



# COMPENSATION SCHEMES FOR PASSENGERS IN THE CONTEXT OF OVERBOOKING IN SELECTED COUNTRIES (REGIONS) OF THE WORLD

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## Abstract

*The work deals with the overbooking as a tool for increasing the revenue of air carriers, the history of its origin and its use in the business model of an air carrier. It describes incidents associated with the application of this tool in relation to passengers and public opinion about air carriers. It also analyzes compensation schemes for passengers in selected countries of the world in the event of denied boarding or voluntarily surrendered a reservation. The research consists of the analysis and evaluation of online information on passenger rights in the context of overbooking that airlines provide to passengers on their websites. In addition, the work makes proposals and recommendations for the amendment of compensation schemes and for increasing the transparency of online information at Slovak and Czech airlines.*

## Keywords

*Overbooking, denied boarding, denied passenger, no-show, revenue management, United 3411, compensation schemes, regulation 261/2004, part 250 Oversales, Anac 400.*

## 1. Introduction

In the first part, I deal with the theoretical background of overbooking as an airline revenue management tool, the allocation of seat capacity in an airplane along with the calculation of the overbooking limit, the history and emergence of this tool, and the perception of passengers regarding the reputation of airlines. In the second part, I examine the compensation schemes, respectively the legislative framework in six selected countries or groups of countries, passenger rights resulting from these schemes, including financial compensation, advantages and disadvantages of individual schemes and the specific application of rights on hypothetical flights from specific countries to specific countries. The third part consists of researching the online information on passenger rights in the context of overbooking that airlines provide to their passengers on their website. The next part contains the results of this research, where there is an evaluation and ranking of the selected companies according to the level of their transparency based on the number of points achieved. Likewise, the analysis of individual attributes. In the fifth part, based on the results of research and analysis of compensation schemes, I present my own proposals and recommendations for the amendment of these schemes. I also give very specific recommendations and suggestions to selected Slovak and Czech airlines for increasing the transparency of online information for passengers in the context of overbooking.

## 2. Overbooking as a problem of operational and economic management of air carriers

Revenue management also deals with the issue of seat capacity for the air connections offered, i.e. which aircraft technology from those it has available will be deployed on a given route, how many seats will be in a given aircraft and how the seat capacity will be redistributed to individual classes (choice of configuration). The basic principle of the reservation model is

that it tries to reserve a certain number of seats for passengers willing to pay more money in order to get the highest possible revenue from the provision of services in aviation. The willingness of passengers to pay for a ticket for a specific flight at a specific time is highly variable, and therefore airlines apply so-called price discrimination. Individual passengers pay different prices for the same service and the same seat on the plane. Some more (those who are willing to pay more) and some less (those who are not willing to pay more). There are several models for calculating the distribution of the number of seats that an airline should reserve for each price level, thereby keeping them reserved and not selling them at a lower price. It is Littlewood's rule or EMSR Model [1].

Overbooking is a modern airline revenue management tool. It is the sale of a higher number of tickets for a specific flight at a specific time than the seat capacity of the aircraft that is to be used for that flight. It is also a way to increase the revenue of the airline [2]. It is used by many airlines around the world with different business models, including low-cost ones. Overbooking occurs in two cases:

- late cancellation or late change of reservation – some passengers either changed or canceled their reservation a short time before departure,
- no-show – passengers do not show up for the flight without changing or canceling their reservation [3].

Already in the 1960s, no-shows were a big problem in air transport. In 1961, the US regulatory body, CAB (Civil Aeronautics Board), recorded a no-show rate of 10% for 12 key air carriers. As a result, it allowed airlines to apply overbooking. If the seat capacity on a given flight was filled and there were more passengers who showed up for the flight, the company provided them with a rebooking on one of the following flights and refreshments. If the flight was not on the same day, passengers were provided with care in the form of

accommodation. In addition, the companies paid compensation in the amount of 100% of the ticket price. In 1966, the CAB estimated that the number of involuntarily refused passengers was 7.7 per 10,000 passengers carried. This continued freely until 1972, when Ralph Nader sued Allegheny Airlines for \$25,000 because he was involuntarily denied boarding despite the airline's failure to notify passengers of such a situation in advance. As a result, the CAB ordered airlines to inform passengers when purchasing a ticket that they may be refused carriage if an overbooking situation occurs. In 1968, the economist Julian Simon proposed a new solution to the airlines - the introduction of voluntary refusal from transportation and a kind of "auction", where passengers would voluntarily give up their reservation for various amounts of compensation. This rapidly reduced the number of involuntarily refused passengers from the original 7.7 per 10,000 passengers carried to 0.13 per 10,000 (by 2018). In addition to air transport, the overbooking model is also used in the hotel industry or in car rental [3].

