



ASSEMBLY — 39TH SESSION

EXECUTIVE COMMITTEE

Agenda Item 31: Other high-level policy issues to be considered by the Executive Committee

REPORT ON THE ESTABLISHMENT OF REGULATORY REQUIREMENTS FOR
ASSISTANCE TO AIRCRAFT ACCIDENT VICTIMS AND THEIR FAMILIES

(Presented by the Council of ICAO)

EXECUTIVE SUMMARY

Assembly Resolution A38-1 considered that States should provide a homogenous solution for treatment of victims of civil aviation accidents and their families, and urged the Council to give further consideration to the development of Standard and Recommended Practices regarding the establishment by States of legislation, regulation and/or policies to support aircraft accident victims and their families. Accordingly, the Council adopted Amendment 25 to Annex 9 — *Facilitation* on 12 June 2015, which includes a provision for States to establish legislation, regulations and/or policies in support of assistance to aircraft accident victims and their families.

This paper provides a report on action taken pursuant to Assembly Resolution A38-1 and proposes its revision.

Action: The Assembly is invited to:

- a) note the information contained in this paper; and
- b) adopt the Resolution in the appendix on assistance to victims of aviation accidents and their families to supersede Resolution A38-1.

<i>Strategic Objectives:</i>	This working paper relates to Safety and Security and Facilitation Strategic Objectives.
<i>Financial implications:</i>	The cost associated with family assistance following an aircraft accident will be shared by the various providers of family assistance, including States, air operators and airport operators. Proper budgetary planning by the providers of family assistance is essential. The activities referred to in this paper will be undertaken subject to the resources available in the 2017-2019 Regular Programme Budget and/or from extra budgetary contributions.

References:	Annex 9 — <i>Facilitation</i> Annex 13 — <i>Aircraft Accident and Incident Investigation</i> Doc 10022, <i>Assembly Resolutions in Force</i> (as of 4 October 2013) Doc 9998, <i>ICAO Policy on Assistance to Aircraft Accident Victims and their Families</i> Doc 9973, <i>Manual on Assistance to Aircraft Accident Victims and their Families</i> Doc 9740 — <i>Convention for the Unification of Certain Rules for International Carriage by Air</i> , done at Montréal on 28 May 1999 Final Act of the International Conference on Air Law, Montréal, May 1999
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1. INTRODUCTION

1.1 Similarly to the 32nd Session of the Assembly in 1998, the 38th Session of the Assembly in 2013 recognized the need for the global implementation of family assistance and urged States to implement legislation, regulations and/or policies to support victims of aircraft accidents and their families. Family members of accident victims, irrespective of where the accident occurs or the nationality of the victims, have human needs and emotions, and the State of Occurrence of the accident should address the critical needs of persons affected by the accident.

1.2 Assembly Resolution A38-1: *Assistance to victims of aviation accidents and their families* indicates that ICAO's policy "should be to ensure that the mental, physical and spiritual well-being of victims involved in civil aviation accidents and their families are considered and accommodated by ICAO and its Member States", and that "States should provide a homogeneous solution for treatment of victims of civil aviation accidents and their families." A38-1 also urged the Council to give further consideration to the development of SARPs regarding the establishment by States of legislation, regulations and/or policies to support aircraft accident victims and their families.

1.3 Article 28 of the Montréal Convention of 28 May 1999 (*Convention for the Unification of Certain Rules for International Carriage by Air*) mandates that carriers, in case of aircraft accidents resulting in death or injury to passengers, shall provide for assistance to aircraft accident victims, and any natural person or persons entitled to compensation through advance payments, without delay, in order to meet their immediate economic needs, insofar as such payments are foreseen in the carrier's national legislation. The Montréal Conference also adopted Resolution No 2, which urges carriers to pay such advances and encourages State Parties to the Convention to take appropriate measures in their national law to promote such action by carriers. Hence, it is appropriate that the ICAO Assembly recommend that States establish such legislation.

2. DISCUSSION

2.1 In response to Assembly Resolution A38-1, the Facilitation Panel considered a proposed amendment to Annex 9 — *Facilitation* relating to the establishment by States of legislation, regulations and/or policies addressing family assistance. Subsequently, the proposal was referred to the Air Transport Committee for final review.

2.2 During the third meeting of its 205th Session on 12 June 2015, the Council adopted Amendment 25 to Annex 9, which includes a Recommended Practice for States to establish legislation, regulation and/or policies in support of assistance to aircraft accident victims and their families.

2.3 The *ICAO Policy on Assistance to Aircraft Accident Victims and their Families* (Doc 9998) and the *Manual on Assistance to Aircraft Accident Victims and their Families* (Doc 9973) are supporting documents to assist States in the implementation of the new provision.

