

SURVEY ON ASSISTANCE TO PASSENGERS AND ICAO CORE PRINCIPLES ON CONSUMER PROTECTION

1. INTRODUCTION

1.1. At the Fourth Meeting of its 217th Session, the Council noted the importance of assistance to passengers in case of massive airport/airline disruption and tasked the Secretariat “to continue to gather information on States’ and industry’s best practices and implementation by States and industry, which can then be shared”. The 40th Assembly considered the issue of consumer protection and adopted Resolution A40-9, Appendix A Section 1 (9), which “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 and regulatory and operational practices, including in case of massive disruptions impacting aviation, and to keep ICAO informed of the experiences gained or issues encountered in the application”.

1.2. On 6 December 2019, the Secretary General issued State Letter EC 2/71 – 19/83 requesting Member States to complete an online Survey on assistance to passengers and ICAO core principles on consumer protection.

1.3. 79 Member States and three territories submitted duly completed survey questionnaires online or submitted hard copies. The list of the 79 States and three territories is in the Appendix to this report. For the purposes of this analysis, reference is made only to “States” which shall be understood as “States and territories”.

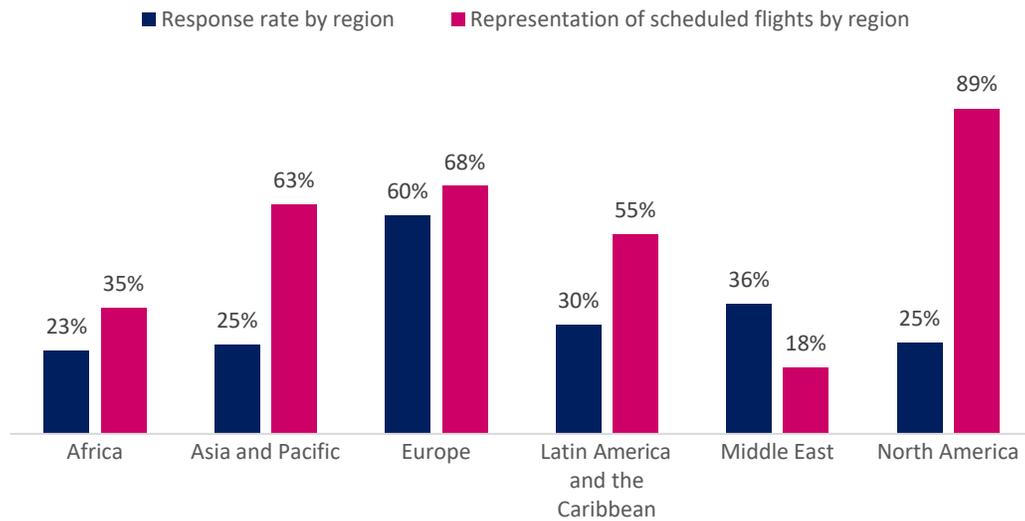
1.4. The 82 submissions received represent 34% of the 193 ICAO Member States and 48 territories, but account for approximately 68 % of the global scheduled flights in 2019. The Table 1.1 shows a summary of the 82 responding States at both regional and global level. Figure 1.1 illustrates the response rate correlated with flight schedules of the 82 States by region. The number of replies provides sufficient information for a meaningful analysis to be made on States’ practices in these areas.

Table 1.1: Characteristics of respondents by region

Geographical ICAO region	States responding	Response rate by region	Scheduled flights* representation by region	Scheduled flights representation globally
Africa	13	23%	35%	1%
Asia and Pacific	15	25%	63%	21%
Europe	33	60%	68%	16%
Latin America and the Caribbean	15	30%	55%	5%
Middle East	5	36%	18%	1%
North America	1	25%	89%	24%
TOTAL	82			68%

*Note: Scheduled flights refer to international and domestic scheduled flights (frequency) in year 2019.

Figure 1.1: Response rate and traffic representation



2. SUMMARY OF SURVEY FINDINGS

The summary of the survey findings is presented in the sequence of the questions posed in the survey questionnaire with regard to the following two major areas:

- Massive airport/airline disruptions; and
- Core principles on consumer protection.

2.1 Massive airport/airline disruptions

The section on massive airport/airline disruption were grouped and analysed under four subtitles, based on the sequence of the questions in the survey questionnaire, namely:

- Scope and definition;
- Planning and response mechanisms;
- Roles and responsibilities; and exoneration; and
- Other information on assistance to passengers.

2.1.1 Scope and definition

2.1.1.1 Question 1 - Is there a definition or an explanation of massive disruptions in your State's national regulation?

From the 82 responding States, 19 States, representing 23% of the total respondents, indicated to have a definition or explanation of massive disruption in their national regulation. The majority of States, 60 States, or 73% of the total respondents, do not have a provision on massive disruption in their national legislation. Three States, or 4% of the total respondents, did not provide answers to this question. These responses are shown in Figure 2.1 and Table 2.1.

Figure 2.1: Definition or explanation of massive disruptions in national regulations

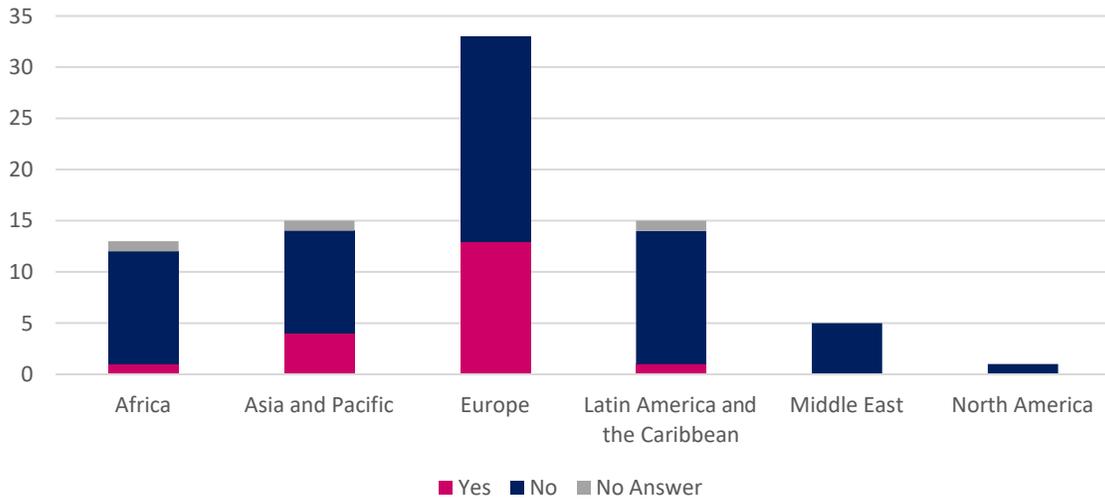


Table 2.1 Definition or explanation of massive disruption in national regulations by regions (number of respondents)

Definition or explanation of massive disruption in national regulations	Africa	Asia and Pacific	Europe	Latin America and the Caribbean	Middle East	North America	TOTAL
Yes	1	4	13	1	0	0	19
No	11	10	20	13	5	1	60
No Answer	1	1	0	1	0	0	3

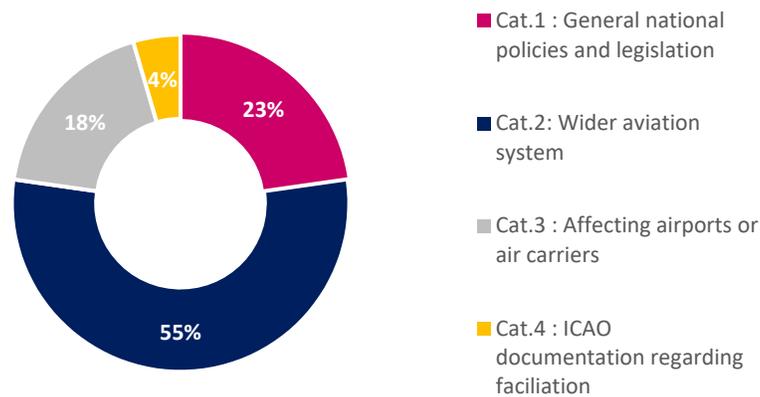
2.1.1.2 Question 2 - If you answered "yes" to question 1 (*is there a definition or an explanation of massive disruptions in your State's national regulation*) above, please provide the definition or explanation.