### 3. Rights to compensation to refused passengers in selected countries

#### European Union

The regulations of the European Parliament, which regulate all areas of air transport, are binding on the territory of all member states of the European Union. On February 17, 2005, Regulation of the European Parliament and the Council (EC) No. 261/2004 (hereinafter referred to as "Regulation 261"), which establishes common rules for the system of compensation and assistance to passengers in air transport in the event of denied boarding, cancellation or long delay of flights, and which repeals Regulation (EEC) no. 295/91 [12].

Denial of boarding can be either voluntary, if the passenger voluntarily gives up his reservation, or involuntary, i.e. against his will.

When an airline reasonably expects to be denied boarding, it is obliged to first invite volunteers to give up their reservations for a consideration agreed between the passenger and the airline. Volunteers are subsequently provided with assistance in the form of rebooking and can choose one of the following options:

- payment of the full cost of the ticket at the price for which it was purchased, for the part or parts of the journey not completed, and for the part or parts of the journey already completed, if the flight no longer serves the purpose in relation to the passenger's original travel plan or in connection with it, until seven days
- return flight to the first place of departure at the earliest opportunity,
- redirection under comparable transport conditions to their final destination at the earliest opportunity,
- rerouting under comparable transport conditions to their final destination at a later date according to the passenger's wish, provided there are free seats [12].

If the number of volunteers is not sufficient to allow the remaining reserved passengers to board the aircraft, the airline may then deny boarding to the passengers against their will. In such a case, it is obliged to provide these passengers with

financial compensation, assistance in the form of rerouting, when the passenger chooses from the same options as in the case of voluntary relinquishment of the reservation, and last but not least, care for the passenger [12].

The amount of financial compensation depends on the distance between the airport of departure and the airport of destination as the crow flies [12]. Up to 1,500 km = 250 euros, 1,500 km to 3,500 km = 400 euros, over 1,500 km within the EU = 400 euros, other flights = 600 euros.

Passenger care means that the airline will offer the passenger free of charge:

- food and refreshments corresponding to the waiting time,
- hotel accommodation in cases where a stay of one or more nights is required, or when a stay is required in addition to the stay that the traveler anticipated,
- transportation between the airport and the place of accommodation (hotel or other),
- two phone calls, telexes, fax messages or e-mails.

#### United States of America

In the United States of America, the rights of passengers in the event of overbooking, but also in other circumstances, are defined in the law S. 178 A Bill to establish protections for passengers in air transportation, and for other purposes, abbreviated as S. 178 - Airline Passenger Protections Act (passenger protection in air transport), approved at the 1st meeting of the 118th Congress on 31 January 2023. The law is supposed to be effective within 180 days from its adoption [13]. They are regulated in more detail in Part 250 "Oversales" of the Federal Aviation Regulations (FAR) (part 250 - overbooking - federal aviation regulations) (hereinafter referred to as "Part 250 "Oversales") [20].

If more passengers arrive for the flight than the seat capacity of the aircraft, before some passengers are involuntarily refused boarding, the airline must, or her representative to call on the volunteers to give up their reservation. The airline may offer benefits to volunteers, such as financial compensation or vouchers, as an incentive to give up their booking. Part 250 "Oversales" prohibits airlines from setting an upper limit on the amount of financial compensation or the value of vouchers. It is thus unlimited and depends solely on the agreement between the passenger and the airline, which opens up room for negotiation. If they agree on financial compensation, it must be paid to the passenger in cash on the spot and without delay, according to Part 250 "Oversales". In specific cases, within 24 hours at the latest [14].

In the event that the number of volunteers is not sufficient to allow the remaining passengers with a reservation to board the aircraft, the airline may subsequently refuse to board the aircraft against their will. The airline determines its own procedure in which way it will select passengers who will be involuntarily refused. They can use random selection or take into account some of the criteria, such as the type of ticket, the time when the passenger checked-in, membership in loyalty programs and others.

