



FACILITATION PANEL (FALP)

NINTH MEETING

Montréal, 4-7 April 2016

Agenda Item 3: Amendments to Annex 9

PROPOSED AMENDMENTS TO ICAO ANNEX 9 – TRANSPORT OF MINORS

(Presented by the European Civil Aviation Conference)

SUMMARY

The increasing international awareness on the foreign fighters phenomenon and on child trafficking as well as the limited availability of international guidance on the treatment of minors travelling by air call for ICAO to be more pro-active in this domain. One of the first actions that should be taken is an amendment to Annex 9 by inserting relevant definitions, Standards and Recommended Practices on the transport of minors both accompanied and unaccompanied. In addition to the political signal such an amendment would give, it would also help harmonise the policies and procedures followed by Contracting States and aircraft operators on the handling and safety of minors.

Action by the FAL Panel:

The FAL Panel is invited to consider the proposals described in this paper and agree that Annex 9 be amended, as set out in the Appendix.

1. INTRODUCTION

1.1 In 2000 the UN General Assembly adopted the UN Convention against Transnational Organized Crime (Resolution 55/25) and one supplementary protocol, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. According to this Protocol, child trafficking is the recruitment, transportation, transfer, harbouring or receipt of children for the purpose of exploitation.

1.2 Data about the magnitude of child trafficking remain difficult to collect. The International Labour Organization's 2002 estimation of 1.2 million children being trafficked each year remains the

reference (*source: UNICEF website*). Other UN agencies, such as UNICEF and UNODC, are very active and work closely with national governments and operators in this domain.

2. OBJECTIVES

2.1 With the objective of reducing children's vulnerabilities to trafficking and to ensure that air transport is not used to facilitate such trafficking, several initiatives have already been taken in recent years such as:

- The IATA Control Authorities Working Group (IATA/CAWG) published Recommended Best Practice for Minors in May 2007.
- Directive 2011/36/EU of 5 April 2011 on preventing, combating and protecting victims of trafficking of human beings, which covers a wider remit than minors alone but Articles 2 and 18 both cover specific considerations regarding the treatment of 'children'.
- Report on the situation of unaccompanied minors in the EU (2012/2263(INI)) of 10 April 2013, which led to a European Parliament Resolution of 12 September 2013. The report detailed conditions faced by persons under the age 18, who are either citizens of third countries or stateless persons, in cases where they either arrive in the European Union alone or find themselves alone after arrival.
- ECAC Doc 30, Part I, Recommendations on minors (December 2015).

2.2 At the last meeting of the ICAO Facilitation Panel, FALP/8 (Montreal, 24-28 November 2014) ECAC presented an Information Paper summarising the recommendations endorsed by ECAC Member States and the status of the discussion at the European level on the issues addressed by these recommendations. The Information Paper was well received and ECAC was encouraged to continue its work in consultation with the IATA/CAWG, refining the recommendations and procedures and identifying potential Standards and Recommended Practices which may be suitable for consideration in future meetings of the Facilitation Panel.

3. PROPOSALS FOR AMENDING ANNEX 9

3.1 ICAO Annex 9 SARPs should properly address the issue of the facilitation of the travel of minors and contribute to the harmonisation of current international practices. To that purpose a series of amendments to Annex 9 are proposed:

Definition of a minor

3.2 For the majority of ECAC Member States, a minor is a person under the age of 18. However, in other countries, a minor is a person under 20 years of age. The majority of aircraft operators regard a child up to and including 11 years of age as a minor for the purpose of operating their fare structures and for their unaccompanied minor programmes. IATA's Recommended Practice 1753 ('Interline handling procedure for unaccompanied minors') recognises that an unaccompanied minor may be 12 years of age or over. All of these variances provide an indication of how difficult it is to set a specific agreeable age range to the definition of a minor. Therefore, the proposed definition is based in the United Nations definition of a child (see Article 1 of the UN Convention on the Rights of the Child).