23 States representing 28% of the total respondents provided additional comments on the definition of massive disruption in national legislations. For ease of analysis, the comments provided by these 23 States were grouped into four categories because of the wide disparities in their definitions, as follows:

- (i) General national policies and legislation;
- (ii) Wider aviation system;
- (iii) Affecting airports or air carriers; and
- (iv) ICAO documentation regarding facilitation.

The representation of States per grouping is depicted in Figure 2.2:

Figure 2.2: Definition of massive disruption in national legislations



(i) Definitions based on **general national policies and legislation** regarding protection against disasters.

The comments of four States representing 17% of the 23 States that provided additional comments on the definition of massive disruption in national legislations were grouped under general national policies and legislation. Two out of the four States are from Asia and Pacific, and one State each from Europe and Latin America and the Caribbean.

These definitions are general in scope and are applicable to protection against large scale disasters affecting the whole territory of the State or a significant part or parts thereof and can be used in different economic sectors including aviation. Their definition of ‘disasters’, focused on consequences of natural or man-made disasters or accidents such as loss of human life or damage to health on large scale, significant damage to properties or the environment, disruption of the population’s normal living conditions, with impacts going beyond national economic and social resources normally available.

Examples of the definitions provided by some of the responding States are:

“An emergency is a circumstance occurring in a separate territory, an economic entity therein, or an aquatic entity, characterized by a disruption of the population’s normal living conditions as a result of a disaster, accident, fire, natural disaster, epidemic, epizootic outbreak, epiphytotic epidemic, the use of means of destruction or other hazardous event leading to (or which may lead to) a threat to the life or health of the population, a large number of dead or injured, significant material losses, or to the inability of the population to continue living in that territory or entity, or the inability of economic activity to be carried out there. Depending on the type of event, emergencies are defined as follows: man-made, natural, social, conflict-related property losses and psychological impacts.”

“Disaster is an event or a series of events that threaten and disrupt people’s lives and livelihoods caused either by natural or non-natural factors as well as human factors, resulting in human casualties, environmental damage, property losses, and psychological impacts.”

"Disaster means loss life, health of many people due to danger or accident, loss of livestock and animal, property, historical and cultural monuments, damage to the environment beyond national and local economic and social resources."

(ii) Definitions of disruptions covering the wider aviation system

The comments of 14 States representing 61% of the 23 States that provided additional comments on the definition of massive disruption in national legislations were grouped under wider aviation system. 12 out of the 14 States are from Europe, and one State each from Africa and Latin America and the Caribbean.

The definitions provided by this group of responding States covered disruptions affecting the wider aviation system, in particular operations or the provision of (air navigation) services. Common elements of such definitions include:

- Exceptional, unusual or unforeseen events of large scale;
- Significant disruption of normal operations within the aviation system;
- Emergency/contingency measures to mitigate impacts and facilitate return to normal operations; and
- Specific tasks to be carried out by a designated function or body responsible for crisis coordination.

Examples of the definitions provided by some of the responding States are:

"Network crisis is a state of inability to provide air navigation service at the required level, resulting in a major loss of network capacity or a major imbalance between network capacity and demand or a major failure in the information flow in one or several parts of the network following an unusual and unforeseen situation."

"Crisis: a situation characterized by the occurrence of an event or series of events that culminates in a significant disruption of normal operations, which may have severe consequences for the image of [name of CAA] or the [name of State] civil aviation, requiring extraordinary measures to recover order, including the establishment of the crisis committee."

(iii) Definitions of disruptions affecting airports or air carriers

The comments of four States representing 17% of the 23 States that provided additional comments on the definition of massive disruption in national legislations were classified into four sub-categories:

- (a) One State adopted a definition based on *"Irregular Operations (IROPS) which are exceptional events that require actions and/or capabilities beyond those considered usual by aviation service providers."* Going further, this definition is applied specifically to situations arising at airports:

“IROPS refer to contingencies at the airports as a result of delays, cancellations and diversions of flights, causing a sudden surge of passenger traffic at a given airport, resulting in passenger inconvenience and discomfort.”

- (b) The definition presented by another State in relation to disruptions, which result in the interruption of all, or the overwhelming majority, of an air carrier's system-wide flight operations, including flight delays and cancellations was:

“Widespread disruption means, with respect to a covered air carrier, the interruption of all or the overwhelming majority of the air carrier's system-wide flight operations, including flight delays and cancellations, as the result of the failure of 1 or more computer systems or computer networks of the air carrier.”

- (c) A third State provided the definition below, covering situations of force majeure during any phase of a particular flight, which endanger the safety of the flight and is not caused by the air carrier:

“Chance event or force majeure: an event during any phase of a flight which endangers the safety of the flight and the integrity of passengers and baggage, and which is not caused by the carrier or air operator and therefore does not incur the compensation set out in the standard.”

- (d) Finally, another State provided the definition below covering multiple of causes, which could disrupt the operations of an air carrier:

“Such circumstances may, in particular, occur in cases of political instability, meteorological conditions incompatible with the operation of the flight concerned, security risks, unexpected flight safety shortcomings and strikes that affect the operation of an operating air carrier.”

(iv) Definitions based on ICAO documentation regarding facilitation

One State, representing 4% of the 23 States that provided additional comments on the definition of massive disruption in national legislations, stated that it relies on ICAO documentation adopted in the area of facilitation to define disruptions and measures to be taken in case of massive disruptions.

2.1.1.3 Question 3 - Are there any definitions or explanations of extraordinary circumstances, force majeure or situations beyond the control of airlines and airports in your State's national regulations?

49 responding States representing 60% of the total respondents indicated that they have provisions defining and/or explaining extraordinary circumstances, force majeure or situations beyond the control of airlines and airports in their national legislation. 31 responding States representing 38% of the total respondents do not have such provisions and two States representing 3% of the total respondents did not provide any answer to the question.

Based on regional analysis of these responses from the 49 States that indicated to have provisions in their national legislations, 24 States are from Europe, nine States from Latin America and the Caribbean, seven States from Asia and Pacific, four States each from Africa and the Middle East, and one State from North America. These responses are shown in Figure 2.3 and Table 2.2

Figure 2.3: Definition or explanation of extraordinary circumstances, force majeure or situations beyond the control of airlines and airports by ICAO regions

