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**NEW ENAC CIRCULAR ON SANCTIONING  
PROCEDURE UNDER REGULATION (EC)  
NO. 261/2004**

*By Marco Marchegiani*

On 13 May 2021 the Italian Civil Aviation Authority (ENAC) released the circular APT-23B, having as a main purpose to review and summarize the sanctioning procedure for infringements under EU Regulation (EC) No. 261/2004 on passengers rights in case of denied boarding, cancellation or long delay of flights.

As commonly known in the aviation sector, the 261 Regulation (article 16) requires that each Member State shall designate a responsible body for the enforcement of the relevant provisions, to whom “[...] *each passenger may complain [...] about an alleged infringement of this Regulation at any airport situated on the territory of a Member State or concerning any flight from a third country to an airport situated on that territory*”. Under Italian Legislative Decree No. 69/2006, the responsible body is ENAC.

The first step is the investigation process led by the ENAC Airport Department, that ex officio or after a complaint, shall investigate the events. The infringement could be contested immediately to the pilot or notified to the air carrier’s registered office within 90 days from the infringement verification (in case of notification within Italian territory) or within 360 days if outside national borders, through a certified email or postal services.

Within 60 days from the immediate complaint or from the notification, the air carrier has the opportunity to pay a reduced amount, based on the specific infringement. If the air carrier does not pay the reduced fee within 60 days, the designated inspector shall complete the infringement report to ENAC and the air carrier

will be allowed to reply to the complaint within 30 days from the notification.

After a final assessment the competent ENAC Airport Department could issue an order of injunction for the amount assessed, or otherwise a reasoned order of dismissal, both notified to the air carrier’s registered office, under the rules of the Italian Civil Procedure Code. In any case, passengers who have filed a complaint shall be informed.

Under the article 22 of Law No. 689/1981, air carriers may challenge the order of injunction before the Court where the infringement took place within 30 days from the notification (or 60 days if the registered office is abroad).

The mentioned ENAC Circular APT-23B also sets out the criteria to determine the administrative fine, among the others: (i) the severity of the infringement; (ii) the actions carried out by the carrier to avoid or mitigate the infringement’s consequences; (iii) the economic condition of the carrier; (iv) the amount of passengers involved in the infringement, compared to those usually embarked.

The ENAC Circular APT-23B provides useful guidelines in connection with sanctioning procedures under 261 Regulation, also in light of its annexes including several forms that ENAC has prepared to facilitate the submission of claims.

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**THE ITALIAN CAA (ENAC) RELEASES DATA  
ON AIR TRAFFIC IN 2020**

*By Giulio Teofilatto*

The Italian Civil Aviation Authority has recently published the air traffic data for the year 2020. As expected the civil air transport to/from Italy has been largely affected by the Covid-19 pandemic, in line with the general situation faced by the industry worldwide.

The decrease in terms of passengers carried (both on domestic and international routes) is of 72% compared to 2019, equal to approx. 53 million passengers in total.

The most busy airport remains Rome FCO (9.7 million pax), followed by Milan MXP (7.2 million pax), Bergamo BGY (3.8 million pax), Catania CTA (3.6 million pax) and Venice VCE (2.7 million pax).

On the air carriers side Ryanair is still on top of the table with 11.8 million of passengers carried, Alitalia ranked second (6.5 million pax) and EasyJet third (3.5 million pax).

The overall aircraft movements decreased significantly (551.071,00; -61% than 2019), even if some airports were in contrast with such trend and they showed an important growth, such as Brescia VBS which made a + 42% traffic led by the cargo operations.

It was indeed the cargo sector that suffered a lighter downturn compared to the air transport of passengers, since goods and products continued to travel irrespective of the various restrictions and lockdowns adopted in the majority of the countries.

The cargo movements counted a total of 804.000 tons carried to/from Italy, with a total decrease by 24% in respect of the previous year.

Also the general aviation industry proved to be fairly resilient to the pandemic (the traffic reduction was of 17% since 2019), thanks to the fact that smaller airports mainly serving private and business flights stayed open during the lockdown periods, as well as for the different marketplace and purposes related to such operations.

## **EUROPEAN COMMISSION ADOPTS REGULATORY PACKAGE FOR U-SPACE**

*By Francesco Paolo Ballirano*

By way of background, the U-Space is a set of new aviation services relying on a high level of digitalisation, functions and specific procedures designed to support a safe and efficient access to airspace for large numbers of drones. The U-space is designed to facilitate any kind of routine mission, in all classes of airspace and all types of environment - even the most congested - while addressing an appropriate interface with manned aviation and air traffic control.

On such basis the European Commission has recently adopted the new U-Space regulatory package, composed of three regulations which establish the requirements for the safe operation and co-existence of manned and unmanned aircraft in the U-space. Through this regulatory package new services for drone operators are now in place, increasing the distance for them to perform their

operations, especially in congested airspaces. Such regulatory developments were largely expected from the aviation industry, in light of the large potential of drones for cargo and delivery services, as well as other innovative applications, including drone flights with passengers on board in the future. The U-Space package is an important step towards creating a well-functioning, trusted and safe enabling environment and may provide a clear added value in terms of achieving the decarbonisation, digitalisation and resilience ambitions of the European Union.

The U-Space regulations entered into force in 23 April 2021 and the transition period will be completed in January 2023. The acceptable means of compliance (AMC) and guidance material (GM) to support these regulations are currently being developed by the European Union Aviation Safety Agency (EASA).

## **COVID-19 PANDEMIC - UPDATE ON ENTRY REQUIREMENTS FOR TRAVELS TO ITALY**

*By Giulio Teofilatto*

As at July 2021, fully vaccinated passengers arriving in Italy are allowed to enter and are exempt from presenting a negative covid-19 test result, but may be required to quarantine. In general, people are considered fully vaccinated if they have received any of the EU approved vaccines (i.e. Pfizer, Moderna, AstraZeneca and Johnson&Johnson). Italy is open to fully vaccinated travellers arriving from the European Union, Canada, Israel, Japan, the United Kingdom and the United States. Testing and quarantine may be in any case required. Also, every passenger must pre-register electronically before departure and must hold a COVID-19 Green Certificate, being a digital and printable format document attesting satisfaction of one of the following criteria: (i) vaccination against covid-19; (ii) a negative antigen or molecular swab taken within the last 48 hours; (iii) recovery from the infection.

Currently an entry ban is imposed on passengers who have been in or travelled through Brazil in the past 14 days. Exceptions to this ban are: (i) passengers who have resided in Italy since before 13 February 2021; (ii) parents of children younger than 18 years old who reside in Italy; and (iii) military personnel.

An entry ban is also imposed on foreign nationals who have been in or travelled through India, Bangladesh or Sri Lanka in the past 14 days. Exceptions to this ban are: (i) Italian citizens resident in Italy before 29 April 2021; (ii) Italian citizens registered with the Register of Italians Resident Abroad; and (iii) any person authorised by the Ministry of Health.