2.3.1 Doc 9998 sets out ICAO policies regarding the provision of family assistance, and encourages States to incorporate these policies when planning their relevant legislation, regulations and/or policies. Doc 9973, in turn, contains guidance on the types and development of family assistance plans, and the avenues available for providing such assistance; and presents information on the responsibilities of States, air operators and other family assistance providers.

3. CONCLUSION

3.1 In response to Assembly Resolution A38-1, the Council adopted a Recommended Practice to Annex 9 — *Facilitation* for States to establish legislation, regulations and/or policies in support of assistance to aircraft accident victims and their families. In order to reflect the aforementioned, the Council recommends that the Assembly adopt the Resolution proposed in the appendix to supersede A38-1.

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APPENDIX

DRAFT RESOLUTION FOR ADOPTION BY THE 39TH SESSION OF THE ASSEMBLY

Resolution 31/xx: Assistance to victims of aviation accidents and their families

Having considered that, even though international air transport is the safest means of transportation, the total elimination of serious accidents cannot be guaranteed;

Whereas the actions of the State of Occurrence should address the most critical needs of persons affected by a civil aviation accident;

Whereas the policy of the International Civil Aviation Organization (ICAO) should be to ensure that the mental, physical, and spiritual well-being of victims involved in civil aviation accidents and their families are considered and accommodated by ICAO and its Member States;

Whereas it is essential that ICAO and its Member States recognize the importance of timely notification of family members of victims involved in civil aviation accidents; the prompt recovery and accurate identification of victims; the return of the victims' personal effects; and the dissemination of accurate information to family members;

Recognizing the role of Governments of nationals, who are victims of civil aviation accidents, in notifying and assisting families of the victims;

Recalling the provision of Article 28 of the Montréal Convention of 1999 as well as Resolution No. 2 adopted by the Montréal Conference, which called for the provision of advance payments, without delay, to aircraft accident victims, and their families;

Whereas it is essential that support be provided to family members of victims of civil aviation accidents, wherever the accident may occur, and any lessons learned from support providers, including effective procedures and policies, be promptly disseminated to other Member States and ICAO to improve States' family support operations;

Considering that harmonization of the regulations for dealing with the needs of victims of civil aviation accidents and their families is also a humanitarian duty and ~~an optional~~ a permissive function of the ICAO Council contemplated in Article 55 (c) of the Chicago Convention;

Considering that States should provide a homogeneous solution for treatment of victims of civil aviation accidents and their families;

Recognizing that the air carrier involved in a civil aviation accident is often best situated to assist families in the immediate aftermath of the accident;

Noting that family members of victims of a civil aviation accident, irrespective of where the accident occurs or the national origin of the victims, express certain fundamental human needs and emotions;

Recognizing that public attention will continue to focus on States' investigative actions, as well as the human interest aspects of a civil aviation accident;

Recalling the issuance of ICAO *Guidance on Assistance to Aircraft Accident Victims and their Families* (Circ 285) in 2001 as well as the inclusion, in 2005, of provisions in Annex 9 to enable expeditious entry into the State in which an accident occurs for family members of victims of aircraft accidents; ~~and~~

Acknowledging the approval by the Council of the *ICAO Policy on Assistance to Aircraft Accident Victims and their Families* (Doc 9998) in March 2013 and the issuance of the *Manual on Assistance to Aircraft Accident Victims and their Families* (DOC 9973) in December 2013; and

Noting the inclusion, in 2015, of a provision in Annex 9 for States to establish legislation, regulations and/or policies in support of assistance to aircraft accident victims and their families;

The Assembly:

1. *Calls on* Member States to reaffirm their commitment to support victims of civil aviation accidents and their family members;

2. *Urges* Member States to establish legislation, regulations and/or policies to support victims of civil aviation accidents and their family members, in consideration of the ICAO Policy in Doc 9998 and of Annex 9, and pursuant to Article 28 of the Montréal Convention of 28 May 1999 and Resolution No. 2 adopted by the Montréal Conference;

3. *Encourages* States that have legislation, regulations and/or policies to support civil aviation accident victims and their families to review these documents, as necessary, in consideration of the ICAO Policy in Doc 9998 ~~and of the guidance material in Doc 9973;~~

~~4. — *Urges* the Council to give further consideration to the development of Standards and Recommended Practices regarding the establishment by States of legislation, regulations and/or policies to support victims of civil aviation accidents and their family members; and~~

4. *Urges* Member States to inform ICAO, through the compliance checklist (CC) in the Electronic Filing of Differences (EFOD), of the level of implementation of the provisions in Annex 9 associated with family assistance plans;

~~45. *Urges* *Directs* the Council, when considering the extent of the level of implementation of family assistance plans obtained through the CC, to give further consideration to the development of Standards and Recommended Practices regarding the establishment by States of legislation, regulations and/or policies to support victims of civil aviation accidents and their family members; and~~

~~5-6.~~ *Declares* that this resolution supersedes Resolution A32-7 ~~A38-1.~~