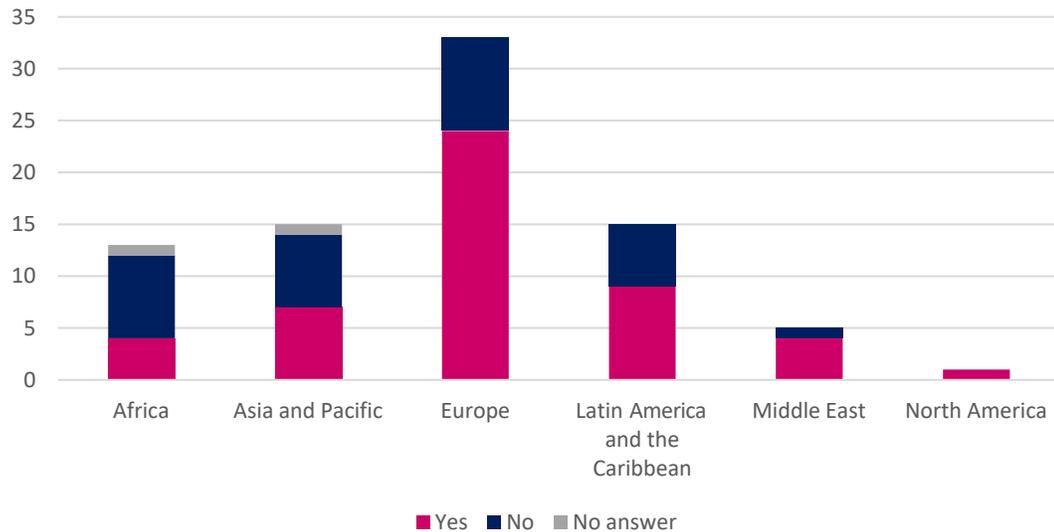


Table 2.2: Definition or explanation of extraordinary circumstances, force majeure or situations beyond the control of airlines and airports by ICAO regions

Question 3	Africa	Asia and Pacific	Europe	Latin America and the Caribbean	Middle East	North America	TOTAL
Yes	4	7	24	9	4	1	49
No	8	7	9	6	1	0	31
No answer	1	1	0	0	0	0	2

2.1.1.4

Question 4 - If you answered "yes" to question 3 (*are there any definitions or explanations of extraordinary circumstances, force majeure or situations beyond the control of airlines and airports in your State's national regulations?*) above, please provide the definitions or explanations.

45 States provided additional information on the definitions or explanations in their national regulations.

States responses indicated two distinctive approaches to defining extraordinary circumstances, force majeure or situations beyond the control of airlines and airports namely:

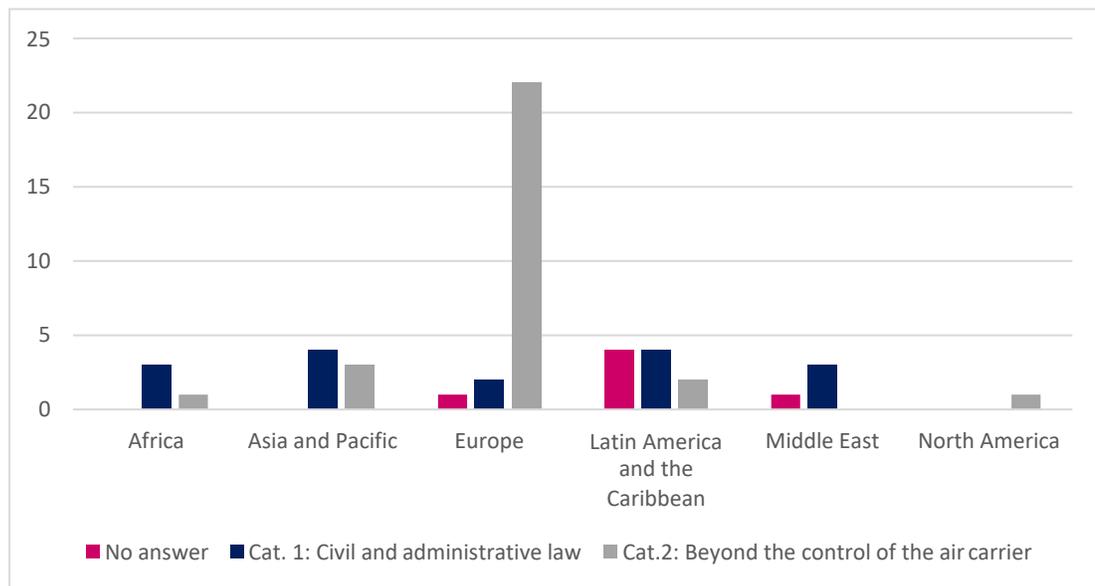
- (i) Extraordinary circumstances as regulated by civil or administrative law; and
- (ii) Extraordinary circumstances beyond the control of the air carrier.

The responses of 16 States were classified under *extraordinary circumstances as regulated by civil or administrative law*. Of these 16 States, four States each are from Latin America and Caribbean and States Asia and Pacific, three States each from the Middle East and Africa while two States are from Europe.

The responses of 29 States were grouped under *extraordinary circumstances beyond the control of the air carrier*. Of these 29 States, 22 States are from Europe, three States are from Asia and Pacific, two States are from Latin America and Caribbean, while one State each is from Africa and North America. Six States did not make any comment.

The breakdown of these responses according to these groups is shown in Figure 2.4 below:

Figure 2.4: Definitions or explanations of extraordinary circumstances, force majeure or situations beyond the control of airlines and airports by ICAO regions



(i) Extraordinary circumstances as regulated by civil or administrative law

16 States have not legislated on force majeure or extraordinary circumstances arising specifically in civil aviation, but refer to or render applicable general concepts of civil or administrative law describing force majeure typically as unforeseeable circumstances, which were not possible to prevent or impede even if all reasonable measures had been taken. They can range from natural disasters such as hurricanes, tornadoes, earthquakes, tsunamis, floods, destruction resulting from lightning, drought or ice, through military activities and civil unrest to explosions, fires as well as boycotts, strikes and lockouts.

A few examples of actual wording adopted by some States under this approach are the following:

“Circumstances outside the air carrier's control, in which the air carrier, even if it would have done its best efforts to operate the flight in time, would not have been able to operate the flight.”

“Emergency” is similar to “force majeure” events: (a) a storm, an earthquake, a flood, a tsunami or an occurrence of a similar kind; (b) a fire; (c) a plague or an epidemic; or (d) a road, rail or an air crash, or a shipping or other accident.”

“Force majeure circumstances – extraordinary, unforeseen and unavoidable circumstances that have arisen during the implementation of an agreement (contractual) obligations that could not reasonable be expected at the conclusion of the agreement (contract), or avoided or overcome, as well as those that are outside the control of the parties to such agreement (contract).”

(ii) Extraordinary circumstances beyond the control of the air carrier

29 States have laid down definitions of extraordinary circumstances by using general civil law concepts and adapting them to air transport. Circumstances may be qualified as extraordinary when they could not have been avoided even if all reasonable measures had been taken by the air carrier, i.e. they are not inherent in the normal exercise of the activity of the air carrier and are beyond its actual control. Such circumstances may in particular occur in cases of political instability, meteorological conditions incompatible with the operation of the flight concerned, security risks, unexpected flight safety shortcomings and strikes that affect the operations of the air carrier.

In addition, various more specific events may also be deemed extraordinary circumstances affecting air carrier operations: certain measures by authorities, airport or airspace closures or serious congestions, failures to provide basic airport or air navigation services, individual air traffic management decisions, the death or illness of a passenger or crew before or during a flight etc.

A few examples of this type of wording are the following:

“Extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken. Such circumstances may, in particular, occur in cases of political instability, meteorological conditions incompatible with the operation of the flight concerned, security risks, unexpected flight safety shortcomings and strikes that affect the operation of an operating air carrier.”

“Extraordinary Circumstances beyond the control of the airline:

- 1. Political instability, riots or acts of military intervention affecting airline operations.*
- 2. Terrorist activity affecting airline operations.*
- 3. Removal of baggage or passengers for security reasons by state authorities.*
- 4. Aircraft search by State authorities.*
- 5. Bomb discovery or scare either on board or at airport affecting airline operations.*

6. *Passenger or crew member becomes ill, suffers from a special or unforeseen condition (including disability requiring special handling) or sudden death occurs before or during flight.*
7. *Crew exceeds approved flight time limitations as a result of delay following extra-ordinary circumstances.*
8. *Strikes or other industrial action by employees of the airline or any other third party upon which the airline is dependent for the provision of air transport services at airport which affect airline operations.*
9. *Meteorological conditions incompatible with the safe operation of a flight.*
10. *Airport or air space closures.*
11. *Congestion or failure of airport or air traffic navigation infrastructure which affects airline operations.”*

“Unforeseen circumstances are duly substantiated causes of force majeure or chance events that are not part of the normal activities of a carrier and that prevent the start or completion of a flight, including but not limited to meteorological conditions, technical failures not resulting from or related to routine or scheduled maintenance of the aircraft, failure of ground equipment etc.”

