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HALAL, KOSHER AND THE LAW: RELIGIOUS DIETARY REQUIREMENTS AND THEIR IMPLICATIONS FOR PASSENGERS' RIGHTS IN AVIATION LAW

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Abstract

In this paper author examines specific dietary rules in Islam and Judaism through the concrete legal framework of transport and aviation law. The aim of the paper is to show that the modern airline industry maybe unaware of, or still in the stages of adjusting its policies towards, the needs of large religious groups who, while traveling, can encounter serious difficulties during flight disruptions. Also, this paper analyzes the basic concepts of food law in the two major Abrahamic religions and underlines that the faithful do not have much maneuvering space if they want to follow the laws of their respective faiths. Eating forbidden food is only allowed in extraordinary circumstances and in cases of serious need. This paper offers some suggestions for airline industry in order to cope with growing fluctuation of travelers and increasing demand for food which is prepared and offered in accordance with religious dietary rules.

Keywords: *Islam, Judaism, Halal, Kosher, Dietary Laws, Religious Law, Aviation Law*

Introduction

In today's modern world, air travel has become the most common mode of transport. Airplanes now function much like buses, chosen even when alternative methods might be faster. However, unlike buses or trains, where passengers can easily eat from their own bags or take breaks at intermediate

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stops, eating while airborne or at the terminals has become increasingly complicated. This is especially true during tarmac delays or taxiing. Although food is more accessible than ever while traveling, providing it within the aviation environment is a logistical challenge; it must be pre-positioned in the cabin or distributed at the gate. These logistics are further strained by intensive security checks and limited cabin space, often turning the act of eating into a hassle rather than an enjoyment. Furthermore, technical issues, security concerns, and weather conditions frequently cause delays, leaving passengers stranded in terminals or stuck on the tarmac awaiting clearance. In the worst-case scenarios, flights are canceled entirely. All this can make the time spent in airports and on aircraft unpleasant and exhausting causing increase demand for food and water.

While food and drink are the standard remedies for passenger anxiety and discomfort, they are not always accessible to everyone. European regulations mandate the distribution of refreshments when specific conditions are met; however, many passengers cannot accept the food offered. This is not due to a lack of hunger, but rather a matter of religious law. In Islam and Judaism, the faithful are generally forbidden from consuming food that is not halal or kosher, except in life-threatening circumstances. Under Sharia and Halacha, forbidden food only becomes lawful when a person reaches the final stages of starvation.

This article examines the European and international legal frameworks regarding passenger subsistence during delays or cancellations. Specifically, it explores the dietary restrictions of Islam and Judaism, where consuming non-prescribed food is acceptable only in cases of severe necessity. This conflict is mitigated only in the few countries where standard airline catering is already certified. Ultimately, this article aims to raise awareness of the needs of these significant religious groups and suggests improvements that could be made by airlines and airport partners, particularly for flights bound for the Middle East, North Africa, or regions with significant Muslim and Jewish populations as it is the case in some countries in Southeastern Europe and Turkey.

This paper is primarily concentrated on the dietary regulations on the two religions: Islam and Judaism, rules which are set up in Sharia Law and Halacha. For those who are not familiar with this legal systems it is valuable to stress that both religions provide a complete set of norms covering the whole of human life and shaping the society; in Sharia Law, the Holy Qur'an which is the supreme and a primary source of Law together with Sunnah which is consisted of practices and life of the Prophet Muhamad, which is followed with Ijma (consensus of Islamic scholars) and Qiyas (analogy made by Islamic scholars in order to explain contemporary issues and way to handle them). In Judaism, the Law consists of the written text (Torah) which corresponds to the Bible and Talmud which is oral law written by rabbinical authorities through the 6th century: therefore, in Judaism there are both Biblical and Rabbinical Law present but the latter is subordinated to the written law, the Hebrew Bible.

In both legal systems the dietary rules are regulated by principal sources but also covered by explanations and comments made by respective legal scholars.

This text is about Islam and Judaism for two major reasons: those two religions belong to the major monotheistic religions and their adherents are spread around the world on all continents in a high scale; dietary rules in those two religions are very specific and represent a symbolic image of all those religions which might have dietary rules as part of making peoples' very own identities. Of course, that there are religious rules on food consumption in almost every religion; e.g. Sikhs which specifically forbid ritual killing and intoxicants and beef. Buddhists do not have uniform set of rules set up for food products and its way of observing food is more spiritually driven including compassion. Hindus do not consume beef and lean towards vegetarianism (mostly lacto-vegetarian). It is not possible to write on dietary regulations of all and not on even the most known or numerous religious groups in one paper, since even in particular groups there are views, differences and branches of thought, and that would make this work into encyclopedia of religions and their dietary habits. Also, the author of this text is an academic specializing in Islamic and Jewish Laws, which obviously sets up the scope of this research.

There are obviously other categories of labeling foods according to other parameters such as vegan, vegetarian, and pescatarian, which do not fall under religious reasons and which are to be separately observed, though it is important to stress that choices other than religious are not covered by international treaties, while protecting religious life is worldwide accepted as protection of Conventional Law.

