



ASSEMBLY — 40TH SESSION

ECONOMIC COMMISSION

Agenda Item 32: Economic Development of Air Transport

CONSUMER PROTECTION /AIR PASSENGER RIGHTS

(Presented by Finland on behalf of the European Union and its Member States¹
and the other Member States of the European Civil Aviation Conference²)

REVISION NO. 1

EXECUTIVE SUMMARY

This working paper focuses on the application of the ICAO high-level, non-binding, non-prescriptive Core Principles on Consumer Protection and the evolution of the passenger experience when using air transport. Since the adoption of the Core Principles in 2015, the air transport market has evolved; so have the rules of ICAO Member States in the field of consumer protection and particularly in the field of air passenger rights. Therefore, it is important to share experiences and views on how the Core Principles have been implemented so far at a global level.

Moreover, beyond the traditional concept of passenger rights, the aviation industry has developed significantly, leading to the appearance of new practices, not always addressed by the current passenger protection regimes.

Action: The Assembly is invited to:

- call upon ICAO to take actions to facilitate an exchange of views and good practices regarding the application of the ICAO Core Principles on Consumer Protection and of a monitoring system as presented in paragraph 2;
- call upon ICAO to ensure that in conducting these tasks it recognises the evolution in the perception of passengers' expectations, their rights and the quality of service offered as presented in paragraph 3; and
- to this end, invite ICAO to deal with the above-mentioned matters by using an existing ICAO body.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective – <i>Economic Development of Air Transport</i> .
<i>Financial implications:</i>	Any activities relating to this working paper may be made subject to the availability of budgetary resources of the ICAO Regular Program budget for the period 2020-2022.
<i>References:</i>	<i>C-WP/14804</i> Resolution A39-15, <i>Consolidated statement of continuing ICAO policies in the air transport field</i> <i>ICAO Core Principles on Consumer Protection</i> https://www.icao.int/sustainability/Documents/ConsumerProtection/CorePrinciples.pdf State Letter SP 38/1 – 15/60, dated 31 July 2015

¹ Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and United Kingdom.

² Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Iceland, Republic of Moldova, Monaco, Montenegro, North Macedonia, Norway, San Marino, Serbia, Switzerland, Turkey and Ukraine.

1. INTRODUCTION

1.1 Over the past decades, air transport has become an essential element of today's society. What initially was something only available to a few people is now an industry that annually moves billions of passengers and tons of cargo, connecting cities and countries providing large parts of the world's population with access to jobs, leisure, training or cultural opportunities for which distances are no longer barriers.

1.2 Historically, air transport has doubled in size every 15 years and is expected to continue to do so. Along with the continuing liberalisation of air transport, the protection and improvement of air passenger rights have gained greater importance at the international, regional and national levels. The 1999 Montreal Convention sets certain unified rules on the liability of air carriers for the carriage by air of passengers, baggage and cargo. More than four years have passed since the adoption of the ICAO Core Principles on Consumer Protection and, according to research conducted by the ICAO Secretariat (C-WP/14804), over 60 States have implemented aviation-specific consumer protection regulations. In total, 191 States have aviation-specific or general consumer protection regulations protecting air passengers³.

1.3 Recognizing the high-level, non-binding and non-prescriptive nature of the ICAO Core Principles, Europe strongly supports the exchange of views on the application of these Core Principles in order to determine certain good practices that could help encourage long-term operational convergence and compatibility in this area at global level. This is key in order to ensure a level playing field among airlines across the world and avoid the double imposition of passenger rights regimes.

1.4 Moreover, the aviation industry has evolved significantly, which has led to the appearance of new practices by airlines, which are not always viewed positively by passengers. The densification of aircraft cabins, with seats not suitable for all types of passengers, non-transparent allocation of seats to force the surcharge for adjacent seats, or extreme cases such as those where passengers already aboard have to leave an aircraft for no other reason than an overbooking policy, are just a few examples of practices taking advantage of gaps in the legislation, that run counter a minimum level of service quality, which passengers should enjoy globally. In light of recent airline insolvencies, the question of passenger protection and assistance in such cases also arises.

2. ICAO CORE PRINCIPLES ON CONSUMER PROTECTION

2.1 The Sixth Worldwide Air Transport Conference (ATConf/6), held in March 2013, addressed the need to provide consumers of air transport services with protection, stating the importance of protecting the interests of consumers and the need of convergence and compatibility, and recommended that ICAO continue to monitor closely the developments in the field of consumer protection and maintain its leadership role in the preparation of policy guidelines, taking into account the interests of States, the industry, air passengers and any other actors in aviation.

2.2 The ICAO Council adopted the 'Core Principles on Consumer Protection' in June 2015 comprising high-level recommendations of relevance prior to, during and after travel.

2.3 By decision of the Council, the ICAO Core Principles on Consumer Protection were disseminated to all States by means of State Letter SP 38/1-15/60 dated 31 July 2015. Member States and concerned industry stakeholders were encouraged to apply the Core Principles in policy-making,

³ ICAO's database on aviation specific consumer protection regulations.

regulatory and operational practices. The States presenting this paper are committed to the application of these Core Principles.

2.4 The above-mentioned State Letter also called on Member States to provide information on experiences gained or issues encountered in the application of these Core Principles.

2.5 At the 39th Session of the ICAO Assembly in 2016, the Assembly urged Member States and concerned stakeholders to give regard to, and apply, the ICAO high-level, non-binding, non-prescriptive Core Principles on Consumer Protection in policy-making, regulatory and operational practices, and to keep ICAO informed of the experiences gained or issues encountered in their application.

2.6 The work of ICAO in the recent past has focused mostly on “massive disruptions” and flight disruptions caused by “extraordinary circumstances”. Nevertheless, the protection of passengers is broader in nature as recognised also by the Core Principles.

2.7 Recognising the dynamic nature of the air transport industry, the Core Principles are a “living document”, which would be refined and improved from time to time in the process of their application, based on the experiences gained and feedback received.

2.8 While continuously promoting the Core Principles on Consumer Protection and encouraging States to fully implement them, ICAO could serve as a forum for exchange of views and good practices on these issues. While it is clear that these topics are addressed differently in different parts of the world reflecting the local socio-economic environment and the role of regulators in the market, it is important to share the experiences on how the Core Principles have been implemented so far. All States and concerned stakeholders should be encouraged to join the discussion. On that basis, good practices could be identified and shared.

3. EXPERIENCE/QUALITY OF SERVICE

3.1 The traditional concept of air passenger rights is based on the assumption that users always have the option to choose and they will therefore choose the services that best suit their preferences and needs. This assumption does not apply in cases where the user has no choice. In many instances, people may have no other choice than using air transport and they sometimes find a limited offer, with little or no possibilities to choose between operators.

3.2 As air travel evolves rapidly and becomes more accessible, passengers increasingly expect levels of protection that go beyond strict compliance with the terms specified in the contract of carriage. In the coming decades, pressure from citizens will grow for the competent authorities to take actions on the issue. It is now necessary that ICAO Member States, in coordination with industry, assess whether further work might be required in order to determine if some level of consistency between approaches to passenger rights is warranted.

3.3 In order to carry out this task in a satisfactory manner, it is important that ICAO starts the work in this field without delay, by identifying the different perceptions, expectations and sensitivities of users in each part of the world, characterizing them, and generating a solid base of knowledge, which will guide the work of ICAO in this area, based on a deeper understanding of user needs. ICAO could examine the reality and create a knowledge base that enables and fosters the development, where appropriate, of guidance material on passenger rights.