An important question raised in national legal systems is to what extent technical failures may be acceptable as being beyond the control of the air carrier. States’ approaches in this respect differ from having a fairly restrictive interpretation, which may even exclude any technical failure of aircraft from extraordinary circumstances to much more permissive ones. Indeed, the scope of extraordinary circumstances may have an important effect on the exoneration of air carriers from their obligations towards passengers in case of massive disruptions where this is provided by national law.

2.1.1.5 Question 5 - Do your State’s national regulations on massive disruptions cover the following?

- (a) Operational measures?
- (b) Passenger assistance?
- (c) Both operational measures and passenger assistance?
- (d) Other

50 States representing 61% of the total respondents, provided answers to the question on whether their national legislations covered operational measures, passenger assistance or both. Two States indicated that their national regulations on massive disruption only cover operational measures. 17 responding States indicated that their national regulations on massive disruption only cover passenger assistance, while 30 States indicated that their national regulations on massive disruption cover both operational measures and passenger assistance. One State indicated that its national legislation covers other measures different from operational measures and passenger assistance. 32 States did not provide any response to the question.

On regional basis, one State each from Asia and Pacific, and Europe chose option a) “operational measures”. Eight States from Europe, four States from Latin America and Caribbean, two States each from Africa and the Middle East and one State from Asia and Pacific chose option b) “passenger assistance”. 15 States from Europe, six States from Asia and Pacific,

five States from Latin America and Caribbean, two States from Africa and one State each from the Middle East and North America chose option c) “both operational measures and passenger assistance”. Option d) “other”, was chosen by one State from Africa.

The responses of States by region are illustrated in Figure 2.5 and in Table 2.3 below:

Figure 2.5: Operational measures and passenger assistance in case of massive disruptions

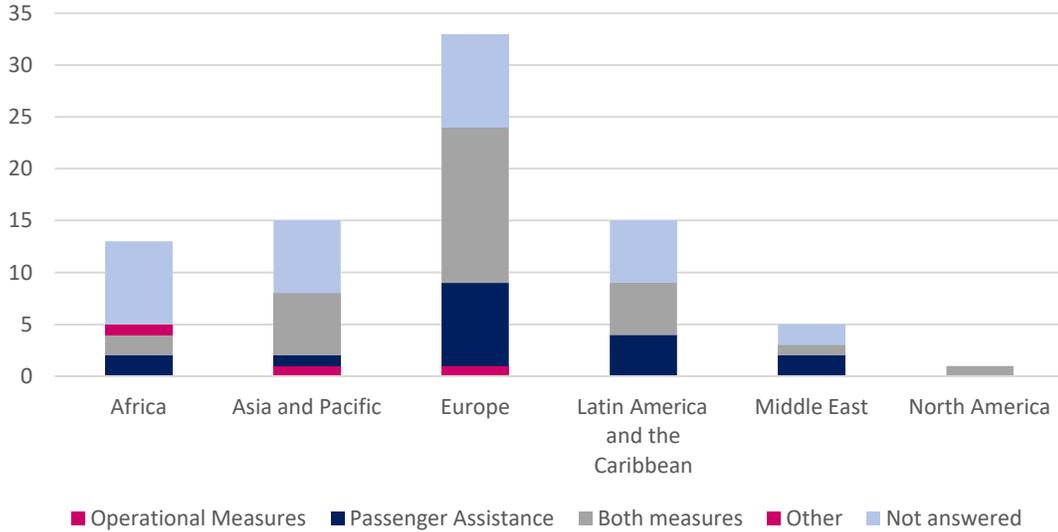


Table 2.3 Operational measures and passenger assistance in case of massive disruptions

Region	Africa	Asia and Pacific	Europe	Latin America and the Caribbean	Middle East	North America	TOTAL
Operational Measures	0	1	1	0	0	0	2
Passenger Assistance	2	1	8	4	2	0	17
Both measures	2	6	15	5	1	1	30
Other	1	0	0	0	0	0	1
Not answered	8	7	9	6	2	0	32

2.1.1.6 Question 6 - If you answered "yes" to 5(a) above, briefly describe the operational measures in your State's national regulations?

Two respondents indicated that they have only operational measures in their States’ national regulations. One of the States referred to its National Aviation Security Program describing measures in the event of an act of unlawful interference; and that rescue and evacuation procedures by major agencies and entities during a national emergency is coordinated by the National Emergency Management Agency. The other State replied that the Cabinet is responsible for the structure and content of civil protection plans adopted at the different administrative levels.

2.1.1.7 Question 7 - If you answered "yes" to 5(b) above, briefly describe the assistance to passengers in your State's national regulations?

(a) 17 States indicated that they have passenger assistance measures in their national regulations in case of massive disruptions. These States apply their general passenger protection legislations without having specific rules applicable to massive disruption situations from the perspective of the obligations of airlines or airports towards passengers.

Explanations provided by some States points to the fact that passenger protection legislation typically provides for refunds and assistance (care) of the passengers irrespective of the cause of the situation. However, financial compensation is another matter which may be subject to exoneration rules. Responses received for States in Europe, explained that EU Regulation 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights aim to ensure a high level of protection of passengers by setting common rules on assistance and compensation to passengers. An air carrier is exempted from paying compensation in the event of cancellation or delay at arrival if it can prove that the cancellation or delay is caused by extraordinary circumstances, which could not have been avoided even if all reasonable measures had been taken. Nevertheless, the air carrier is obliged to fulfil the obligation of care even when the cancellation of a flight is caused by extraordinary circumstances. The Regulation does not recognise a separate category of ‘particularly extraordinary’ events such as massive disruptions going beyond the ‘extraordinary circumstances’ referred to in Article 5(3) of the Regulation

(b) 30 States replied that they have in place both operational measures and passenger assistance in case of massive disruptions.

Operational measures reported by States under Question 5. c) are designed to be taken at two levels: specific actions by operators and authorities and additional actions by a designated crisis coordination cell. At their level, airports, ANSPs, airlines and other operators in civil aviation are required to put in place contingency/emergency response mechanisms. Such mechanisms envisage special measures in case of massive disruptions, for example, performing standard operating procedures for maintaining airport and air navigation services, extended operating hours, special slot regimes etc. State authorities having operational roles in civil aviation must also establish contingency/emergency/civil protection plans to be prepared for providing services such as search and rescue in such circumstances. Besides contingency/emergency response mechanisms required to be in place at operators’ and authorities’ level, specific functions or bodies have also been established for the purposes of coordination and sharing information in case of massive disruptions affecting large areas or several airports or operators.

As regards passenger protection measures, four States indicated in their replies that, beyond the applicability of general passenger protection legislation as explained under Question 5. b) above, certain special measures would also apply in emergency situations including communication and support provided to affected passengers by the airport and/or the relevant authorities (evacuation, shelters/holding areas and on-site medical services or transport to appropriate medical facilities, and special care for children for example).

Under Question 5. d), one State informed about having “other measures” and specified that it had adopted regulations for consumer protection in case of flight cancellation or delay and denied boarding as well as assistance to people with special needs.

2.1.2 Planning and response mechanisms

2.1.2.1 Question 8 - In case of massive disruptions, does your State have in place the following?

- (a) Emergency response planning/contingency planning?
- (b) Coordination mechanisms?
- (c) Other

57 States representing 70% of the total respondents indicated having coordination mechanisms, emergency response planning or contingency planning measures and/or other. The remaining 25 States representing 30% of the total respondents did not provide any response.