Dietary rules in Islam regarding eating non-Halal food

It is very important to understand Islamic regulations regarding food: halal (حلال) which is permissible, and haram (حرام) which is non-permissible by those who are involved in business of food production and related industries like transport. For them it is essential to be more prepared for increasing demand of such foods, since Muslims belong to one of the most numerous religious groups in the world (Stone, 1998). Following Qur'an and Hadith (Prophet Muhammed's life) is essential for Muslim believers. They try to imitate, as much as possible, the Prophet's life. As stressed before, those teachings are covering all aspects of human's life: in that sense food consumption takes a very important place (Stone, 1998). As mentioned, Hadith is a very important source of Law for Muslims, which sets up more in detail what is permissible and what is not:

'The Qur'an, being a relatively short work (only about 500 pages in translation), left some gray areas. The definition of cattle and good alluded to above were examples. The Hadith sets out more detailed information regarding

these matters, as well as others (such as slaughter) in which the example of the Prophet Muhammed is believed to be illuminating. Hadith passages relevant to which foods are haram and which are halal will be discussed, followed by the proper method of slaughter, and the parameters of the prohibition of intoxicants.' (Stone, 1998, p. 5)

The rules for Muslims are quite clear in respect of consuming non-halal² food. Muslims should only use halal food and use halal products (for instance, those necessary for cosmetics). Rules which define halal food are set up in Islamic dietary laws which are derived from the Qur'an and require that animals belong to a specific group of herbivores and that these animals are slaughtered in merciful and painless ways citing Basmala (Basmillah): بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ³ (Olivier & Ali, 2008) or takbir: تَكْبِير which is glorification of God as the most high and great^{4 5} (*Qur'an*, 1995, Al-Ma'idah 5:4). In Islam, forbidden foods include pork and meat of carnivores as well as the meat of already dead and sick animals. It is permitted to eat all fish, including big ones like shark, but not other animals which do not belong to the category of fish (Ibn Adam, n.d.; *Qur'an*, 1995, Al-Ma'idah 5:96). Regarding sorts of sea animals there are some disagreements between Islamic scholars, mostly depending on the Islamic school which they belong. Just an example, a squid is not permissible according to some scholars of Hanafi school of Law, but, for instance in Shafi'i School eating squid is halal⁶ (Mufti of Federal Territory's Office, 2016), because it is the game from the sea (*Qur'an*, 1995, Al-Ma'idah 5:96).

For instance, Hadith explains that all beasts that have canine teeth or birds of prey which have claws are forbidden to eat (Ali, 1978; Stone, 1998). For the purposes of this article setting examples of particular and concrete forbidden foods in Islam, and in Judaism, is mostly here as a framework in which faithful operate, but the major goal here is to explain that following the rules is not primarily there for health or hygiene reasons, or for geographical availability and nutrition needs; religious rules are there to be followed for spiritual reasons, which make them, according to 'holy theories' means of fostering discipline, character or simply making a bond with the Divine (Ali, 1978). Therefore, those

² Halal (حلال), Arabic: what is right and permissible and Haram (حرام), Arabic: what is wrong and non-permissible. Obviously eating non-halal foods is haram according to Islamic Law.

³ 'In the name of God, the Most Gracious, the Most Merciful'

⁴ God is greater than everything, اللَّهُ أَكْبَرُ.

⁵ They ask you, 'O Prophet,' what is permissible for them 'to eat'. Say, "What is good and lawful. Also, what is caught by your hunting animals and birds of prey which you have trained as instructed by Allah. So, eat what they catch for you, but mention the Name of Allah over it 'first'." And be mindful of Allah. Surely Allah is swift in reckoning.' (*Qur'an*, 1995, Al-Ma'idah 5:4)

⁶ The reasoning mentioned in this source is analogically deduced (qiyas) that squid is similar to rats, which eat any type of food and also that ink which they produce make it dirty.

who observe those rules only from health or epidemiological reasons are missing much of the point of understanding those rules: dietary provisions are there for spiritual purposes and therefore is a very important part in nourishing religious freedoms. The same notion is also valid for Judaism (Masoudi, 1993), or as a matter of fact for any other religion. Also, Qur'an defines that eating food which is prepared by the People of the Book, e.g., Christians and Jews is permissible, when the food itself is halal.

*'Today all good, pure foods have been made lawful for you. Similarly, the food of the People of the Book¹ is permissible for you and yours is permissible for them.'*⁷ (Qur'an, 1995, Al-Ma'idah 5:5)

This is very important to understand in connection with the preparation of food in the globalized world where passengers from different faiths travel all over the world, and where food is prepared at various, often multiple locations. The position on the food prepared by Christians and Jews is clear, but what if food is prepared by a Hindu or a member of other religious group, and what if food is prepared in a factory which has employees and workers of different religious and non-religious backgrounds? What counts: seat of the company? religion of the owner? or something else? The prevailing opinion is that Muslims can eat foods prepared by non-Muslims if halal principles are observed during the preparation of food and the substance of the food.⁸ In this respect Muslims are allowed to eat all foods, prepared by anyone, if the food and its preparation is not haram.

Of course, this is valid in regular circumstances, but what happens when believers encounter unusual and unexpected circumstances? This is covered by Surah An-Nahl 115 (16:115) which allows eating non-Halal food in necessity and extreme circumstances:

*'He has only forbidden you 'to eat' carrion, blood, swine, and what is slaughtered in the name of any other than Allah. But if someone is compelled by necessity—neither driven by desire nor exceeding immediate need—then surely Allah is All-Forgiving, Most Merciful.'*⁹ (Qur'an, 1995, An-Nahl, 16:115)

⁷ For more explanation see more in Khan (2017).