The amount of financial compensation is 775 US dollars (at the destination inside the US 1-2 hours later and outside the US 1-4 hours later) or 1550 US dollars (at the destination inside the US more than 2 hours later and outside the US more than 4 hours later).

Russian federation – no regulation

People's Republic of China – no regulation

Australia – no regulation

Brazil

The institution ANAC (National Civil Aviation Agency) has been operating on the territory of Brazil since 2005 - the National Agency for Civil Aviation, which is responsible for the regulation and supervision of all activities in civil aviation. ANAC, like in the European Union EASA, issues various regulations, guidelines, decisions and other types of regulation. One of them is Resolution No. 400 of December 13, 2016. (Decision No. 400 of 13/12/2016) (hereinafter referred to as "ANAC 400"), which deals with the general conditions applicable to passengers in national and international scheduled air transport as well as non-scheduled flights. As part of these conditions, it also deals with the rights of passengers in the event of overbooking, or refusal to board the plane or voluntary relinquishment of the reservation due to insufficient seat capacity.

ANAC 400, with its conditions and the amount of compensation, tries to discourage airlines from applying the overbooking strategy, or at least in its aggressive form, on the territory of Brazil for domestic as well as international flights [23]. This can happen because:

- the airline changed the plane to another one with a lower seat capacity,
- due to weight and balance, the aircraft must take off with a lower take-off weight,
- the airline sold more tickets and more passengers showed up for the flight than the capacity of the plane [22].

The airline is first of all obliged to announce a call for potential volunteers who would be willing to give up their reservation in exchange for some form of counter service, or benefit in the form of, for example, financial compensation, extra free tickets, rebooking for an alternative flight, hotel accommodation, refreshments and Similarly. The passenger must freely agree on this benefit with the representative of the airline, and if both parties agree on the form and value of the benefit, the passenger will sign a document showing the relinquishment of the reservation for the said benefits. The form and value of the benefit is not regulated in any way and depends exclusively on the passenger's agreement with the airline representative [22].

If there are not enough volunteers willing to give up their reservation, the airline may involuntarily refuse passengers who exceed the aircraft's seating capacity [21]. A passenger who is involuntarily refused is entitled to:

- financial compensation in the amount of 250 SDR (Special Drawing Rights), which, converted according to the exchange rate from 8 February 2024, corresponds to the value of 307.50 euros, in the case of a domestic flight,

- financial compensation in the amount of 500 SDR (Special Drawing Rights), which, when converted according to the exchange rate from February 8, 2024, corresponds to the value of 615 euros, in the case of an international flight,
- replacement flight,
- enabling free communication (email, phone) in case of waiting for a replacement flight for more than 1 hour
- refreshments and food in case of waiting for a replacement flight for more than 2 hours
- accommodation in a hotel and transport to the hotel and to the airport in the case of a replacement flight on another day, but if the passenger is from the city where the airport is, or from the nearby area, then only transport home and to the airport [22,24].

#### 4. Research methodology

The research methodology consists of evaluating the information that fifty selected airlines provide to passengers on their websites according to the following attributes:

Attribute No. 1 existence of a page with information on passenger rights on the airline's website,

Attribute No. 2 stating the legal regulation or standard on the basis of which the rights and compensations for the passenger are applied,

Attribute No. 3 direct link to the relevant legal regulation or standard,

Attribute No. 4 instructions for the passenger, where he can request compensation, care or rebooking (telephone contact, e-mail contact, online form),

Attribute No. 5 transparency of information – the number of steps (clicks) to obtain basic information about the passenger's rights in case of overbooking or refusal to go from the homepage to the information page,

Attribute No. 6 distribution of passenger rights according to the method of applying overbooking – information on voluntary relinquishment of the reservation and involuntary refusal of boarding,

Attribute No. 7 stating the amount of financial compensation,

Attribute No. 8 offered a larger amount of financial compensation compared to the amount from the applicable legal regulation in another form (for example, vouchers, credit or free tickets),

Attribute No. 9 information on the form of financial compensation (cash, account credit, voucher, one-time payment card),

Attribute No. 10 information on the time limit for the possibility of submitting a request for payment of compensation,