Of the 57 States that responded 20 States are from Europe, 14 States are from Asia and Pacific, 11 States are from Latin America and the Caribbean, seven States are from Africa, four States are from the Middle East, while one State is from North America. This analysis on regional responses is depicted in Figure 2.6 and Table 2.4 below.

Figure 2.6: Planning and response mechanisms

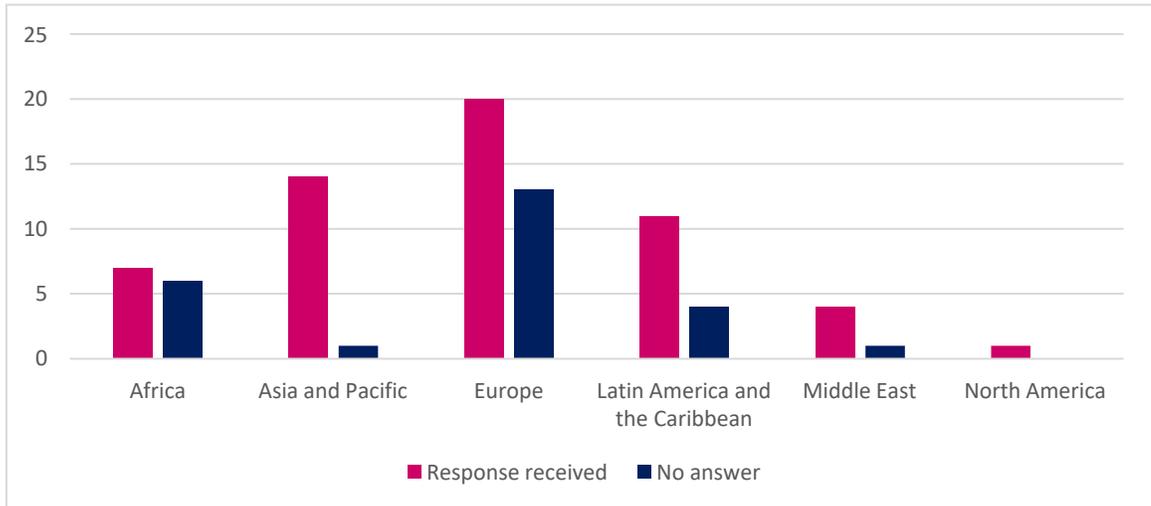


Table 2.4 : Planning and response mechanisms – responses per region

Region	Africa	Asia and Pacific	Europe	Latin America and the Caribbean	Middle East	North America	TOTAL
Response received	7	14	20	11	4	1	57
No answer	6	1	13	4	1	0	25

2.1.2.2 Question 9 - If you answered "yes" to 8(a) and/or (b) above, briefly describe such planning and/or coordination mechanisms:

55 States out of the 57 States that responded to question 8 provided further information on emergency response planning/contingency planning, coordination mechanisms and/or other measures. Based on this information, the following points can be highlighted:

As reported by 18 States under Question 8(a), service providers/operators and relevant authorities in the civil aviation sector are normally required to develop, test and regularly update emergency response plans (including coordination).

One State reported a stand-alone coordination mechanism based on passenger protection agreements between airlines.

According to the information provided by some States, airport emergency response plans typically start by establishing their scope (aircraft incidents and accidents, unlawful interference, fire, natural disasters, dangerous goods incidents, power shortages etc.), then provide core content (objective of efficient transition to emergency operations and return to normal operations, delegation of authority, assignment of emergency responsibilities, coordination arrangements, exercises, possible emergency scenarios with corresponding measures etc.) and contain more technical elements (list of designated persons, functions and responsibilities, operating conditions of an emergency crisis centre, communication procedures, financial authorizations etc.).

In relation to emergency response/contingency planning, one response indicated that “As regards emergency plans and contingency mechanisms from a user point of view, the User Care Group ensures proper support for users, and works with aviation companies to raise awareness of the standard and promote the right of users. Likewise, when the causes are not attributable to the airline, those involved seek to provide facilitation and minimize the impacts on passengers, by mutual agreement.”

Under Question 8(b), 28 States reported that they have put in place crisis coordination mechanisms at national level, which may be complemented by regional frameworks such as the European Aviation Crisis Co-ordination Cell (EACCC) to coordinate the management of crisis responses and mitigation measures at regional level. Some States have also established, within a State’s national crisis coordination mechanisms, specific arrangements for crisis coordination in civil aviation may also exist. Crisis coordination mechanisms are usually not exclusive but combined with requirements of emergency response plans at operator and authority level. Crisis coordination bodies involve relevant government agencies and aviation sector stakeholders such as airport operators, airlines and ground handling companies; and any other stakeholders that have to deal with the situation can be invited on a case-by-case basis to support the activities of the coordination body. Regular exercises are conducted to practice adequate responses to emergency and contingency scenarios.

Under Question 8(c), one State explained that, according to its national law, disaster management is normally coordinated by the local government.

Responses from seven States could not be properly categorized within the context of this question.

2.1.3 Roles and responsibilities

2.1.3.1 Question 10 - Are there any roles and responsibilities stipulated in your State's national regulations in case of massive disruptions for:

- (a) Civil aviation authorities?
- (b) Airport authorities?
- (c) Airlines?
- (d) Other

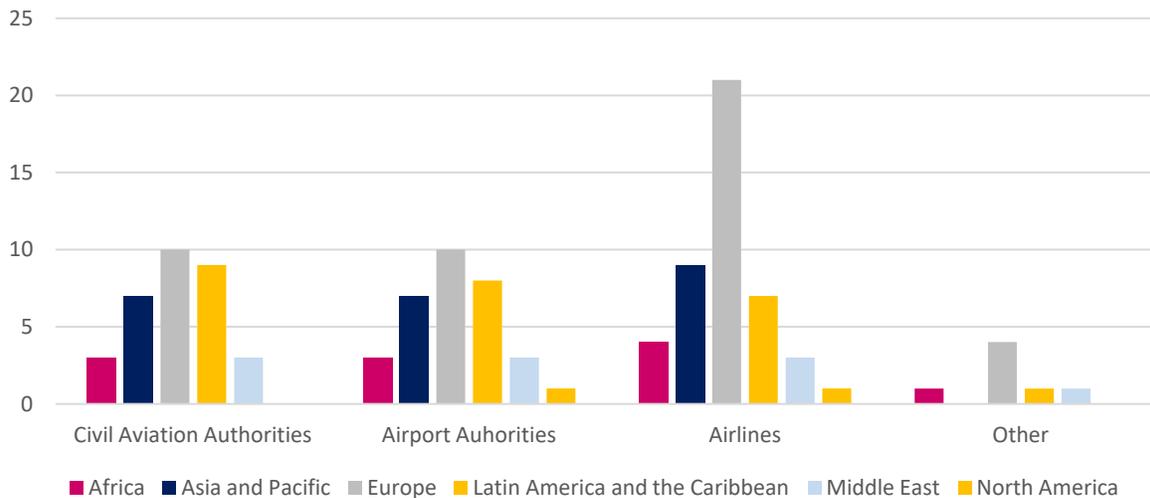
49 States representing 60% of the total respondents provided answers to this question indicating whether their national regulations stipulate roles and responsibilities for airlines, airport authorities, airlines and/or other entities in case of massive disruption. These 49 responses were received from 22 States from Europe, nine States each from Latin America and the Caribbean and from Asia and Pacific, five States from Africa, three States from Middle East and one from North America.