⁸ Sheikh Ahmad Kutty, a senior lecturer and Islamic scholar at the Islamic Institute of Toronto, Ontario, Canada: 'Muslims are allowed to eat food prepared by any human as long as the food is clean, healthy, and prepared with *halal* (lawful) ingredients. It is not required in the Shari'ah to have Muslim cooks and food servers.'... 'Muslims are allowed to eat lawful foods prepared by anyone, whether they are Muslims or non-Muslims, this includes Hindus, Sikhs, Christians, Jews, etcetera. This is a matter of common knowledge in Islam.', Kutty (n.d.)

⁹ See Qur'an (1995, Al-Ma'idah 5:5), Khan (2017), and Qur'an (1995, Al-Baqarah, 2:173): 'He has only forbidden you 'to eat' carrion, blood, swine,¹ and what is slaughtered in the name of any other than Allah. But if someone is compelled by

This is a very important passage of the Qur'an in order to understand that the preservation of life in Islam prevails, and some rules, like dietary ones, have to be put aside. It does not mean that those dietary rules cease to exist, but rather that rules of saving life subordinate dietary rules. Looking at the hierarchy of norms, saving life in this respect is the supreme norm and rules of eating halal food are subordinated. The question here is, of course, what could be considered as 'necessity'. The argument is made for the necessity being extreme hunger which would cause starvation. Sunnah (Sunan Ibn Majah 3349) (Ibn Majah, n.d.) says that it is important to be economical with food and that there should not be desire to eat everything from the plate.¹⁰ When Muslims are starving this is also applied; one should eat only that portion of haram food which will keep him/her alive. In other words, eating just because someone is merely hungry is not acceptable.

Dietary rules in Judaism regarding non-eating Kosher food

Judaism has strict dietary rules and laws which are applicable to all observant Jews and called *Kashrut* (כַּשְׁרוּת). Food which is acceptable to be eaten is called *kosher* (כָּשֵׁר) or acceptable (for consumption) and all food which is not acceptable is called *treif* (טרייף) or forbidden, or even broken. Many similarities could be noticed on dietary rules which exist in Islam and Judaism, but there are some significant differences.

Dietary laws in Judaism contain many obligations for the faithful. Those obligations are derived from the Biblical Law and could be separated in three groups: 1) certain foods are forbidden to be consumed, 2) some foods have to be separated from other foods and 3) there are some prayers which have to be said before eating (Judaism 101, n.d.).

'Contrary to popular misconception, rabbis or other religious officials do not "bless" food to make it kosher. There are blessings that observant Jews recite over food before eating it, but these blessings have nothing to do with making the food kosher. Food can be kosher without a rabbi or priest ever becoming involved with it: the vegetables from your garden are undoubtedly kosher (as long as they don't have any bugs, which are not kosher!). However, in our modern world of processed foods, it is difficult to know what ingredients are in your food and how they were processed, so it is helpful to have a rabbi examine

necessity—neither driven by desire nor exceeding immediate need—they will not be sinful. Surely Allah is All-Forgiving, Most Merciful.'

¹⁰ Miqdam bin Madikarib said: "I heard the Messenger of Allah (ﷺ) say: 'A human being fills no worse vessel than his stomach. It is sufficient for a human being to eat a few mouthfuls to keep his spine straight. But if he must (fill it), then one third of food, one third for drink and one third for air.'", (Al-Tirmidhi), (Ibn Majah, M., n.d.).

the food and its processing and assure kosher consumers that the food is kosher.' (Judaism 101, n.d.)

In Judaism, as in Islam, following dietary regulation is not primarily connected with health or nutritional reasons, but rather fulfilling the mitzvot as a bond which faithful Jews have with God:

'The divine Torah is not focused on healing bodies and improving their well-being, but rather it seeks the well-being of the soul, to cure its ills. Therefore, the Torah forbade these foods, because they cause abomination and revulsion for the pure soul and they make a person's nature opaque and aggravate one's desires, corrupting one's nature and generating an impure spirit, thoughts and actions, chasing away a pure and holy spirit...' (Abarbanel, 2015, as cited in Tucker, n.d.)

At the same time, as was mentioned in introduction, there are numerous groups which follow specific dietary requirements for the reasons which differ from religious bound objections and/or considerations (e.g., for moral or health reasons), but they decide to follow kosher or halal diet. The reason is obvious: by doing so they are sure that by consuming such food they know that strict preparations are made and that food is clean, healthy and in some instances completely meat-free. This is the case when food has both labels, for instance, vegan and kosher (Sigman, 2003).

It is also important to stress that any cuisine (or food-style) can be kosher, so it does not have to be one of those, for instance, Ashkenazi or Sephardic or Mizrahi dishes we all know - dishes coming from the Middle East or Central and Eastern Europe which are associated with Jewish cuisine and culture could be equally kosher or non-kosher as any other foods, as well as, for instance, Italian macaroni or Cantonese dim sum which can be perfectly kosher (Judaism 101, n.d.). The point is in preparation of foods, not the recipe. Kosher dietary laws derive from the Torah, or Biblical Law. A few of examples are:

'You shall be holy people to Me: you must not eat flesh torn by beasts in the field; you shall cast it to the dogs.' (The Contemporary Torah, 2006, Exodus 22:30) (preserving cleanness before God)

'The choice first fruits of your soil you shall bring to the house of your God יהוה. You shall not boil a kid in its mother's milk.' (The Contemporary Torah, 2006, Exodus 23:19; 34:26). (separating Milk and Meat)

'You shall not eat anything that has died a natural death; give it to the stranger in your community to eat, or you may sell it to a foreigner. For you are a people consecrated to your God יהוה. You shall not boil a kid in its mother's milk.' (The Contemporary Torah, 2006, Deuteronomy 14:21) (separating Milk and Meat and not eating dead animals).

