



WORKING PAPER

**SEVENTH WORLDWIDE AIR TRANSPORT CONFERENCE
(ATCONF/7)**

Montréal, HQ, 16 to 20 November 2026

Agenda Item 3: Strengthening regulatory and institutional frameworks

3.1: Strengthening regulatory oversight and evolving institutional frameworks

**KEY CONSIDERATIONS IN THE LEGISLATIVE DEVELOPMENT OF
AIR PASSENGER RIGHTS: THE CHILEAN EXPERIENCE**

(Presented by Chile and endorsed by 17 LACAC Member States²)

EXECUTIVE SUMMARY

This working paper examines the need for consumer protection reforms to be supported by a clear evidence base demonstrating that they will improve the contractual relationship between passengers and airlines, rather than increasing costs and creating barriers to the development of air transport. Any reform should be based on objective data and take into account the specific nature of the industry, thereby ensuring that the resulting legislation addresses real needs and is consistent with global trends. To illustrate this point, this working paper presents the case of Chile, where several bills on this subject are currently under consideration in Congress, despite the absence of a clear relationship between those efforts and the available information on the industry's performance.

Action: The Conference is invited to:

- a) take note of Chile's experience in the field of air transport consumer protection, with a view to promoting regulatory approaches in Member States based on the regional application of the International Civil Aviation Organization's (ICAO) Core Principles on Consumer Protection, taking into account objective evidence, as well as collaboration and mutual understanding between the public and private sectors in each country;
- b) request the Secretariat, in coordination with Member States and the relevant regional organizations, to develop guidance material establishing minimum common standards for the collection and standardization of air transport consumer protection data, in order to facilitate data comparability among States; and
- c) encourage States to establish or strengthen standing mechanisms for consultation and dialogue between aviation authorities and industry operators, and to share, through ICAO and the relevant regional organizations, their experiences in data collection and public-private collaboration, thereby enabling Member States to share best practices.

¹ Spanish version provided by Chile.

² Argentina, Belize, Bolivia (Plurinational State of), Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Jamaica, Nicaragua, Panama, Paraguay, Peru, and Uruguay.

<i>Strategic Goal:</i>	This working paper relates to Strategic Goal: <i>The Economic Development of Air Transport Assures the Delivery of Economic Prosperity and Societal Well-Being for All.</i>
<i>Financial implications:</i>	None
<i>References:</i>	LACAC Assembly Resolution AE6–1, <i>Protección de los Consumidores de la Industria de Transporte Aéreo</i> [Protection of Consumers in the Air Transport Industry], 6th Extraordinary Assembly (virtual), December 14, 2020 <i>ICAO Core Principles on Consumer Protection, adopted by the Council in 2015</i> , endorsed by the 38th Assembly IATA, <i>Celebrating 10 Years of ICAO's Core Principles on Consumer Protection</i> , presented at the 60th Conference of Civil Aviation Directors General, Asia and Pacific Regions (DGCA/60), Sendai, Japan, July 2025 <i>Convention for the Unification of Certain Rules for International Carriage by Air</i> , Montreal (1999)

1. INTRODUCTION

1.1 Air passengers clearly stand to benefit from a more competitive air transport industry, as greater competition can deliver better services at lower prices and encourage operators to improve their offerings to the public. Such benefits are associated with the recognition and protection of consumer rights. Consequently, it is important to strike an appropriate balance between passenger protection and a competitive air transport industry.

1.2 The appropriate balance between consumer protection and the availability of air transport services will vary across States depending on the characteristics of each market, including the level of competition, the density of its air transport network, and the industry's ability to bear the costs associated with such protection.

1.3 It is precisely in recognition of this diversity that, when adopting its Core Principles on Consumer Protection in 2015, the International Civil Aviation Organization (ICAO) chose to establish a non-binding guidance instrument rather than a single international treaty applicable to all States alike. That choice is intended to address a readily identifiable risk: a single regulatory standard designed to suit the circumstances of some States may prove disproportionate or inappropriate when applied to States with different underlying conditions.

1.4 However, experience over the past ten years has shown that it is not sufficient to leave the implementation of these Principles to individual States. Indeed, national and regional consumer protection regimes remain fragmented and, in some cases, may apply concurrently to the same itinerary or passenger. This poses a particular challenge for an industry built on networks and connections that extend beyond the boundaries of any single State.

