



- **“Legal gateways” for 261 claims**

**Travel Law Forum**

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Royal Dutch Airlines



- **History: 3 legal proceedings for regulation 261**



District court



ADR



National Enforcement Body



AVICLAIM

DELAYED • CANCELLED • OVERBOOKED

CLAIM IT

CLAIMFORYOU

10 jaar



euclaim

it's all about Passengers!

AirHelp



Green Claim





**Leads to forum shopping between the three legal proceedings**



**It is not about the money. We are here for the passenger, so be welcome. Three ways to help you (and myself)**

Colourful field of (sometimes contradictory and disturbing) decisions

Lots of cases for the Inspection (earning model claim agencies)



## 2 legal proceedings



District court



ADR



National Enforcement Body

Inspectie Leefomgeving en Transport  
Ministerie van Infrastructuur en Waterstaat

Started in 2009, ended 2012

Not all airlines participated in ADR. Obligatory and binding ADR was and is not possible because of constitutional objections



# 1 legal proceeding



District court



ADR



National Enforcement Body

# ECJ Jansen and Dees-Erf preliminary ruling 17 March 2016

Dees-Erf C-146/15 (Joined Cases C-145/15, C-146/15)

Interpretation Article 16 of regulation 261/2004 about the refusal of the Secretary of Infrastructure and Environment to take enforcement action against Royal Air Maroc and KLM

Ensure general compliance with the regulation

Complaints are a form of an alert signal intended to contribute to the proper application of the regulation in general

Without a requirement to act on each individual complaint in order to guarantee each individual passenger rights.

No administrative enforcement action to be taken in each individual case



## Consequences NEB

No more handling of individual cases (a decrease of administrative burden on both sides)

Commercial interests of claim agencies couldn't realized anymore through the enforcement body

- Enforcement body now more in her true role:
- General monitoring based on market and or consumer signals;
- Sanctioning in response to infringements (such as article 14 information obligation of airlines)
- In line with the allocation of roles between NEB and National courts (article 16 Re. 261)

## ● **Conclusions (current situation)**

- Proportional enforcement (general enforcement)
- Decisions from the district court only. (No forum shopping anymore)
  - But still no expertise at the district court about the aviation sector
  - Not an appealable decision because below the threshold of EUR 1750