Attribute No. 11 existence of differentiation of financial compensation amounts according to travel classes, miles flown, purchased packages,

Attribute No. 12 stating the maximum time for payment of financial compensation,

Attribute No. 13 information on other options (care) to which the passenger is entitled (hot food, refreshments, drinking regime, hotel accommodation, transportation from the airport to the hotel and back),

Attribute No. 14 information on the breakdown of compensation amounts according to transport routes, countries of departure and arrival or flight distance,

Attribute No. 15 existence of language mutations (information also provided in other languages),

Attribute No. 16 existence of a direct, immediate, free communication window (online chat),

Attribute No. 17 telephone communication channel (call center) where the passenger can call and find out about the situation and his rights in case of overbooking, or arrange some details,

Attribute No. 18, the possibility of filing a complaint in the event of a violation of some of the passengers' rights in the context of overbooking and information about such a possibility, or contact or link.

The selection of airlines consists of the most famous ones that are registered in the countries that were selected for comparison.

The result of the research is an evaluation of the transparency of information of selected airlines according to the number of points (artificial index) allocated for the fulfillment of individual attributes. The rating, or the number of points allocated for individual attributes, is +1 or +2 points for a fulfilled attribute or 0 for not fulfilled.

## 5. Research results

Table 1. Airline ranking.

Ranking	Air carrier	Sum
1.	Czech airlines	15
	Emirates	15
	Cathay Pacific Airways	15
	Air Canada	15
2.	Smartwings	14
	LOT	14
	Etihad Airlines	14
	Singapore Airlines	14
3.	Air France	13
	Air China	13
	Eva Air	13
	Garuda Indonesia	13
4.	Ryanair	12
	Delta Air Lines	12
	China Eastern Airlines	12
	Shanghai Airlines	12
	Qantas	12
	Jetstar	12
5.	Wizzair	11

	Lufthansa	11
	American Airlines	11
	United Airlines	11
	Virgin Australia	11
	Qatar Airways	11
6.	AirBaltic	10
	Southwest Airlines	10
	Spirit Airlines	10
7.	AirExplore	8
	Alaska Airlines	8
	JetBlue	8
	Korean Air	8
8.	Go2Sky	7
	Hawaiian Airlines	7
	China Southern Airlines	7
	Hainan Airlines	7
	LATAM Brasil	7
	British Airways	7
9.	Japan Airlines	5
10.	Rex Airlines	4
	Turkish Airlines	4
11.	Aeroflot	2
	S7 Airlines	2
	Ural Airlines	2
12.	Rossiya	1
	Pobeda	1
	Alliance Airlines	1
	Air New Zeland	1
13.	Utair	0
	Azul Brazilian Airlines	0
	GOL Airlines	0

The maximum number of points that can be achieved is 20. The maximum value, or the highest number of points achieved, is 15. It was achieved by the airlines Czech Airlines, Emirates, Cathay Pacific Airways and Air Canada. The minimum value, or the lowest number of points achieved, is 0. It was achieved by Utair, Azul Brazilian Airlines and GOL Airlines.

The average number of points achieved in this research is 8.66. The median, or middle value, is at the level of 10, which means that half of the airlines scored more than 10 points and half scored less than 10 points. The mode is counted three times, namely with values of 7, 11 and 12 points (the most frequently occurring number), specifically 6 repetitions in all three modes. The lower quartile of the research data is 4.75, which means that 25% of the selected airlines scored at most 4.75 points and 75% of the companies scored more than 4.75 points. The upper quartile reaches a value of 12.25, which means that 75% of the selected airlines scored at most 12.25 points and 25% scored more than 12.25 points. The standard deviation in this case is 4.74.

The results of meeting or not meeting individual attributes are in the graph.

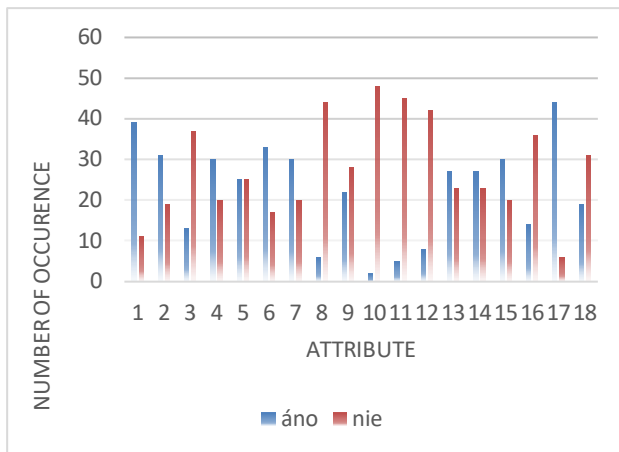


Figure 1. Meeting or not meeting individual attributes.

