described in the paragraph 8(2) point b and who provided an e-mail address for correspondence in the application, immediately receives confirmation of submitting the application to the e-mail address provided.
 10. Information exchange in the course of the ADR procedure takes place by means of electronic communication, in particular by means of electronic mail.
 11. If a party does not consent to conducting the correspondence in electronic form, the exchange of information between this party and the Passengers' Rights Ombudsman takes place in paper form.
 12. The applicant is obliged to provide the Passengers' Rights Ombudsman with the data that enables the contact on each stage of the ADR procedure (especially the current correspondence address and the e-mail address). It is the passenger's duty to provide the correct e-mail address, to have the access to the provides address, and in the event of its change, to inform the Passengers' Rights Ombudsman about that fact. The Passengers' Rights Ombudsman is not responsible for any damages resulting from not obeying the above duties by the passenger.

§ 5

Initiation of the procedure

1. The date of the initiation of the ADR procedure is the date of delivery to the Passengers' Rights Ombudsman of the application including at least the data and information specified in §4(2).
2. If it is necessary to supplement the data and information indicated in §4(2) and (3), the Passengers' Rights Ombudsman requests the applicant to supplement them no later than within 14 days from the date of the receipt of the letter, failing which the application will not be considered.
3. The Passengers' Rights Ombudsman sends to the parties of the dispute a confirmation of submitting an application containing the data, information and documents specified in §4 (2) and (3) along with the notice of initiation of the ADR procedure.
4. In the letter referred to in paragraph 3, the Passengers' Rights Ombudsman informs the parties about:
 - 1) the claim of the applicant;
 - 2) the right to withdraw from the procedure at any stage;
 - 3) the possibility of active participation in the entire procedure: presentation of positions, documents, evidence;

- 4) the possibility of gaining access to positions, documents and evidence provided by the other party and opinions issued by experts, as well as the possibility of expressing an opinion on them;
 - 5) the right to receive, at any stage of the procedure, the assistance of third parties, including persons providing professional legal assistance.
5. In the event of withdrawal by the applicant of the application submitted to the Passengers' Rights Ombudsman before sending the confirmation referred to in paragraph 3, the Ombudsman confirms to the applicant the cancellation of the application and closure of the case. The confirmation takes the form of short information about the closure of the case, sent by e-mail, provided that the applicant has consented to correspondence in electronic form. In the absence of such consent, the confirmation is sent in paper form.
6. The Passengers' Rights Ombudsman transmits to the other party the notice of initiation of the ADR procedure, setting a 21-day deadline for the response to the applicant's claim. The notification may be accompanied by an application along with attachments.
7. If within the period specified in paragraph 6:
- 1) the other party does not respond to the application or declares that he/she does not agree to participate in the ADR procedure,
 - 2) the applicant withdraws the application during the ADR procedure,
 - 3) conducting the ADR procedure has become impossible for other reasons,
- the Passengers' Rights Ombudsman terminates the ADR procedure and immediately informs the parties.
8. If the parties of the dispute in the ADR procedure reach an agreement, the Passengers' Rights Ombudsman terminates the ADR procedure and immediately informs the parties.
9. The Passengers' Rights Ombudsman terminates the procedure also if the parties have not reached an agreement within the deadline specified in § 6.
10. The procedure is concluded with the preparation by the Passengers' Rights Ombudsman of a report on the course of the ADR procedure, which is immediately delivered to the parties.
11. The report includes in particular:
- 1) the date of preparation of the report;
 - 2) identification of the parties;
 - 3) the concise specification of the applicant's claim and the value of the subject of the dispute;
 - 4) the result of the ADR procedure;

5) the signature of the Passengers' Rights Ombudsman or of the person conducting the ADR procedure on behalf of the Ombudsman.

§ 6

Duration of the procedure

1. The application should be considered, the ADR procedure carried out and the results of the ADR procedure made available to the parties no later than within 90 days from the date of delivery of the complete application to the Passengers' Rights Ombudsman.
2. In the case of a particularly complicated dispute, the deadline referred to in paragraph 1 may be extended. The Passengers' Rights Ombudsman notifies the parties of each extension of the deadline, indicating the expected new date of completion of the ADR procedure.
3. The deadline referred to in paragraph 1 may also be extended at the joint request of the parties to the ADR procedure.
4. In justified cases, the notification referred to in paragraph 2, before sending the letters referred to in §5 (2) and (3), may take the form of publication on the website available at the link: <https://pasazerlotniczy.ulc.gov.pl>.

§ 7

Refusal to conduct the ADR procedure

1. The Ombudsman refuses to conduct the ADR procedure, if:
 - 1) the subject of the application goes beyond the categories of disputes covered by the jurisdiction of the Passengers' Rights Ombudsman, indicated in §3(1);
 - 2) the passenger did not exhaust the complaint procedure in the dispute with the other party;
 - 3) the application was submitted to the Passengers' Rights Ombudsman again in the same case;
 - 4) a case for the same claim between the same parties is pending or has already been considered by an entity authorised to handle the out-of-court resolution of consumer disputes, another competent entity or a court;
 - 5) the application was submitted by an unauthorized entity, i.e. an entity other than specified in § 4(1) or an applicant authorized by the passenger to act on his behalf.
 - 6) the dispute is trivial or the application aims to cause a nuisance to the other party.
2. The Passengers' Rights Ombudsman may also refuse to conduct an ADR procedure between the passenger and the other party if the consideration of the dispute would seriously disrupt the Passengers' Rights Ombudsman's activity.