The rabbinical literature contains specific rules both for utensils which are to be used for meat or milk and where and how they are washed. Basically, it means that the same utensils and dishes cannot be used both for milk and dairy products (Mazokopakis, 2023), and also there is a time which has to lapse before milk can be eaten after consuming the meat and vice versa.¹¹ Although there are various explanations why the rules on the meat and dairy are in place, most Judaic scholars agree that it falls into the category of so-called *Chukim* which have to be observed without particular reason. The time which is necessary to pass in which person can consume dairy after meat is six hours, and for consuming meat only half an hour, after consuming dairy¹² (Mazokopakis, 2023). There is also the 'standard' prohibition against eating pork in the Torah:

'But the following, which do bring up the cud or have true hoofs which are cleft through, you may not eat: the camel, the hare, and the daman—for although they bring up the cud, they have no true hoofs—they are impure for you; also the swine—for although it has true hoofs, it does not bring up the cud—is impure for you. You shall not eat of their flesh or touch their carcasses.' (The Contemporary Torah, 2006, Deuteronomy 14:8)

There are also provisions about sea food and for observant Jews it is not allowed to eat fish which do not have scales, *argumentum a contrario*, shells and mussels and other animals from the sea are strictly forbidden and, in this respect, Jewish dietary laws are very similar to those present in Islamic legal tradition.

'These you may eat of all that live in water: you may eat anything that has fins and scales. But you may not eat anything that has no fins and scales: it is impure for you.' (The Contemporary Torah, 2006, Deuteronomy 14:9-10)

Similar to Islamic Law, there are separate traditions even within Jewish community. An interesting example is mixing meat and dairy seen in culinary customs of Ethiopian Jews. For them, mixing meat and dairy is also a norm, though poultry and dairy are not mixed. In Ethiopian Jewish legal tradition this was acceptable, before they merged with the other Jews and accepted the Talmudic interpretations. Non-eating poultry together with dairy was a rabbinic prohibition and not the a biblical one, this came out of interpretation in Talmud

¹¹ 'Moreover, up to six hours must pass after eating meat products before eating dairy products. However, meat may be eaten half or one hour after dairy products (with the exception of aged cheese, which also requires a six-hour interval). In addition, prior to eating meat after dairy, one must eat solid food and the mouth must be rinsed.' Mazokopakis (2023, p. 19)

¹² Sephardic Jews can have dairy after 6 hours, Ashkenazi after 3 hours.

and is tightly connected with specific legal tradition.¹³ Jewish dietary rules are complex and many times there are disagreements even within one specific Judaic legal tradition; for instance, there are some traditions that require that even bread, cheese and cooked foods are prepared by pious Jews, while others do not (Popovsky, 2010). This is resolved by intervention of community's rabbi who will decide for that particular congregation, since in Judaism there is no pattern of how to deal with an issue when there are differences between various rabbinical opinions, aside from that each congregation should follow its own religious leader (Popovsky, 2010).

The most important feature of Jewish Law in respect of eating in the case of an absence of kosher food is *Pikuach Nefesh*.¹⁴ This term actually means that saving human life (or soul) overrides almost all other mitzvot which are imposed on Jews.¹⁵ Non-kosher food is permitted to be eaten in the situations of serious illness and *argumentum a minore ad maius* it would be specially permitted in cases where eating will preserve a life.¹⁶ Talmud draws this conclusion out of the Biblical text (Torah) in Leviticus:

'You shall keep My laws and My rules, by the pursuit of which human beings shall live: I am יְהוָה.' (The Contemporary Torah, 2006, Leviticus 15:8)

Commentators in Talmud said *"That he shall live by them, and not that he shall die by them."*, which means that the rules, mitzvot, are made to preserve and improve life, and if behaving according to mitzvot prevent securing and preserving life, they should be overridden and not implied.¹⁷ To summarize,

¹³ See more in Dinonline (2014)

¹⁴ Saving a soul, פיקוח נפש, Hebrew. In case of emergency a Jew is permitted to eat non-kosher food and break 600 out of 613 mitzvot (rules, commandments), except murder, idolatry and committing incest.

¹⁵ See Savić & Savić (2019)

¹⁶ *'Needless to say, preserving life takes precedence over keeping kosher. When there is even some (non-negligible) risk of loss of life, such as in the above cases, a person is permitted to take even tasty non-kosher medicine. Even here, however, one should strive to find a kosher alternative (or at least an inedible non-kosher one) as the first choice. But if one's doctor feels the non-kosher one is most effective, he is not only permitted but obligated to take that.'* (Aish, n.d.)