## 6. Conclusion

Proposals to amend Regulation 261:

- increase the amount of financial compensation and link it to an automatic increase by the amount of inflation,
- regulate the level of care, which will limit the rights of passengers, but will bring more order, for example capping the amount of compensation for hotel accommodation at a certain amount per night and setting the maximum number of nights a passenger can wait for a replacement flight, in addition to setting the exact amount, or price for a snack or hot meal to which the passenger is entitled. These values must also be linked to the automatic increase by the value of inflation,
- specify the competences of national law enforcement authorities,
- enable the European Commission to sanction airlines, for example, in case of repeated violations of passenger rights,
- to define in detail the extraordinary circumstances in which the airline does not have to fulfill the set rights of the passengers (for example, to pay financial compensation or provide care), so that there is no deliberate overlapping of failures on the part of the airlines with an extraordinary circumstance, as is the case at present,
- to include scheduled charter flights in passenger rights, because from the passengers' point of view it is the same flight as a regular flight,
- define the consideration in case of voluntary cancellation of the reservation, at least to a certain basic extent, what it should contain and its amount, and leave the value to the decision of the airline and the agreement between it and the passenger.

After almost twenty years since this regulation entered into force, there is already a great need to amend it. Over the years, there were several attempts, but they did not come to a successful end with approval in the European Parliament. The amount of financial compensation resulting from this regulation, which entered into force in 2005, no longer corresponds to the current value of money. If we converted the

amount of compensations of 250 euros, 400 euros and 600 euros in 2005 with the same value incorporating the amount of inflation from 2005 to 2024, we would get the nominal amount of compensations at the time at the level of today's 441.62 euros, 706.58 euros and 1059.88 euros. The current value of compensation amounts of 250 euros, 400 euros and 600 euros in 2024 was in 2005 at the level of 141.53 euros, 226.44 euros and 339.66 euros [15].

Proposals for amending Part 250 "Oversales":

- apply passenger rights based on these regulations also for passengers flying from abroad to the USA, at least in the case of American airlines,
- cancel or modify the exemptions that exempt airlines from paying financial compensations, for example, define the reasons when it is possible to exchange an aircraft for another one with a lower seat capacity within the framework of this exemption. If it is due to a failure on the part of the airline, for example due to maintenance, poor technical condition or scheduled crews, then I do not recommend such an exception. In addition, I propose to abolish the exception for the exclusion of a passenger due to weight and balance restrictions, as well as the exception for flights with an aircraft with a seating capacity of up to 30 seats,
- apply these rights also to scheduled charter flights,
- adjust in the regulations also the areas of passenger care – refreshments, hot food, hotel and transport.

Regulations valid in the territory of the Russian Federation, the People's Republic of China and Australia

For passengers flying from and to the territory of the Russian Federation, the People's Republic of China and Australia, I propose to create relevant legislation in the field of passenger rights due to overbooking and officially define such a procedure for airlines flying to these territories.

The passenger rights that I propose are financial compensation in an amount comparable to the European Union. In addition, I propose the right to care - refreshments, hot food, hotel accommodation and transport between the hotel and the airport depending on the waiting time. I also suggest the possibility of refunding the price of the ticket in case the passenger does not use the option of rebooking the flight.

Proposals for amending ANAC 400:

- Set the maximum time for the airline until it is obliged to pay the passenger financial compensation, if he is entitled to it.
- to define the benefits and advantages in case of voluntary relinquishment of the reservation, at least to a certain basic extent, what all they should contain and leave the value to the decision of the airline and the agreement between it and the passenger.