3. The application is being left without consideration, which means a refusal to consider the dispute within the meaning of Article 34 of the Act on the ADR, if:
 - 1) the passenger's application concerns flights other than flights operated from airports located in the territory of the Republic of Poland and flights from third countries to these airports, operated by Community air carriers;
 - 2) the applicant missed the deadline specified in the Act - Aviation Law for submitting the application, i. e. one year has passed since the date on which the flight subject to the application was operated or was to be operated.
4. If the situations described in the paragraph 3 occur, the Passengers' Rights Ombudsman informs the applicant that the application is left without consideration. In addition, in the case referred to in paragraph 3(1), the Passengers' Rights Ombudsman informs the applicant about the body or entity competent to consider the complaint/application.
5. In the event of refusal to carry out the ADR procedure referred to in paragraphs 1-3, the Passengers' Rights Ombudsman in one letter confirms the submission of the application and informs about the reason for refusing to consider the dispute, within no more than 21 days from the date of delivery of the complete application to the Passengers' Rights Ombudsman.
6. The application is being left without consideration if the applicant within the indicated deadline does not supplement the application with the essential information or documents, referred to in § 4 (2) and (3). Leaving the application without consideration, provided that the request for supplementation includes information on the consequences of failure to meet the deadline, does not require notification to the applicant; the case is closed with an appropriate annotation in the case file.

§ 8

The Ombudsman's Team

1. Persons carrying out the ADR procedure on behalf of the Passengers' Rights Ombudsman have the necessary knowledge and skills in the field of the out-of-court or judicial resolution of consumer disputes, as well as general knowledge of law.
2. In addition, persons who carry out ADR procedures on behalf of the Passengers' Rights Ombudsman:
 - 1) are members of the civil service corps;
 - 2) have a university degree;
 - 3) have knowledge in the field of passengers' rights in air transport;

- 4) have at least one year of professional experience related to the protection of passenger or consumer rights.
3. The Passengers' Rights Ombudsman authorises persons to carry out the ADR procedure for a definite period of time not shorter than 3 years. Persons carrying out ADR procedures on behalf of the Passengers' Rights Ombudsman are independent and impartial in relation to the parties to the civil law dispute, i.e.:
 - 1) do not accept instructions, directions and recommendations from the parties of the dispute or their representatives;
 - 2) the remuneration of these persons is not dependent on the outcome of the conducted procedure.
4. Persons who carry out the ADR procedure on behalf of the Passengers' Rights Ombudsman are deprived of their functions before the end of their term of office in the case of:
 - 1) gross violation of law when performing functions;
 - 2) conviction by a final judgment for the intentionally committed crime or fiscal crime;
 - 3) an illness that permanently prevents the performance of tasks;
 - 4) failure to comply with any of the requirements referred to in paragraph 2;
 - 5) submitting a resignation.
5. The Passengers' Rights Ombudsman and the persons carrying out the ADR procedure on behalf of the Passengers' Rights Ombudsman are obliged to keep confidential any information obtained during the procedure.
6. In the event of any circumstances which may affect the independence or impartiality of the person carrying out the ADR procedure, including attempts to give guidelines by one of the parties to the civil law dispute, or create a conflict of interest with one of the parties to the civil law dispute, the consideration of which was assigned to them, the person carrying out the ADR procedure on behalf of the Passengers' Rights Ombudsman is required to immediately disclose the above-mentioned circumstances to the Passengers' Rights Ombudsman.
7. In the case of the disclosure of circumstances indicated in paragraph 6, the Passengers' Rights Ombudsman entrusts another person with carrying out the ADR procedure.
8. In the case of the disclosure of circumstances indicated in paragraph 6 and the inability to entrust another person with carrying out the ADR procedure, the Passengers' Rights Ombudsman notifies the applicant in writing about the occurrence of circumstances preventing independent or impartial conduct of the case and:

- 1) if there is another ADR entity competent to resolve the dispute, the Ombudsman provides the parties with a proposal to transfer the case to this entity;
 - 2) if it is not possible to entrust another ADR entity with the dispute, the Passengers' Rights Ombudsman discloses the circumstances referred to in paragraph 6 to the parties and informs them about the right to object, within the prescribed deadline, an objection to the continuation of a given ADR procedure by the person concerned by these circumstances..
9. If the Passengers' Rights Ombudsman receives a response of the applicant, depending on its content, the Passengers' Rights Ombudsman transfers the case to another ADR entity competent to resolve the dispute or continues the procedure.
 10. If the applicant fails to raise an objection within the deadline, the person carrying out the ADR procedure, whom the circumstances referred to in paragraph 6 concern, continues to do so.

§ 9

Other regulations

1. The ADR procedure is carried out by the Passengers' Rights Ombudsman free of charge.
2. The application for the initiation of the ADR procedure is submitted to the Passengers' Rights Ombudsman in Polish or in English.
3. The ADR procedure is carried out by the Passengers' Rights Ombudsman in Polish. An unofficial translation of the case documents into English is made for the party not speaking Polish.
4. The settlement concluded at the Passengers' Rights Ombudsman is non-binding. It means that the settlement cannot be executed, in such a way as the court judgment is executed, even if both sides agreed to the solution established.
5. Participation in the procedure does not exclude the possibility of further pursuing claims by judicial process.
6. The procedures started and not finished before this Regulations entered into force are conducted using this Regulations only if the applicant delivers to the Passengers' Rights Ombudsman, in the way described in § 4(8), the applicant's statement that he/she got acquainted with this Regulations, accepts this Regulations and is going to abide it during the ADR procedure.
7. The Regulations for the out-of-court resolutions of passenger disputes by the Passengers' Rights Ombudsman at the President of the Civil Aviation Authority of 14 October 2020 is repealed.
8. The Regulations enters into force on 1 January 2024.