¹⁷ See more in Glustrom (n.d.) and Yoma 85b: *'but to preserve a life, e.g., if the priest can testify to the innocence of one who is sentenced to death, one removes him even from on top of My altar, even while he is sacrificing an offering. Just as this priest, about whom there is uncertainty whether there is substance to his words of testimony or whether there is no substance to his words, is taken from the Temple service in order to save a life, and Temple service overrides Shabbat, so too, a fortiori, saving a life overrides Shabbat. Rabbi Elazar ben Azarya answered and said: Just as the mitzva of circumcision, which rectifies only one of the 248 limbs of the body, overrides Shabbat, so too, a fortiori, saving one's whole body, which is entirely involved in mitzvot, overrides Shabbat.'* (The William Davidson Talmud, 2017).

Jews are allowed to eat non-kosher food only in cases of absolute necessity, illness, or starvation, because preserving life overrides all other (except three) mitzvot. Saying that, eating in those circumstances does not mean that Jewish Law is not applied, as some commentators write. It is more appropriate to say that the law of saving life is hierarchically above commandments which are overridden. We might say that Rabbinical Law prevails, but then again, it is based on the Torah (Leviticus) and in other words, Biblical regulations.

International and European Air Regulations

European Passengers Rights Regulation says that if a flight is delayed more than two - or three hours, passengers have to receive assistance at the airport. (Regulation 261/2004, art. 6 & 9). However, if the flight is delayed for more than five hours, the passenger may choose not to travel. If the flight is delayed for more than two hours passengers have the right to receive vouchers for food and if not, all food which is consumed (presuming the bill is reasonable) should be refunded when the airline is provided with the receipts (Regulation 261/2004, art. 6 & 9). Rights for refreshments are covered by the Montreal Convention (1999) and apply when there are extraordinary events. There are provisions for compensation where there is more than a three-hour delay, which are not applied when there are extraordinary circumstances such as shear winds which prevent a previous flight from landing. Although the food is offered, many passengers will not be able to eat wherever the food is provided; on the airplane or at the terminal, or voucher is given. The reason is that at many airports there would not be appropriate meals for them at the food courts. This is not about offering food; this is about inability to eat.

In the first place we have to examine what the Montreal Convention says on the right of passengers in case of delay. The Convention is clear regarding the liability of the carrier for the delay¹⁸ and clear that liability of carrier for damage for delay exists, except in cases where it can be proven that all necessary reasonable measures were taken to avoid the damage or it was beyond its control.¹⁹

¹⁸ *The passenger shall be given written notice to the effect that where this Convention is applicable it governs and may limit the liability of carriers in respect of death or injury and for destruction or loss of, or damage to, baggage, and for delay.* (Montreal Convention, 1999, Art. 3, p. 4)

¹⁹ *The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo. Nevertheless, the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures.* (Montreal Convention, 1999, Art. 19)

The question is, can we consider temporary passengers' hunger as damage? In a landmark case of *Air France v Saks*, the Court said that 'an "accident" means an abnormal or unusual condition external to the passenger.' (*Air France v. Saks*, 1985; Kende, 2017). Although in this particular case the plaintiff did not win, the wording of the judgement might give us guidance to consider that any abnormal or unusual condition which is external to passenger may fit the definition of damage: so if a passenger did not have access to food and water which can cause his hunger or thirst, and which, may affect his body, (not to mention those passengers who require food and/or drink for the purpose of their medical condition), this could be explained as a damage to the body which is not caused by the passenger himself. There is no doubt that refusing to give food and water for prolonged period will cause damage, and airlines should consider taking care of their passengers very seriously. In the Convention itself there are no provisions on giving food or drink, though this was regulated by regulatory bodies of particular countries, for instance U.S. Department of Transportation²⁰ or Canadian Transportation Agency²¹. In the European Union those issues are resolved by the EU Passengers Rights Regulations which in fact is the European extension of the Montreal Convention. European regulations are in this respect more detailed.

The regulations were made in 2004 by the European Parliament and the Council of Europe Commission and provide compensation and assistance to passengers in cases of disruption of air travel. Regulation (EC) No 261/2004 is probably the most direct and strict regulation regarding compensation and assistance for delays of aircraft, which was made after the Council Regulation (EEC) No 295/91 of 4 February 1991 which deals with denial of boarding, and which was repealed. The Regulations are applied to

'1. (a) to passengers departing from an airport located in the territory of a Member State to which the Treaty applies; (b) to passengers departing from an airport located in a third country to an airport situated in the territory of a

²⁰ U.S. Department of Transportation (n.d.): 'U.S. airlines operating international flights to or from most U.S. airports must each establish and comply with their own limit on the length of tarmac delays on those flights. On both domestic and international flights, U.S. airlines must provide passengers with food and water no later than two hours after the tarmac delay begins. While the aircraft remains on the tarmac lavatories must remain operable and medical attention must be available if needed.'

²¹ Canadian Transportation Agency (n.d.): 'The regulations establish minimum standards of treatment that airlines have to provide to passengers for delays at departure that are within their control, or within their control and required for safety purposes. After a delay at departure of 2 hours, the airline operating the disrupted flight has to provide: food and drink in reasonable quantities; and a means of communication (e.g., free wifi). If a passenger must wait overnight, airlines have to offer hotel or other comparable accommodation free of charge, as well as free transportation to the accommodation.'. Similar regulation is also present for tarmac delays less than three hours.