As shown in Figure 2.7 and Table 2.5, 32 States indicated that they have roles and responsibilities stipulated in their national regulations in case of massive disruption for civil aviation authorities. 32 States also indicated that they have roles and responsibilities stipulated in their national regulations for airports. 45 States indicated that they have roles and responsibilities stipulated in their national regulations for airlines, while seven States ticked that they have roles and responsibilities stipulated in their national regulations for other agencies, apart from civil aviation authorities, airports and airlines.

Table 2.5 : Roles and responsibilities in case of massive disruptions

Agencies Assigned roles and responsibilities	Africa	Asia and Pacific	Europe	Latin America and the Caribbean	Middle East	North America	TOTAL
Civil Aviation Authorities	3	7	10	9	3	0	32
Airport Authorities	3	7	10	8	3	1	32
Airlines	4	9	21	7	3	1	45
Other	1	0	4	1	1	0	7

Figure 2.7: Roles and responsibilities in case of massive disruptions



2.1.3.2 Question 11 - If you answered "yes" to 10(a), (b) and/or (c) above, briefly describe these roles and responsibilities:

Additional description of the roles and responsibilities were received from 49 States. Responses were cumulative over questions 10(a), 10(b), 10(c) and 10(d), i.e. some States provided explanations for one, two, three or all four options. These responses were categorized by the entities bearing the roles and responsibilities indicated.

Some of the explanations provided by the 32 States that selected that they have roles and responsibilities stipulated in their national regulations for civil aviation authorities, indicated that civil aviation authorities have an important coordination role to play with respect to emergency responses. As dealing with massive disruption situations require effective coordination, a wide range of different civil (and in some cases even military) authorities - ANSPs, emergency response units, fire and rescue units, medical services etc. - at State and regional/local levels can be involved through crisis coordination mechanisms as the situation requires. In some cases, the roles and responsibilities of the civil aviation authorities and other relevant authorities, go together with those of airlines and airport operators.

In reply to Question 10(b), the 32 States reported about adopting legislation, which sets out the responsibilities of airport operators in case of massive disruption such as providing information, activating their respective emergency procedures and cooperating with all relevant operators and authorities in taking the necessary measures.

Under Question 10(c), the 45 States confirmed that their national legislation requires airlines to provide care and assistance to passengers even in case of massive disruptions.

Four States out of the seven States that indicated "others" in Question 10(d) provided further details on which authorities and entities are involved in case of massive disruptions:

- Ministry of Consumer Protection;
- National Facilitation Committee; and

- Ministry of General Affairs, Fire Department, Police, Public Health Department and the Public Prosecution Service;

2.1.4 Exoneration and other information on assistance to passengers

2.1.4.1 Question 12 - Do your State's national regulations exonerate airlines from providing compensations or other obligations in case of massive disruptions caused by extraordinary circumstances, force majeure or situations beyond the control of airlines and airports?

46 States representing 56% of the total respondents indicated that their national regulations exonerate airlines from providing compensations or from other obligations in case of massive disruptions. 26 respondents representing 32% of the total respondents indicated that their national regulations do not exonerate airlines from such obligations in these circumstances. 10 States did not respond to this question.

Based on regional analysis of the responses, 25 States from Europe, seven States from Asia and Pacific, , six States from Latin America and the Caribbean and four States each from Africa and the Middle East indicated that their national regulations exonerate airlines in case of massive disruptions. The responses are shown in Figure 2.8 and Table 2.6

Figure 2.8: Exoneration of airlines in case of massive disruptions

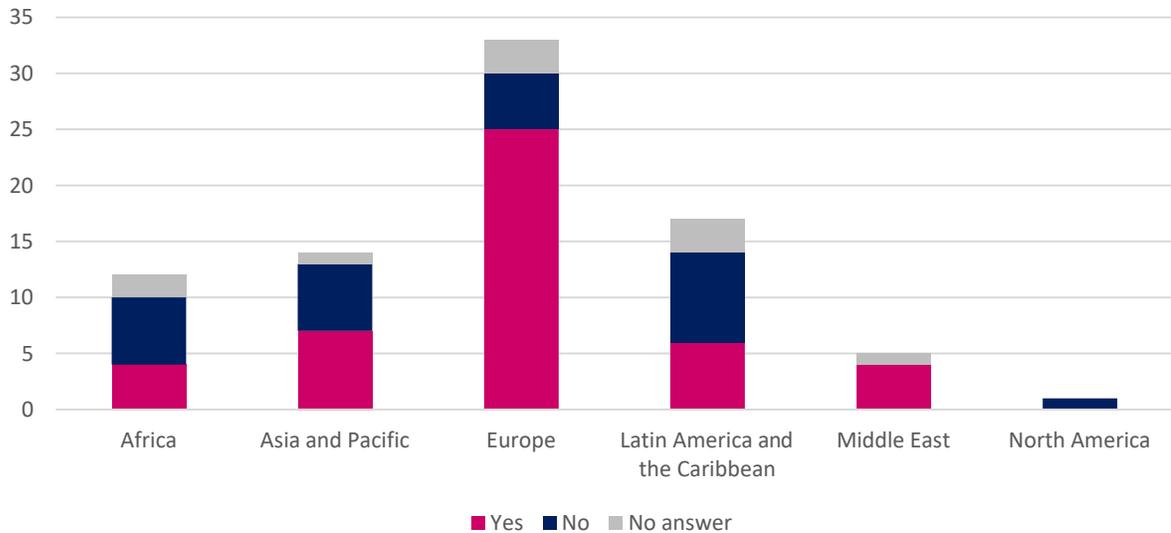


Table 2.6: Exoneration of airlines from providing compensations or other obligations in case of massive disruptions

Question 12	Africa	Asia and Pacific	Europe	Latin America and the Caribbean	Middle East	North America	TOTAL
Yes	4	7	25	6	4	0	46
No	6	6	5	8	0	1	26
No answer	3	2	3	1	1	0	10

2.1.4.2 Question 13 - If you answered "yes" to question 12 above, please provide details:

According to the responses from States, the national legislations of 25 States provide for a limited scope for the exoneration of airlines from their obligations towards passengers in case of massive disruptions. Under European Union law for instance, it is only the obligation of airlines to provide financial compensation for cancellation (but not for denied boarding), which is not applicable where “cancellation is caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.” Airlines' obligations of reimbursement or re-routing and adequate care of passengers also remain applicable in case of extraordinary circumstances. The scope of extraordinary circumstances has been subject to rulings by national and EU courts playing an important role to ensure common interpretation.

16 States' legal frameworks, compared with the previous approach, exonerate airlines more widely from certain obligations, especially providing predetermined amounts of compensation or compensation for damages to passengers in case of massive disruptions. It is all the more important under this approach that national law clearly defines circumstances under which airlines are exonerated.

However, the actual extent to which airlines are exonerated in case of massive disruptions may differ from State to State including whether they may be exonerated from providing care and assistance to passengers.

Finally, two States referred to the relevant provisions of the Warsaw Convention of 1929 (Convention for the unification of certain rules relating to international carriage by air) and/or of the Montreal Convention of 1999 (Convention for the unification of certain rules for international carriage by air), which are given effect in national law with regard to the exoneration of airlines in case of massive disruptions.

Responses from three States could not be properly categorized within the context of this question.

2.1.4.3 Question 14 - Please provide any additional information on, or experience with, assistance to passengers in case of massive disruptions:

On the subject of assistance to passengers in case of massive disruptions, 41 States provided additional information.

14 States confirmed that their general passenger protection legislations including on assistance to disabled persons and persons with reduced mobility remain applicable in cases of massive disruptions including those caused by aviation accidents.

