

Inadmissible Persons and Deportees – Airline Perspective

“Experiences, Current and Future Concerns”



Presenter:
Christine Cyprian Bgoya

Head of Aviation Security
Precision Air, Tanzania

ccyprian@precisionairtz.com

Precision Air

- A Tanzanian registered scheduled Airline
- The largest airline in Tanzania based on fleet size, destinations served, and passengers carried
- A partner of Kenya Airways
- IATA Member
- “Best Domestic Scheduled Airline” in Tanzania - Award from Tanzania Society of Tanzania Agents (TASOTA) 2013 Awards

Overview

- Definitions of key terms and Abbreviations
- Classification of Inadmissible Persons
 - ❖ The Criminal Aspect
- Challenges with Inadmissible Persons and Deportees
- ICAO Standards and Recommended Practices vs. “Practices”
- Recommendations
- Reference

Key terms

Inadmissible Person

A person who is or will be refused admission to a State by its authorities

Deportee

A person who had legally been admitted to a state by its authorities or who had entered a state illegally, and who at some later time is formally ordered by the competent authorities to leave that state

Fraudulent Document

Any travel document that is counterfeit or altered in any manner, or obtained through fraud

Imposter

Any individual who presents or otherwise makes use of official travel documents issued to another person

Abbreviations

IATA – International Air Transport Association

IATA/CAWG – IATA/Control Authorities Working Group

ICAO- International Civil Aviation Organization

ICT – Information Communications Technology

SARPS – Standards and Recommended Practices

Categories of Inadmissible Persons

- Improperly documented passengers
- Fraudulently Documented or Undocumented Passengers
 - ❖ No documents on arrival
 - ❖ Fraudulent documents identified on Arrival
 - ❖ Genuine documents held by Impostors
- Other admission refusals
not necessarily basing on travel documents

Source: IATA CAWG

Circumstances that may lead to Inadmissibility

- Economic factors and conviction on success dependency on relocating to another state, no matter how
- Political
- Passenger/Airline ignorance of state specific requirements – non repetitive situations
- Misinterpretation of the laws by either passenger, airline or authorities

Circumstances that may lead to Inadmissibility...

- Forgetfulness of some required travel documents
- Miscommunication between customer and airline or authorities
- Terrorism and Criminal activities
- States politics?
Denial of admission of Nationals from state X as a revenge by state Y where the former is believed to have unfairly denied Y's Nationals

The Criminal Aspect

In principle, Inadmissible persons in the category of fraudulently documented or intentionally destroying their travel documents “do commit a crime”.

Likewise, *all* the people who intentionally assist in one way or the other to ensure success of any one’s effort to commit a crime, do commit a crime.

Why people commit crime?

Henry Shafte, Criminal Psychologist classification of human beings

- Self Regulators – not committing crime because it is wrong
- Rational choosers – Commission of crime determined by Risk vs. Reward
- Outlaws – Risk Vs. Reward does not apply

Is the action of returning back the fraudulently documented passenger enough to make them and “accomplices” not making further attempts/influence?

Challenges with Inadmissible Persons

Some States non compliance with the ICAO Annex 9 Standards and Recommended Practices, Examples;

Airlines are still given “Verbal” removal order to date!

ICAO Annex 9 standards

- 5.3 *Contracting States shall without delay notify the aircraft operator, confirming this as soon as possible **in writing**, when a person is found inadmissible, pursuant to 3.44.
Note.— Written notification can be either in paper form or in electronic form, such as e-mail.*
- 5.5 *Contracting States shall ensure that a removal order is issued to the aircraft operator in respect of a person found inadmissible. The removal order shall include, if known, the name, age, gender and citizenship of the person in question.*

Templates are available in Annex 9, Appendix 9 (1) & (2)

Challenges with Inadmissible Persons...

- No covering letter for undocumented passengers

5.6 *Contracting States ordering the removal of an inadmissible person who has lost or destroyed his travel documents shall deliver a covering letter in the format set forth in Appendix 9 (1) in order to give information to the authorities of the State(s) of transit and/or the commencement of journey. The covering letter, the removal order and any relevant information shall be handed over to the aircraft operator or, in the case of escorted persons, the escort, who shall be responsible for delivering them to the public authorities at the State of destination.*

- Airlines ordered to return Inadmissible passengers to states which already denied them admission because a passenger ***“is not allowed to purchase a ticket at the transit state”*** as authorities fear responsibility in the event of such passenger further denial of admission in another state

Challenges with Inadmissible Persons...

- Fraudulent travel documents returned to Inadmissible persons and;
- Fraudulently obtained documents returned to imposters

3.46 *The public authorities of each Contracting State shall seize fraudulent, falsified or counterfeit travel documents. The public authorities shall also seize the travel documents of a person impersonating the rightful holder of the travel document. Such documents shall be removed from circulation immediately and returned to the appropriate authorities of the State named as issuer or to the resident Diplomatic Mission of that State.*

- Contradicting interpretation of laws i.e one airport in the state requiring Nationals from state X to have referred visa (prior to arrival) while another airport in the same state accepts issuing visa on arrival of Nationals from state X
- Lack of communication between authorities and airlines and stakeholders
- Lack of receiving state authorities interest to get details for investigation, prosecution or any other appropriate actions

Observations

- Non compliance of the ICAO SARPs without express state reservations leads to confusion to Airlines
- Security at stake – returning documents that caused denial of admission to passenger poses a risk. Potential terrorists afforded opportunity to hide anonymity and make several attempts
- Unnecessary friction amongst stakeholders
- Growing numbers of attempts and actual use fraudulent documents
- Lack of facilities/Infrastructure for holding Inadmissible passengers as they wait to be returned back

Deportee transportation Challenges

Lack of Information to Aircraft Operators

Annex 17, Standard 4.7.3

Each Contracting State shall ensure that the aircraft operator and the pilot-in-command are informed when passengers are obliged to travel because they have been the subject of judicial or administrative proceedings, in order that appropriate security controls can be applied

Recommendations

- States, through the authorities, to explore and embrace the opportunities in ICT for coordination and efficiency.
- International Airports to address infrastructure/facility issues for temporary accommodation of Inadmissible persons

Recommendations...

- States to enhance cooperation, investigations and exchange of information particularly on Inadmissible persons/Deportees as appropriate and, provide it to ALL with the need to know
- States denying entry to cease documents (where not done)
- States and ICAO to collect, analyze and share statistics on incidents of Inadmissible persons and Deportees
- ICAO to make public all non confidential information on the website for airline's self service

Recommendations...

- Design/Review training programmes to appropriately and adequately address knowledge/skills issues
- States to educate law enforcement agencies particularly on the need to provide information to aircraft operators, even where the deportee is judged to be low risk
- Aircraft operators to effectively use the facilitation committees and other appropriate platforms to raise these issues
- Stakeholders to encourage/facilitate research in problem areas

Reference

- ICAO Annex 9
- ICAO Annex 17
- ICAO Doc 8973
- ICAO Facilitation Panel (FALP), Seventh Meeting (2012), Working Paper Presented by Canada on behalf of IATA CAWG on The Removal of Inadmissible Persons – Proposals to Amend Annex 9 – Facilitation
- IATA/CAWG-*Guidelines For the Removal of Inadmissible Passengers*
- IATA Security Manual



Asante!