

## Flights cancelled due to Covid-19: refund or travel vouchers? The European Commission answers...

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The process of refunding cancelled “dry seats”<sup>1</sup> due to Covid-19 pandemic has recently been the subject of intense debate.

According to European regulations, in case of a flight cancellation, passengers have the right to obtain either re-routing to their final destination or a reimbursement of their unused ticket, within 7 days, *"in cash, by electronic bank transfer, bank orders or bank cheques or, with the signed agreement of the passenger, in travel vouchers and/or other services"* (Articles 8 and 7.3 of Regulation n°261/2004).

Due to the Covid-19 pandemic, the obligation to refund cancelled airline tickets has faced unprecedented airline cash shortfall and has provoked numerous reactions.

Whereas the French consumer association UFC QUE CHOISIR asked, on 24<sup>th</sup> April, many airlines to respect passengers' right to obtain a refund (within 7 days) of the cancelled tickets, twelve European countries, including France, have asked the European Commission to suspend this obligation<sup>2</sup>.

The use of travel vouchers as an alternative to refund for cancelled flights, already in place in Canada and the Netherlands, was also supported by the International Air Transport Association (IATA)<sup>3</sup>.

Some representatives of the airline industry were also calling for an urgent amendment of Regulation No. 261/2004 on this issue<sup>4</sup>.

The European Commission's reaction was therefore eagerly awaited.

On 13 May 2020, while reaffirming passengers' right to obtain a refund of cancelled tickets, the European Commission encouraged the use of travel vouchers as an alternative to the refund of cancelled tickets from 1<sup>st</sup> March 2020, provided that passengers accept them voluntarily<sup>5</sup>.

The Commission recommended that such vouchers should have a minimum validity period of 12 months, be usable in whole or in part, and be automatically reimbursed in cash at the latest 14 days after the end of their validity period, if they have not been redeemed (this principle

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<sup>1</sup> Flight without accommodation.

<sup>2</sup> <http://www.leparisien.fr/economie/compagnies-aeriennes-12-pays-europeens-veulent-suspendre-l-obligation-de-remboursement-29-04-2020-8308290.php>

<sup>3</sup> <https://nouvelles.paxeditions.com/fr/nouvelles/aviation/remboursement-vs-credit-voyage-liata-prone-les-bons-de-voyage>

<sup>4</sup> <https://www.air-journal.fr/2020-05-14-europe-la-regle-cest-le-remboursement-des-vols-annules-5220158.html>

<sup>5</sup> Commission recommendation of 13 May 2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic

should also apply to the refund of the remaining amount of the voucher concerned in the case of previous partial redemption).

If vouchers have a validity period longer than 12 months, passengers should have the right to ask for reimbursement in cash no later than 12 months after the issuance of such voucher.

They should have the same right at any moment thereafter subject to applicable legal provisions on time limitation.

These vouchers should be valid for services rendered after their period of validity and should be transferable without any additional cost.

They should also offer passengers sufficient flexibility to enable them to travel, subject to availability and irrespective of any fare or price difference, on the same route and under the same conditions of service as detailed in the original booking.

Passengers should be able to use the vouchers for bookings with travel agencies or other intermediary with whom the original reservation was booked as well as other entities that form part of the same group of companies than the carrier and towards payment for any transport services.

Furthermore, in order to increase probability that passengers choose vouchers rather than reimbursement of their tickets, the European Commission also recommended to issue travel vouchers with a higher value than the amount of transport service originally booked.

The Commission further advised that Member States set up guarantee schemes for vouchers to ensure that passengers are reimbursed, in the event of insolvency of the voucher's issuer.

Finally, the European Commission invited consumer and passenger organizations, at both the European and national levels, to encourage passengers to accept vouchers instead of reimbursement in cash.

Although such recommendation is intended to make the use of travel vouchers more attractive, for many representatives of the airline industry, it remains insufficient, non-binding and unsuited to the growing economic difficulties faced by airlines.

According to the CEO of the International Air Transport Association (IATA), the amount of unused tickets to be refunded by airlines last April amounted to \$35 billion worldwide, including \$10 billion in Europe alone<sup>6</sup>.

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<sup>6</sup> <https://www.rtl.fr/actu/debats-societe/coronavirus-35-milliards-de-dollars-de-billets-aeriens-impossibles-a-rembourser-7800344812> ; IATA Press Release No. 23, 31 March 2020, " Airlines Facing Rapid Cash Burn ".