1.5 This working paper examines Chile's legislative experience in incorporating additional passenger rights into the existing statutory framework and proposes that the Conference reaffirm the guiding role of ICAO's Core Principles by encouraging their incorporation into national regulations and implementation based on objective data from each country.

2. DISCUSSION

2.1 In recent years, like many other States, Chile has seen significant legislative activity aimed at introducing new rights for air passengers. Originally, the relationship between passengers and airlines was

governed by the applicable contract of carriage, the Convention for the Unification of Certain Rules Relating to International Carriage by Air (Warsaw Convention, 1929) and the Convention for the Unification of Certain Rules for International Carriage by Air (Montreal Convention, 1999) as well as the general provisions of the Consumer Protection Act. In 2015, Chile enacted a first reform establishing a special regime of air passenger rights in its Aviation Code, including rights in cases of denied boarding, flight delays and cancellations, with a focus on ensuring that passengers can complete their journeys, providing timely information and maintaining consistency with the international legal framework. A second reform package was subsequently adopted in 2021 that introduced additional passenger rights, including the right to cancel a ticket purchase, the right to transfer a ticket to a third party, the right to reschedule travel for medical reasons, and the right for family groups travelling with minors to be seated together. All of these legislative proposals were developed jointly by the technical bodies responsible for air transport and consumer protection. However, other bills originating from parliamentary initiatives were introduced in later years, bringing the number of proposals to expand passenger rights into the double digits. These included priority access to air tickets for bereavement travel, a requirement to keep seats unsold for use in emergency situations, and regulation of the size and weight of carry-on baggage. None of these bills has yet been enacted into law, but they remain under consideration in the National Congress.

2.2 While many of the bills on air passenger rights, particularly those originating from parliamentary initiatives, pursued legitimate social objectives, the legislative process revealed shortcomings in the following areas:

- a) Absence of supporting data, statistics and technical evidence: Any proposal to introduce new passenger rights or regulate aspects of the passenger-airline relationship should be supported by technical information and statistical data showing that the proposed change is necessary or desirable. In other words, if the objective is to redress an injustice, fill a gap or correct an inconsistency, it is necessary to demonstrate that the alleged injustice, gap or inconsistency actually exists and has meaningful social implications. For example, some of the proposed reforms overlap with reforms adopted only a few years ago, duplicate existing rights, are unnecessary because they address isolated and infrequent situations that do not warrant a legislative solution or are better addressed outside the scope of the contract of carriage or relate to issues that are not a statistically significant source of passenger complaints.
- b) Failure to take into account the unique characteristics of the industry: Air transport is an industry with unique characteristics, particularly because of the sheer scale and diversity of the resources it must mobilize and coordinate to operate successfully, as is especially apparent in international operations. Each flight is not an isolated or standalone effort, but rather one link in a chain of coordinated activities, each depending on complex planning and coordination, requiring the efficient use of aircraft and compliance with stringent maintenance standards, managing highly specialized personnel, securing permits and authorizations from airport and other authorities across multiple jurisdictions, scheduling and infrastructure allocation, and, above all, recognizing that operations are subject to factors beyond airlines' control and that safety must take precedence over all other considerations. In fact, available evidence shows that far more cancellations and delays are caused by weather or safety-related events than by factors within the industry's control.

Failure to understand or appreciate the unique characteristics of the industry often results in legislators applying the same logic to air transport as to surface transportation, even though they are fundamentally different business models operating on vastly different scales. It is often assumed that seemingly straightforward solutions are available, such as replacing one aircraft with another, as though airlines

maintained a reserve fleet ready to replace any aircraft affected by a malfunction or delay. Similarly, it is often assumed that confirmed bookings can simply be cancelled a few hours before departure, or that passengers can be accommodated on another flight, without taking into account that many routes are served by only one flight per day and that, in many cases, flights operate even less frequently, particularly in non-scheduled operations. There is also a belief that all airlines consistently have spare seat capacity available to accommodate passengers affected by cancellations or denied boarding by competing carriers. Finally, this perception is also reflected in the limited attention paid to unforeseen events, whether arising from weather, operational, maintenance or other factors, as though they could all be overcome through the efforts of airlines alone.