Member State to which the Treaty applies, unless they received benefits or compensation and were given assistance in that third country, if the operating air carrier of the flight concerned is a community carrier. 2. Paragraph 1 shall apply on the condition that passengers: (a) have a confirmed reservation on the flight concerned and, except in the case of cancellation referred to in Article 5, present themselves for check-in, - as stipulated and at the time indicated in advance and in writing (including by electronic means) by the air carrier, the tour operator or an authorised travel agent, or, if no time is indicated, - not later than 45 minutes before the published departure time; or (b) have been transferred by an air carrier or tour operator from the flight for which they held a reservation to another flight, irrespective of the reason.' (Regulation 261/2004)

The Delay in the EU Regulations is defined in Article 6 which clearly indicates the application of the convention in respect of the hours spent in delay.

'When an operating air carrier reasonably expects a flight to be delayed beyond its scheduled time of departure: (a) for two hours or more in the case of flights of 1500 kilometres or less; or (b) for three hours or more in the case of all intra-Community flights of more than 1500 kilometres and of all other flights between 1500 and 3500 kilometres; or (c) for four hours or more in the case of all flights not falling under (a) or (b)' (Regulation 261/2004)

All this has to be observed in connection with article 9 which defines giving food and beverages as a right to care. That means that passengers are entitled to free food and drinks as well as accommodation when needed.

'Where reference is made to this Article, passengers shall be offered free of charge: (a) meals and refreshments in a reasonable relation to the waiting time; (b) hotel accommodation in cases- where a stay of one or more nights becomes necessary, or - where a stay additional to that intended by the passenger becomes necessary; (c) transport between the airport and place of accommodation (hotel or other).' (Regulation 261/2004)

Of course, there are numerous provisions which include direct payments or re-routing, but as this article points out, providing food and drink on the spot is functionally the most essential demand which, in many cases will not meet the need for which regulations were brought in the first place. In today's world where religious freedoms are norm and when many of those religious people choose to travel in various parts of the world where their respective religions are not majoritarian, we face problems where travelers who are stuck in the process of traveling cannot participate in receiving of food or drinks or use coupons which have to be used in the airports which often do not have religious foods options. This article focuses on this small, but essential obligation which airlines have according to standard regulations. There are numerous religious

groups and each one of them might have specific dietary regulations, and providing the food for each and every one of them is a burden which cannot fall on airlines, but we might ask if there any space for improvements, especially in specific circumstances when airlines should be aware that some, or even a majority of its passengers will potentially belong to specific group. This article is concentrated on the religious groups which have huge number of adherents worldwide: Islamic and Jewish believers, but equally the narrative could be easily extended to Christians during lent, especially on Ash Wednesday and Good Friday, or Hindu believers regarding eating beef. Of course, airlines do provide dietary options on long-haul flights, but what happens when staying at the tarmac or waiting for a new flight exceeds the duration of a transcontinental flight? This article has intention to elaborate, more in detail, dietary rules, as very characteristic, in Islam and Judaism, as an example, but according to the same pattern airlines could consider various improvements towards many, as a part of their policy, and not necessarily legal obligation.

It is interesting that EU Law does not proscribe regulations in respect of religious dietary needs but concentrates on various standards which have to be fulfilled for food to be consumable, meaning that the primary concern in EU Law is safety of food and not needs of a particular group of passengers. Airlines do not have any other obligations in respect of passengers religious identity, moral beliefs, or taste preferences (Regulation 178/2002). Stating that, it means that EU Law covers food certification and hygiene standards through *Food Information to Consumers (FIC) Regulation (EU) No 1169/2011* and *Food Hygiene Regulations (e.g., (EC) No 853/2004)*. Of course, national legislature could, if they want, regulate this area, but this is not usually done. Subsequently it means that introducing such practices depends on private businesses who could voluntarily adopt specific certifications and distributions. Good examples of such practices are implemented by all major European airlines who travel intercontinentally or to European destinations, but only in business class, where meals are mandatory, even on very short-haul routes. Airlines, when they want to be competitive, try to accommodate needs of their passengers, but obviously it will be always connected with financial means and determined by profits of those respective companies.²²

In the European context it would always be useful to work on Directive (EC) 261/2004 which provides some rights to passengers within the framework of consumer protection and ensure that passengers will be treated as those who need support and help during travel. This is obviously in accordance with the Montreal Convention since European regulation, in respect of Convention's text, is not *contra legem*, but rather fulfillment of additional protections on behalf of air carriers, which is possible and desirable. Directive (EC) 261/2004 is probably the most known document available to the wide public: at almost every airport in Europe there are posters about passengers' rights and travelers

²² See as examples: Lufthansa (n.d.) and Air France (n.d.)

are introduced with basic principles of the Directive. On the other hand, the Directive only has regulations in respect of denied boarding, canceling of flight and prolonged departure, and guarantees that carriers have to provide food and refreshments and overnight stay in cases where flights are cancelled and when those have to be replaced by subsequent flights which do not depart on the same day. In all those cases airline companies have to provide board and food, but without specific guarantees that the food which they provide will meet standards of passengers' real needs.

Even though the European Union in its core document: Charter of the Fundamental Rights of the European Union (2000) provides references to protection of freedom of thought, conscience and religion (Charter of the Fundamental Rights of the European Union, 2000, art. 10) and guarantees non-discrimination (Charter of the Fundamental Rights of the European Union, 2000, art. 21) all this remains only a 'list of good wishes' and depends on the goodwill of respective carriers. It would be interesting to observe what the position of the courts would be in cases of legal actions of passengers with religious claims of such nature. In the meanwhile, all that can be hoped for is that business reasons for consumer satisfaction will be enough to reduce customers' (passengers') dissatisfaction by means of covering larger number of dietary needs whenever possible.