Definition of an unaccompanied minor

3.3 Again, the variances found among the different countries makes difficult to find a better definition than the one proposed, but at least it seems to capture the majority of noticed variances. IATA Recommended Practice (RP) 1753 indicates that, for the purpose of that RP, ‘an unaccompanied minor is a child or infant travelling alone or with the Member’s escort’. The current IATA/CAWG definition contained within their recommended Best Practice for Minors (adopted 2007, amended 2014) is ‘a child under the age of sixteen travelling alone or travelling only in the company of another child aged less than sixteen.’

Training

3.4 The majority of aircraft operators has specific training on minors issues incorporated within the generic training for crew and ground staff. However, the depth and scope of the training and the staff involved vary among operators.

3.5 IATA/CAWG guidance indicates that ‘Carriers should establish clear procedures for handling unaccompanied minors, including multi-sector journey, delay and disruption procedures. Training programmes should take into account the need for both ground and cabin staff to be fully conversant with these procedures’.

Age limits

3.6 In order to ensure a practical application of the Recommendations suggested, it is necessary to establish a minimum age below which aircraft operators do not allow minors to travel alone because of their vulnerability.

Unaccompanied minors programme

3.7 Where aircraft operators allow unaccompanied minors above the minimum age to travel, they should establish and put in a place a programme. The programme should set out how the aircraft operator will care for and protect the unaccompanied minor for the duration of the operator’s supervision.

Removal of inadmissible persons and deportees

3.8 In case of removal of unaccompanied minors, the majority of States establish contact ahead of a removal to ensure that there are suitable reception arrangements available for the minor.

4. ACTION BY THE FAL PANEL

4.1 The Facilitation Panel is invited to consider the proposals for amendment to ICAO Annex 9 as described in the Appendix.

APPENDIX

Amend Annex 9 as follows:

CHAPTER 1. DEFINITIONS AND GENERAL PRINCIPLES

A. Definitions

Accompanying person: An adult who is travelling with a child. This person will not necessarily be the parent or legal guardian of the minor.

Note.—It is to be noted that this definition might need to be applied in light of any obligation resulting from the application of national regulations on border checks.

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Minor: A child who is not yet legally of adult age.

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Unaccompanied Minor: A child travelling alone or travelling only in the company of another child.

Note.—It is to be noted that this definition might need to be applied in light of any obligation resulting from the application of national regulations on border checks.

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CHAPTER 3. ENTRY AND DEPARTURE OF PERSONS AND THEIR BAGGAGE

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Q. Minors

3.81 Recommended Practice.— *Contracting States should ensure that their public authorities are trained to consider the welfare of minors both accompanied and unaccompanied.*

3.82 Recommended Practice.— *Aircraft operators should ensure that their ground and cabin staff receive adequate training on the handling of minors.*

3.83 Recommended Practice.— *Contracting States and aircraft operators should, where practicable, exchange information as to the appropriate 24 hour point(s) of contact(s) to whom issues concerning the welfare of a minor could be addressed.*

3.84 Recommended Practice.— *Where data privacy and protection restrictions permit, aircraft operators should raise any concerns regarding the welfare of a minor with the relevant public authorities.*

3.85 Recommended Practice.— *Contracting States should consider placing an unaccompanied minor into the care of the relevant public authority at the first available opportunity if there are significant concerns regarding the welfare of the unaccompanied minor during a journey which cannot be resolved quickly.*

3.86 Contracting States shall ensure that aircraft operators do not allow minors under the age of five (5) to travel without an accompanying person.

3.87 Aircraft operators shall establish a programme for the handling of unaccompanied minors travelling under their supervision.

CHAPTER 5. INADMISSIBLE PERSONS AND DEPORTEES

B. Inadmissible persons

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5.11.2 Recommended Practice.— *Where the removal of an inadmissible person relates to an unaccompanied minor, Contracting States should ensure that suitable reception arrangements are available for the minor.*

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C. Deportees

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5.18.2 Recommended Practice.— *Where the removal of a deportee relates to an unaccompanied minor, Contracting States should ensure that suitable reception arrangements are available for the minor.*

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