

# ICAO CONSUMER PROTECTION BULLETIN

November 2017

## Cabo Verde Launches Passengers Rights Campaign (Cabo Verde Civil Aviation Authority, Aug. 2017)

On 1 August 2017, the Cabo Verde Civil Aviation Authority launched a new **campaign to inform passengers** of their rights and duties when travelling by air, in particular with respect to **cancellation, flight delay, denied boarding, ticketing, baggage** issues and **facilitation**. This campaign is supported by dissemination of a brochure, a passenger guide, a complaint form, and a web portal ([www.passageiro.aac.cv](http://www.passageiro.aac.cv)) where air services users can consult information when scheduling their trip, during their trip and upon reaching their final destination.

Relevance to the *ICAO Core Principles on Consumer Protection* (See Next Page): **§ 2.1 and 2.2.**

## Severe Weather Conditions Constitute Force Majeure (Tel Aviv Small Claims Court, 2016)

Passengers were due to depart from the United States to Israel. Their flight had to be cancelled due to **severe weather conditions**, and they claimed for damages in Israel for mental anguish. The Court, rejecting the claims against the airline, stated that aviation is subject to numerous constraints which may cause flight disruptions. These include severe weather conditions, which can be considered to constitute “*force majeure*” beyond the air carrier’s control. <http://www.internationallawoffice.com/Newsletters/Aviation/Israel/Levitan-Sharon-Co/Severe-weather-conditions-constitute-special-circumstances-under-Aviation-Services-Law>

Relevance to the *ICAO Core Principles on Consumer Protection* (See Next Page): **§ 1.2 and 3.2.**

## Congestion at Security: Airport Liable to Passenger for Missed Flight (Erding Local Court, Germany, May 2017)

Passengers departing from Germany had missed their flight because of a **long wait at security**. The decision stated that airport staff must **proactively open** additional **security lanes** and encourage passengers who are at risk of missing their flight to move along the queue. Reasonable measures that the airport should take include **opening lanes** generally used for **priority travellers**, such as first and business class passengers. <http://www.internationallawoffice.com/Newsletters/Aviation/Germany/Arnecke-Sibeth/Airport-directly-liable-for-passenger-missing-flight-due-to-slow-security-checks>

Relevance to the *ICAO Core Principles on Consumer Protection* (See Next Page): **§ 3.1 and 3.2.**

## Compensation Due for Delay at Final Destination, Whether Inside or Outside of EU (United Kingdom Court of Appeals, Oct. 2017)

Passengers of non-European Union (EU) airlines claimed for compensation under EU Regulations on the ground that, because of a delay of their first connecting flight to the EU, they had arrived late at their final destination outside the EU. The court decided that passengers were entitled to compensation, whether their destination is within or outside the EU. [https://www.aerotime.aero/en/civil/20160-emirates-loses-delay-compensation-case-in-uk?utm\\_source=newsletter](https://www.aerotime.aero/en/civil/20160-emirates-loses-delay-compensation-case-in-uk?utm_source=newsletter)

Relevance to the *ICAO Core Principles on Consumer Protection* (See Next Page): **§ 3.2.**

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## **ICAO CORE PRINCIPLES ON CONSUMER PROTECTION**

### **1. Preamble**

1.1. Recognizing that passengers can benefit from a competitive air transport sector, which offers more choice in fare-service trade-offs and which may encourage carriers to improve their offerings, passengers, including those with disabilities, can also benefit from consumer protection regimes.

1.2. Government authorities should have the flexibility to develop consumer protection regimes which strike an appropriate balance between protection of consumers and industry competitiveness and which take into account States' different social, political, and economic characteristics, without prejudice to the safety and security of aviation. National and regional consumer protection regimes should i) reflect the principle of proportionality ii) allow for the consideration of the impact of massive disruptions, iii) be consistent with the international treaty regimes on air carrier liability established by the Convention for the Unification of Certain Rules Relating to International Carriage by Air (Warsaw, 1929) and its amending instruments, and the Convention for the Unification of Certain Rules Relating to International Carriage by Air (Montréal, 1999).

### **2. Before the travel**

2.1. Recognizing the variety of air transport products in the market, passengers should have access to information on their rights and clear guidance on which legal or other protections apply in their specific situation, including the assistance expected, for example, in case of service disruption. To help air passengers make informed choices among different price and service offerings, consumer education efforts could be considered to increase awareness of passengers consumer rights and the available avenues for recourse should disputes arise. Efforts should also be made to increase awareness by passengers of airline products available in the market, different airline policies and contractual rights.

2.2. Passengers should have clear, transparent access to all pertinent information regarding the characteristics of the air transport product that is being sought, prior to purchasing the ticket, including the following:

- a) total price, including the applicable air fare, taxes, charges, surcharges and fees;
- b) general conditions applying to the fare; and
- c) identity of the airline actually operating the flight, and advice on any change occurring after the purchase as soon as possible.

### **3. During the travel**

3.1. Passengers should be kept regularly informed throughout their journey on any special circumstances affecting their flight, particularly in the event of a service disruption.

3.2. Passengers should receive due attention in cases of a service disruption, whether they result in the passenger not boarding the flight or in arriving at the destination significantly later than scheduled. This could include rerouting, refund, care and/or compensation where provided by relevant regulations or otherwise.

3.3. Considering that passengers may find themselves in a vulnerable position in situations of massive disruptions, mechanisms should be planned in advance by airlines, airport operators, and all concerned stakeholders, including government authorities, to ensure that passengers receive adequate attention and assistance. Massive disruptions could include situations resulting from circumstances outside of the operator's control that are of a magnitude such that they result in multiple cancellations and/or delays of flights leading to a considerable number of passengers stranded at the airport. Such circumstances could include, for example, events such as meteorological or natural phenomena of a large scale including hurricanes, volcanic eruptions, earthquakes, floods, political instability or similar events and result in large numbers of passengers being stranded away from their home.

3.4. Persons with disabilities should, without derogating from aviation safety, have access to air transport in a non-discriminatory manner and to appropriate assistance. To this end, they are encouraged to provide pre-notification of their needs.

### **4. After the travel**

4.1. Passengers should be able to rely on efficient complaint handling procedures that are clearly communicated to them.