- c) Misalignment with applicable international regulations and legal frameworks: In our capacity as the technical aviation authority, we must also advise the legislature on the need to align national passenger-rights regulations with those applicable elsewhere in the world, particularly in relation to international flights. This relates not only to compliance with the provisions of the 1999 Montreal Convention, which establishes a uniform liability regime for damage arising from air carriage, but also to the extensive network of bilateral air services agreements to which States are parties (more than 80 in the case of Chile), designed to ensure reciprocal services on an equal and non-discriminatory basis.

As air transport is an industry built on networks and connections that serves regional markets by transporting passengers and cargo across multiple territories, often as part of a single operation, certainty, stability, and uniformity in the applicable rules are essential to avoiding a patchwork of regulations that may undermine otherwise well-intentioned measures. Although each State faces different circumstances, it is the responsibility of the relevant authorities to advance regional initiatives aimed at aligning regulatory approaches and frameworks. Within the Latin American Civil Aviation Commission (LACAC), Chile has supported the development of a document setting out the core principles of air passenger protection. Work is also underway on the Brasilia Consensus initiative, which includes the alignment of air passenger consumer protection regulations across South America.

- d) Risk of excessive regulation and reduced predictability: Lastly, there is one further consideration that should be taken into account in legislative discussions on passenger-rights reforms. It is a legal argument grounded in basic economic principles: the need to consider the costs of compliance with or implementation of new legislation. Clearly, measures that impinge on the flexibility of the contract of carriage reduce airlines' flexibility in managing the commercial aspects of their operations. This is readily apparent in the low-cost carrier model and its main commercial tool: the unbundling of ancillary services. Many of the reforms currently under consideration in the legislature could result in higher costs for airlines, with those costs ultimately being borne by the very passengers they are intended to benefit.

In our view, legislation aimed at protecting air passenger rights should strike a balance between the need to avoid excessive regulation and the need to encourage effective self-regulation. The former is important because excessively burdensome regulation may discourage the development of new routes by imposing additional regulatory requirements on new services and increasing costs, which are ultimately borne by the very passengers such measures are intended to benefit. The latter is important because the dynamic nature of air transport, and the range of service options and models it can

offer, require a contractual framework with sufficient flexibility to allow airlines to diversify their offerings.

2.3 In legislative discussions, the role of the aviation authority is to provide supporting technical information and statistical data that reflect the unique nature of the air transport industry and help legislators understand the relevant international framework. Beyond the specific proposals we have considered, failure to take these considerations into account may result in bills that lack a sound foundation and create unnecessary and costly regulations. By way of illustration, the Air Transport Service Quality Report in Chile, prepared jointly by the Civil Aviation Board (JAC) and the National Consumer Protection Agency (SERNAC), recorded 33,354 passenger complaints in 2024, representing a 20.47 per cent increase over the previous year. Of the complaints received, 11,270 (33.8 per cent) related to flight disruptions caused by delays and cancellations. The rate at which airlines resolved passenger complaints also increased, from 57.7 per cent in 2023 to 66.5 per cent in 2024. These figures show that Chile already has systematic data series that are comparable over time and disaggregated by cause of complaint. We believe that instruments of this kind should serve as the primary basis for shaping any future legal reforms.

3. CONCLUSION

3.1 Clearly, the proliferation of passenger-rights legislation is not conducive to a well-functioning system, even though it is always desirable to address shortcomings in the timely and efficient provision of services to passengers. Similarly, introducing legislative reforms without a proper assessment of the existing regulatory framework or the data needed to support them can lead to instability within the industry and undermine certainty and predictability, which are essential to investment and route development.

3.2 This does not mean overlooking unfair or abusive practices, which must be addressed for the benefit of passengers, who remain the more vulnerable party in the air transport contractual relationship. In our view, before pursuing legislative changes that reduce contractual flexibility, non-legislative solutions should be explored, including public policy measures, incentives for self-regulation and effective oversight. Examples of such measures are the efforts undertaken by the Chilean aviation authority to promote air operators' compliance with passenger rights. This strategy rests on two pillars: data and information generated from internal and external sources (including, for example, on-time performance and operational regularity records and databases, as well as passenger complaint statistics), and coordination with private-sector stakeholders and government agencies to promote compliance with existing passenger rights.

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