At the same time, recommendations of various international bodies such as ICAO within the framework of the United Nations do not regulate religious dietary requests of passengers which if existed, might again sound only as a proclamatory note. Also, IATA (International Air Transport Association, n.d.) except for defining meal codes and labeling, does not provide any strict guidance which would force carriers to provide meals in irregular situations.

Conclusion: What could be improved in the Airline industry?

It is quite clear that Muslims and Jews should not consume non-halal and non-kosher food/drink, except in very limited and exceptional circumstances. For those purposes we should acknowledge two situations; one is when a person is starving and another is when a person is hungry. When the topic of this article is discussed, in the cases where food has to be offered according to airline regulations (both domestic and international) the issue falls within the second category of being hungry. The only exception when a person who is 'only hungry' can consume food and/or drinks which are not religiously acceptable is when there is an issue of illness or some medical condition which requires eating and drinking; such is diabetes, but then again this should be done in a reasonable manner. In that sense here are some suggestions about what airlines could do to prevent people from being hungry, and this is equally applicable both to flag carriers as well as to all commercial airlines:

- When flights are operated within the Middle East, North Africa, and some parts of Asia and Africa, halal and kosher food boxes and snacks should be available
- Although already available on many airlines, the recommendation is that food options should be easily available and accessible in the moment of reservation, regardless of if tickets are sold in person or on-line
- All food should be certified and labeled
- On flights which originate to and from the destinations where there are significant number of citizens who belong to a specific religious group adequate food should be served on planes, even without preorder, and that should be done to the greatest possible extent in cases where flights are disrupted and therefore airline employees should be acquainted with such options and procedures and in that respect educated. On the other hand, passengers should be informed about such procedures (by personnel or through leaflets)
- Although passengers already have options to comment (fill a complaint or send a satisfaction note) about airlines' behavior, they should have an option to evaluate airlines based on food satisfaction which might improve overall satisfaction
- During holiday seasons, when there is presumed to be a higher number of religious people flying, food and drinks should also be prepared in advance taking that into account, and if possible, cultural dietary customs should be observed too
- Muslims should be provided with dates or some other acceptable food to start their iftar on red-eye flights and Jews offered with apple and honey on Rosh Hashanah
- Airports which have agreements for slots should have stocks of halal and kosher foods in specially designated restaurants, and this should be the case for various stopovers and unexpectedly necessary landings. This should not only be reserved for destinations which are more likely to have more religious people of particular group
- Airlines are not qualified to determine which food is halal and/or kosher, but they should be required to show certifications provided by relevant religious authorities. This is especially important to bear in mind when flights are operated by state owned companies or where states have the role of the carrier (Masoudi, 1993)

All this could be used in marketing, providing the sense that the airline is aware of the needs of its passengers, which could gain them both moral and financial benefit. Food which is offered should not be exclusive and gastronomic, but rather a sign that religious freedom and customs are respected and a sign that the well-being and happiness of passengers as clients is important.

This Article concentrates on Islamic and Jewish religious groups, but this equally could be a problem with other religious groups which have specific religious regulations, for instance on Ash Wednesday and Good Friday when Catholics are forbidden to eat meat and meat products. Basically, suggestions which are written here as potential solutions in the form of recommendations could be applied worldwide and to every religious group in the world. The basic response is that Airlines should be aware where and when they perform specific flights and try to adjust as much as possible.

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Bibliography

- Air France (n.d.). *Travel to heart of French cuisine*. <https://www.airfrance.hr/information/cabines/repas-a-bord> (22 January 2026)
- Air France v. Saks*, 470 U.S. 392 (1985). <https://supreme.justia.com/cases/federal/us/470/392/> (4 March 2026)
- Aish (n.d.). *Taking Non-Kosher Medications*. <https://aish.com/taking-non-kosher-medications/> (26 March 2026)
- Ali, M. M. (1978). *A Manual of Hadith* (2nd ed.). Curzon Press Ltd. <https://archive.org/details/in.ernet.dli.2015.279406/page/n133/mode/2up> (22 February 2026)
- Canadian Transportation Agency (n.d.). *Air Passenger Protection Regulations Highlights*. <https://otc-cta.gc.ca/eng/air-passenger-protection-regulations-highlights> (4 March 2026)
- Charter of the Fundamental Rights of the European Union* (2000). https://www.europarl.europa.eu/charter/pdf/text_en.pdf (22 January 2026)