Recommendations and proposals for Slovak and Czech airlines based on research results

AirExplore

In the case of the airline AirExplore, if it were to operate regular flights for passengers again, I suggest, with regard to attribute no. 3 and 4, in the relevant section of information on the rights of passengers in the context of overbooking, to state the relevant legal norm, i.e. Regulation 261, and at the same time a link to the full text of this regulations. With regard to attribute No. 8, I propose to allow passengers to receive a larger amount of financial compensation, for example in a form other than money, following the example of other larger airlines, in the form of credit for the purchase of tickets for AirExplore flights in a larger amount. With regard to attribute No. 10, I propose to establish the maximum time until it is necessary to request the fulfillment of rights in case of overbooking, and to publish such information in the relevant section. Regarding attribute No. 11, I suggest that the airline create a differentiation of the amount of financial compensation and the level of care according to the size and value of packages purchased by passengers. Each of these packages would have a different amount of financial compensation and level of care, while respecting the minimum rights based on the regulation. With regard to attribute No. 12, I suggest that the airline should provide information in the relevant section by when it will respond to the request for the fulfillment of rights and, in the case of a satisfactory opinion, by when it will pay the financial compensation and incurred reimbursements for care. AirExplore provides information on its website in Slovak and English. With regard to attribute No. 15, I suggest that it also provide information in several languages. At least in those that are the national languages of the countries to which he most often flies or plans to fly. With regard to attribute No. 16 and 17, I propose to introduce a method of direct communication with the representative of the airline in the form of an online chat, as well as a call center whose number will be published on the website. With regard to attribute No. 18, I propose to publish in the relevant section information on the possibility of appeal in the event of a rejected or unanswered request for the fulfillment of passenger rights in the context of overbooking. This may be a reference to the relevant higher national or European authority.

#### Go2Sky

The airline Go2Sky currently does not provide air transport on the basis of regular lines for passengers, but leases of its aircraft with crew, insurance and maintenance. If in the future they would consider launching regular flights as well, I suggest, with regard to attribute No. 6, to state the division of passenger rights in the context of overbooking into voluntary relinquishment of the reservation and involuntary refusal of boarding. If it provides the same amounts of compensation and rights in both cases, I suggest mentioning such information in the relevant section of the website. I also propose, with respect to attribute No. 7, to state the amount of financial compensation, with respect to attribute No. 9, its form, with respect to attribute No. 14, the distribution of heights according to the orthodromic distance, resulting from Regulation 261, and with respect to attribute No. 8, the possibility of a greater amount in in another form, for example free tickets. As for attributes No. 10. to 12. I propose exactly the same as in the proposal for the AirExplore company, i.e. establishing the maximum time until it is necessary to request the fulfillment of rights, differentiating the amount of financial compensation and the level of care according to the size and value of packages purchased by passengers, and providing information until the company on he will respond to the request for the fulfillment of rights, and until he pays the

financial compensation in the requested form. With regard to attribute No. 13, I suggest Go2Sky to provide information on passenger care, in the form of refreshments, hot food, accommodation and transportation between the airport and the hotel, resulting from Regulation 261. As for languages, the Go2Sky airline does not have your website in no other language than English, not even the national language, which is Slovak, which is a big shortcoming. Therefore, with regard to attribute No. 15, I propose to increase the number of languages, including Slovak, and other national languages of the countries to which the company flies or plans to fly. The last proposal for this company is to establish communication channels for passengers, because not having an online chat on the website or a call center is currently a big disadvantage. Passengers do not have the possibility of immediate support from the company in case of overbooking, but also of any other problems. For that reason, it should also have an immediate online chat and a call center, as other companies have according to attribute no. 16 and 17.

#### Smartwings and Czech Airlines

Airline companies Smartwings and its subsidiary České aerolinie ended up with a very high number of points in the evaluation of transparency. The only difference was in the number of languages in which information is provided on the company's website. Eight languages were available in the case of Smartwings and eleven in the case of ČSA. In both cases, this is a high number. With regard to attributes No. 10 to 12 and No. 16, I suggest that both companies state in the relevant section the maximum time until the passenger must request the fulfillment of his rights and until the request is granted and the compensation paid by the airline. I also suggest that both companies favor passengers from a higher price level, whether passengers with a more valuable and extensive package of services purchased, or passengers from a higher travel class, with a greater amount of financial compensation and a better level of care in case of overbooking. Both companies have a call center, but I also suggest setting up an instant online chat.

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