19 States underlined the importance of effective coordination among State authorities and stakeholders such as airports and airlines in case of massive disruptions to provide adequate care and assistance to passengers. Some States also underscored the importance of international cooperation, for instance, when flights need to be diverted to another airport in a neighbouring country. As regards Europe, for example, European Commission Staff Working Document ‘‘Continuity of passengers mobility following disruption on the transport system’’ recalls that the volcanic ash crisis, which led to a major disruption of the European air transport system in 2010, showed the importance of a better coordinated response at European level in a widespread crisis situation. The European Commission proposed contingency plans in its legislative proposal on the revision of EU Regulation 261/2004 to mitigate delays or cancellations due to extraordinary circumstances. To this end, airports, air carriers, ground handling companies and other actors in the

air transport chain would be required to set up contingency plans to optimise the care and assistance to stranded passengers. Another State underlined the importance of good preparations through putting in place an effective disaster management plan and appropriate training of the disaster management team.

One State called for ICAO's guidance material to be developed specifically on passenger protection in case of massive disruptions to help States deal more effectively with massive disruptions in their policy-making and legislative work.

The relevance of good industry practices was highlighted by two States. One State reported effective measures by airlines in reducing the number of passengers at affected airports and mitigating inconvenience to passengers: Airlines had been increasingly proactive in dealing with foreseeable massive disruptions (response to major weather events that may cause extensive flight delays and cancellations etc.) For example, in expectation of major hurricanes, airlines had pre-emptively cancelled flights and provided timely notifications to passengers. They also offered changing travel dates or rerouting without charging fees, capping fares for evacuating flights out of the affected airports, and waiving fees for excessive bags and for pets.

One State reported that due to the lack of a national regulatory framework, passenger protection has been a challenge, especially in this time when some States have closed their airspace in reaction to the COVID-19 crisis, which has resulted in the disruption of passenger flights.

Responses from four States could not be properly categorized within the context of this question.

2.2 Core principles on consumer protection

2.2.1 Application of the ICAO core principles on consumer protection

2.2.1.1 Question 15 - Has your State applied the ICAO core principles in its policymaking, regulatory and operational practices on consumer protection in air transport?

A total of 66 States, representing 80% of the total respondents, indicated that they applied the ICAO core principles in their policymaking, regulatory and operational practices on consumer protection. Of these 66 States that responded, 29 are from Europe, 13 States are from Asia and Pacific, 11 States are from Latin America and Caribbean, nine States from Africa, three States from the Middle East and one State from North America. 11 States indicated that they did not apply the ICAO core principles on consumer protection in their policymaking, regulatory and operational practices. Five States did not provide any response. The regional analysis is depicted in Figure 2.9 and Table 2.7.

Figure 2.9: Application of the ICAO core principles in policymaking, regulatory and operational practices on consumer protection

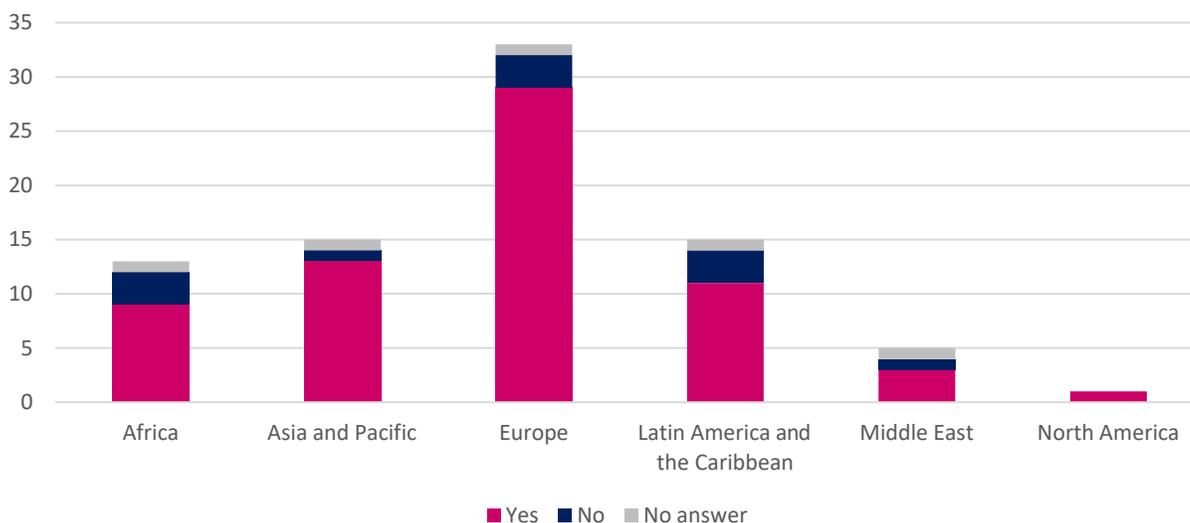


Table 2.7: Application of the ICAO core principles in policy-making, regulatory and operational practices on consumer protection

Question 15	Africa	Asia and Pacific	Europe	Latin America and the Caribbean	Middle East	North America	TOTAL
Yes	9	13	29	11	3	1	66
No	3	1	3	3	1	0	11
No answer	1	1	1	1	1	0	5

2.2.2 Usefulness of the ICAO core principles on consumer protection

2.2.2.1 Question 16 - Does your State consider the ICAO core principles useful in its policymaking, regulatory and operational practices?

70 States considered the ICAO core principles on consumer protection useful. A regional analysis of these 70 States, showed that 30 States are from Europe, 14 States are from Asia and Pacific, 11 States each are from Africa and from Latin America and the Caribbean, three States are from the Middle East and one State is from North America. The responses are shown in Figure 2.10 and Table 2.8.

Figure 2.10: Application of the ICAO core principles in policymaking, regulatory and operational practices on consumer protection

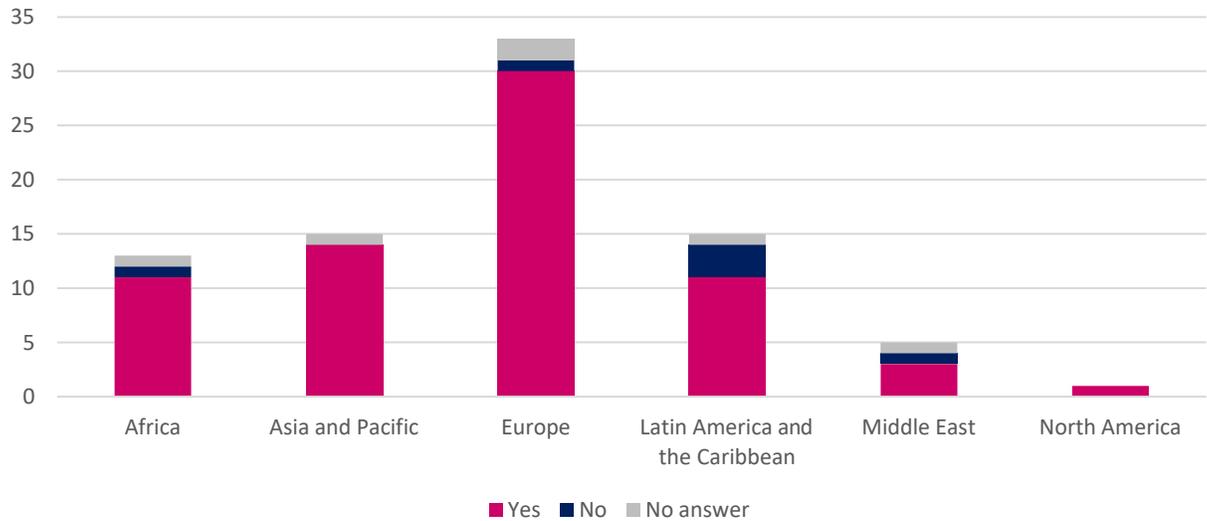


Table 2.8: Application of the ICAO core principles in policy-making, regulatory and operational practices on consumer protection

Question 16	Africa	Asia and Pacific	Europe	Latin America and the Caribbean	Middle East	North America	TOTAL
Yes	11	14	30	11	3	1	70
No	1	0	1	3	1	0	6
No answer	1	1	2	1	1	0	6

2.2.3 Amendment of ICAO Core principles on consumer protection

2.2.3.1 Question 17 - Are there areas in the ICAO core principles you think should be amended?

A total of 52 States representing 63% of the total respondents do not think that the ICAO core principles need to be amended at this stage. However, 15 States representing 18% of the total respondents indicated the need to amend the core principles.