- Council Regulation 295/91. *Council Regulation (EEC) No 295/91 of 4 February 1991 establishing common rules for a denied-boarding compensation system in scheduled air transport*. <https://eur-lex.europa.eu/eli/reg/1991/295/oj/eng> (5 March 2026)
- Dinonline (2014, March 7). *Poultry and Milk*. <https://dinonline.org/2014/03/07/poultry-and-milk/> (26 March 2026)
- Flight Time (n.d.). *IATA Meal Codes*. <https://flighttime.de/en/project/iata-meal-codes/> (24 January 2026)
- Glustrom, S. (n.d.). *Saving a Life (Pikuach Nefesh)*. My Jewish Learning. <https://www.myjewishlearning.com/article/saving-a-life-pikuach-nefesh/> (26 March 2026)
- Ibn Adam, M. (n.d.). *Is Shark Meat Halal?* Shariah Program <https://www.shariahprogram.ca/eat-halal-foods/shark-meat-halal.shtml> (12 March 2026)
- Ibn Majah, M. (n.d.). *Sunnan Ibn Majah* (Vol 4, Book 29, Hadith 3349). Sunnah.com. <https://sunnah.com/ibnmajah:3349> (14 March 2026)
- Judaism 101 (n.d.). *Kashrut: Jewish Dietary Laws*. https://www.jewfaq.org/kosher_dietary_laws (20 March 2026)
- Kende, C. B. (2017, November 7). *Recent Case Law Defining 'Bodily Injury' under the Montreal Convention*. Best Lawyers. <https://www.bestlawyers.com/article/bodily-injury-montreal-convention/1671> (4 March 2026)
- Khan, S. A. (2017, October 28). *Can I Eat Halal Meat Cooked by a Christian? (Shafi'i)*. Seekers Guidance, The Global Islamic Academy. <https://seekersguidance.org/answers/shafii-fiqh/can-i-eat-halal-meat-cooked-by-a-christian/> (14 March 2026)
- Kutty, S. A. (n.d.). *Can we eat food from non-Muslims?* About Islam. <https://aboutislam.net/counseling/ask-the-scholar/food-slaughter/can-we-eat-food-from-non-muslims/> (14 March 2026)
- Lufthansa (n.d.). *Special menus – tailored to your needs*. <https://www.lufthansa.com/am/en/special-meals.html> (22 January 2026)
- Masoudi, G. F. (1993). Kosher food regulation and the religion clauses of the first amendment. *The University of Chicago Law Review*, 60(2), 667-696. <https://doi.org/10.2307/1600082>
- Mazokopakis, E. E. (2023). The Prohibition of Meat and Milk Mixing in the Same Meal: A Brief Theological and Medical Approach to a Jewish Dietary Law. *European Journal of Theology and Philosophy*, 3(1), 19-21. doi: 10.24018/theology.2023.3.1.85

Montreal Convention (1999). *Convention for the unification of certain rules for international carriage by air*. <https://www.iata.org/contentassets/fb1137ff561a4819a2d38f3db7308758/mc99-full-text.pdf> (17 February 2026 et al)

Mufti of Federal Territory's Office (2016, November 22). *Al-Kafi #464: The ruling of eating squid and its ink*. <https://muftiwp.gov.my/en/artikel/al-kafi-li-al-fatawi/1839-al-kafi-li-al-fatawi-the-ruling-of-eating-squid-and-its-ink> (14 March 2026)

Olivier, L., & Ali, K. (2008). *Islam: The Key Concepts*. Routledge.

Popovsky, M. (2010). The Constitutional Complexity of Kosher Food Laws. *Columbia Journal of Law and Social Problems*, 44(1), 75-108.

Qur'an (M. Khattab, Trans.). (1995). Quran.com. <https://quran.com/> (12 March 2025 et al.)

Regulation 1169/2011. *Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 Text with EEA relevance*. <https://eur-lex.europa.eu/eli/reg/2011/1169/oj/eng> (22 January 2026)

Regulation 178/2002. *Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety*. <https://eur-lex.europa.eu/eli/reg/2002/178/oj/eng> (22 January 2026)

Regulation 261/2004. *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*. <https://eur-lex.europa.eu/eli/reg/2004/261/oj/eng> (17 February 2026)

Regulation 852/2004. *Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs*. <https://eur-lex.europa.eu/eli/reg/2004/852/oj/eng> (22 January 2026)

- Savić, I., & Savić, V. I. (2019). " Religious Injury" under the Montreal Convention: The (Un) Usual Case of an El Al Flight from New York to Tel Aviv. *Issues in Aviation Law and Policy*, 19 (1), 125-148.
- Shariah Program. : <https://www.shariahprogram.ca/eat-halal-foods/shark-meat-halal.shtml> (12 March 2025)
- Sigman, S. M. (2003). Kosher Without Law: The Role of Nonlegal Sanctions in Overcoming Fraud Within the Kosher Food Industry. *Florida State University Law Review*, 31(3), 509-602.
- Stone, L. (1998). *A contextual introduction to Islamic food restrictions*. Digital Access to Scholarship at Harvard (DASH). <https://dash.harvard.edu/server/api/core/bitstreams/7312037c-a809-6bd4-e053-0100007fdf3b/content> (22 February 2026)
- The Contemporary Torah* (2006). Jewish Publication Society. Sefaria. <https://www.sefaria.org/Exodus.22.30?lang=bi&with=all&lang2=en> (24 March 2025)
- The Contemporary Torah* (2006). Jewish Publication Society. Sefaria. <https://www.sefaria.org/Leviticus.18.5?lang=bi&with=all&lang2=en> (26 March 2026)
- The William Davidson Talmud* (Koren; Steinsaltz, Trans.). (2017) Sefaria. <https://www.sefaria.org/Yoma.85b.2?lang=bi> (26 March 2026)
- Tucker, E. (n.d.). *Keeping Kosher in a Non-Kosher World*. Hadar Institute. www.mechonhadar.org (21 February 2026)
- U.S. Department of Transportation (n.d.). *Fly rights*. <https://www.transportation.gov/airconsumer/fly-rights#Delayed-and-Cancelled-Flights> (4 March 2026)