The regional analysis shown in Figure 2.11 and Table 2.9 indicates that of the 52 States considering that the ICAO core principles should not be amended, 20 States are from Europe, 10 States are from Asia and Pacific, nine States each are from Africa and from Latin America and the Caribbean, three States are from the Middle East and one State is from North America.

Figure 2.11: Amendment of the ICAO core principles on consumer protection

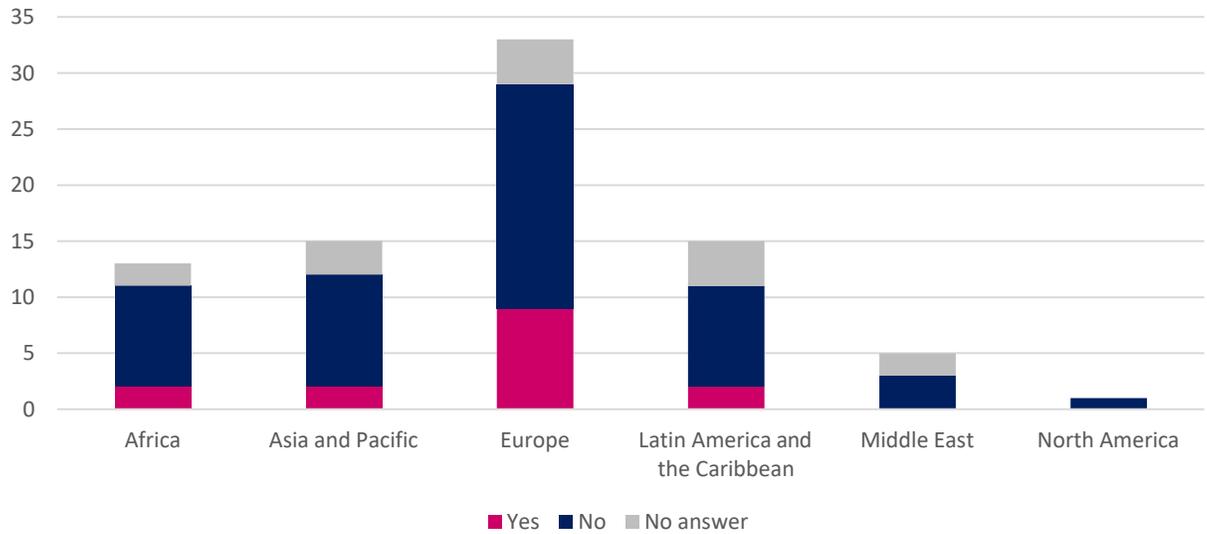


Table 2.9: Amendment of the ICAO core principles on consumer protection

Question 17	Africa	Asia and Pacific	Europe	Latin America and the Caribbean	Middle East	North America	TOTAL
Yes	2	2	9	2	0	0	15
No	9	10	20	9	3	1	52
No answer	2	3	4	4	2	0	15

2.2.3.2 Question 18 - If you answered "yes" to question 17 above, please list those areas that should be amended, and please include your proposed amendments:

17 States provided insights on areas that should be amended with inputs from 11 States from Europe, three States from Asia and Pacific, two States from Africa, and one States from Latin America and the Caribbean.

12 States proposed various areas for consideration in the context of amending or supplementing the ICAO core principles on consumer protection as follows:

- Include policy on more personalized and tailored assistance for consumers applicable to their individual circumstances;
- Develop guidance for States and industry stakeholders to ensure consumer protection in cases other than massive disruptions, for example in situations of flight cancellation, delays and denied boarding;
- Extend the scope of the core principles to further areas affecting the quality of services provided by airlines and their commercial policies such as the onboard seating of children together with their parents;
- Cover disabled passengers and passengers with reduced mobility;
 - Develop guidance on what needs to be communicated to the passengers in case of a possible disruption and the mechanism to be followed; and
 - Cover air cargo services

Three States raised the question of what instruments could be used for amending or supplementing the core principles, whether developing ICAO guidelines, amending the existing ICAO core principles, or going beyond only core principles and elaborating on specific rules and procedures or even minimum standards that States must follow.

One State confirmed that it will apply and consider the ICAO core principles for drafting its new legislation on passenger protection without specifying any areas of the core principles to be amended.

Response from one State could not be properly categorized within the context of this question.

2.2.4 Additional information on experience gained with the ICAO core principles on consumer protection

2.2.4.1 Question 19 - Please provide information on the experiences gained or issues encountered in the application of the ICAO core principles:

45 States provided additional information on their experiences in the application of the ICAO core principles on consumer protection. Of these 45 States, 20 States are from Europe, eight States each are from Africa and Asia and Pacific, six States are from Latin America and the Caribbean, two States are from the Middle East and one State is from North America.

The States provided different views including positive examples and challenges with the implementation of the ICAO core principles on consumer protection. Many States confirmed that they found ICAO core principles on consumer protection helpful as guide and inspiration in their policy-making and legislative works, whether developing national consumer protection policies for the first time or reviewing and amending existing ones, and whether following a market-driven approach or adopting detailed regulations. Some States highlighted few concepts covered by the core principles (proportionality, information to passengers, price transparency, effective complaint handling etc.) which they had found particularly relevant for their efforts. It was reported that the implementation of the core principles has resulted in increased awareness of passenger rights and in some cases higher number of complaints and more active enforcement by authorities. Views were expressed that the air transport industry need to be more cognizant of consumer protection frameworks and, at the same time, industry concerns regarding compliance costs should be taken into account. Some argued that providing information to passengers about their rights should be improved. Cooperation and communication among passengers, operators and authorities were also considered an important aspect.

Appendix A – List of respondents (82)

AFRICA (13)	ASIA AND PACIFIC (15)	EUROPE (33)	LATIN AMERICA AND THE CARIBBEAN (15)	MIDDLE EAST (5)	NORTH AMERICA (1)
Angola	Australia	Albania	Argentina	Iraq	United States
Botswana	Brunei Darussalam	Andorra	Bolivia (Plurinational State of)	Israel	
Cabo Verde	China	Armenia	Brazil	Jordan	
Egypt	China - Hong Kong SAR	Austria	Colombia	Oman	
Equatorial Guinea	Indonesia	Azerbaijan	Costa Rica	Syrian Arab Republic	
Ethiopia	Kyrgyzstan	Bulgaria	Cuba		
Madagascar	Maldives	Croatia	Dominican Republic		
Mauritius	Mongolia	Cyprus	Guyana		
Namibia	Nepal	Czechia	Peru		
Nigeria	Pakistan	Denmark	Trinidad and Tobago		
Rwanda	Philippines	Estonia	Uruguay		
Togo	Singapore	Finland	Venezuela (Bolivarian Republic of)		
United Republic of Tanzania	Sri Lanka	France	Suriname		
	Tajikistan	Georgia	Aruba (Neth.)		
	Thailand	Hungary	Sint Maarten (Neth.)		
		Iceland			
		Ireland			
		Serbia			
		Italy			
		Latvia			
		Lithuania			
		Luxembourg			
		Norway			
		Poland			
		Portugal			
		Republic of Moldova			
		Russian Federation			
		Spain			
		Sweden			
		Switzerland			
		The Republic of North Macedonia			
		Turkey			
		Ukraine			

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