



FACILITATION PANEL (FALP)

EIGHTH MEETING

Montréal, 24-28 November 2014

Agenda Item 2: Amendments to Annex 9

ECAC RECOMMENDATIONS ON UNACCOMPANIED MINORS

(Presented by the European Civil Aviation Conference)

SUMMARY

The term ‘unaccompanied minors’ was introduced into ICAO Annex 9 at the Sixth Meeting of the ICAO Facilitation Panel in 2010. However, there is currently limited international guidance available on the treatment of unaccompanied minors.

Within this context, the European Civil Aviation Conference (ECAC) adopted Recommendations on unaccompanied minors which have been included ECAC Document 30, Part I (Facilitation), Section 2 – ‘Facilitation of Transport of Persons and their Baggage’, and are reproduced in the Appendix to this paper for the Panel’s information. This paper highlights the status of discussion on the different issues already addressed by these Recommendations, and where further work is still needed.

In addition to carrying on further work on areas identified as warranting further study, ECAC proposes to work with the IATA Control Authorities Working Group (IATA/CAWG) in attempting to identify potential Standards and Recommended Practices which may be suitable for consideration at the ninth meeting of the Facilitation Panel. ECAC invites members of the Facilitation Panel to contribute to the further development of this work.

1. INTRODUCTION

1.1 Some work and considerations have already taken place on the treatment of minors within a European context. Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims (15th April 2011) covers a wider remit than minors alone. However, Articles 2 and 18 both cover specific considerations regarding the treatment of ‘children’.

1.2 More specifically, the European Parliament ‘Report on the situation of unaccompanied minors in the EU’ (2012/2263(INI)) (10th April 2013) details conditions faced by those under the age 18, who are either citizens of non-EU countries or stateless persons, in the circumstance that they either arrive in the European Union alone or find themselves alone after arrival. Noteworthy is Recommendation 7 stating that European Union Member States should prevent their arrival.

1.3. On a global level, the IATA Control Authorities Working Group (IATA/CAWG) undertook a study which resulted in IATA/CAWG publishing the Recommended Best Practice for Minors in May 2007.

1.4. Within this context, ECAC Member States thought it would be useful, following the introduction of the term ‘unaccompanied minors’ into ICAO Annex 9¹ at the 2010 ICAO Facilitation Panel, to take a pulse check on IATA/CAWG findings with a view to identifying Best Practice in relation to both accompanied and unaccompanied minors.

1.5. The ECAC Facilitation Working Group (FAL/46, 3 April 2013) established an ad hoc study group to consider the development of an ECAC Best Practice document. To aid this work and enable a direct comparison between the original IATA/CAWG findings, the ECAC Secretariat circulated an enhanced version of the IATA/CAWG questionnaire to identify potential areas of best practice. This questionnaire covered a range of issues on the treatment of unaccompanied minors by both ECAC Member States, as well as both European and non-European aircraft operators. Responses to the questionnaires were received from 15 ECAC Member States and 23 aircraft operators, which included both European and non-European carriers. On the basis of the analysis of these responses by the ECAC Sub-Group on Immigration, Recommendations on unaccompanied minors which were adopted by the ECAC Facilitation Working Group at its 48th meeting (FAL/48, 29 April 2014) and by Directors General of its 44 Member States on 6 May 2014. These Recommendations have been included ECAC Document 30, Part I (Facilitation), Section 2 – ‘Facilitation of Transport of Persons and their Baggage’ (see **Appendix**).

2. DISCUSSION

Definition of a minor

2.1 For the majority of ECAC Member States who responded to the questionnaire, a minor is a person under the age of 18. However, one ECAC Member State indicated that a minor is a passenger between the ages of 2 and 12. In other countries, a minor is a person under 20 years of age. For the majority of aircraft operators a minor is regarded as a child up to and including 11 years of age.

2.2. IATA’s Recommended Practice 1753 (‘Interline handling procedure for unaccompanied minors’) recognises that an unaccompanied minor may be 12 years of age or over. All of these variances provide an indication of how difficult it is to set a specific agreeable age range to the definition of a minor. The United Nations definition of a child (see Article 1 of the UN Convention on the Rights of the Child) would appear to support this observation.

Definition of an unaccompanied minor

2.3. The results of the ECAC questionnaire created more variance when considering the definition of an unaccompanied minor. The responses included:

- the recognition of a passenger between the ages of 2 and 12 years who was not accompanied by an adult;
- a child below the age of 18 who was not accompanied by a parent or legal guardian; and
- a child who arrives without an adult.

¹ Recommended Practice 3.76 states ‘In emergency situations resulting from force majeure, Contracting States, aircraft operators and airport operators should give priority assistance to those passengers with medical needs, unaccompanied minors and persons with disabilities who have already commenced their journeys.’

2.4. IATA Recommended Practice (RP) 1753 indicates that, for the purpose of that RP, ‘an unaccompanied minor is a child or infant travelling alone or with the Member’s escort’.

2.5. The current IATA/CAWG definition contained within their recommended Best Practice for Minors (adopted 2007, amended 2014) is ‘a child under the age of sixteen travelling alone or travelling only in the company of another child aged less than sixteen’. This appears to capture the majority of variances specified above.

Accompanying person

2.6. ECAC asked Member States what the criteria was for an adult to be considered as the guardian of a minor e.g. a family member or other relationship. Half of the responses from Member States indicated that they required official legal recognition for someone to act as a guardian of a minor. The remainder of responses indicated that holding parental permission was advisable, whether that permission was held by the minor, the guardian or the aircraft operator in the event that the latter was providing a service to the minor.

2.7. The majority of aircraft operators specified that the accompanying person did not need to be a family member. Responses to the question concerning the minimum age for a person accompanying a minor gathered a number of variances, specifically:

- a minimum age of 18;
- a minimum age of 16;
- a minimum age of 15; and
- a minimum age of 12.

2.8. These responses were supplemented by additional considerations such as whether a flight was domestic or long-haul and whether the accompanying person was the parent of the minor. In a number of instances, the aircraft operator placed great emphasis on the accompanying person having the ability to care for a minor in their charge, regardless of the accompanying person’s age.

2.9. The current IATA/CAWG definition of an accompanying person is ‘anyone aged sixteen or over who is travelling with a child aged less than sixteen. This person will not necessarily be the parent or legal guardian of the minor’.

2.10. The authenticity of a document may not be the only reason why the staff of an aircraft operator may be concerned regarding the welfare of a minor. Responses from aircraft operators indicated that restrictions applied to disclosing information on minors. These may prevent staff from raising any concerns with officials. However ECAC Member States advised that aircraft operators are encouraged to contact public authorities if they have any concerns relating to the welfare of a minor, with methods of communication including mail, telephone and contact upon arrival.

Authorisation and Notarisation

2.11. The ECAC questionnaire asked Member States if there was any specific legislative or practices that needed to be undertaken when a minor crosses a border e.g. the requirement to provide notarisation or written authorisation. Over half of the returns indicated that there was no legal requirement to provide either a notarisation or authorisation. However, over a third of returns indicated that it was still recommended that a minor or accompanying person carries an authorisation or notarisation.

2.12. It remains unclear how authorisations and notarisations, whether legally required or not, are utilised; whether they are to address a concern associated with a duty of care towards the minor,

whether they are utilised as a facilitative measure - or both. It is also unknown how effective authorisation and notarisations are. Further future work is required by ECAC in this area before recommendations can be identified.

Delay and disruption

2.13. All the aircraft operators that responded to the questionnaire indicated that they had a delay and disruption policy in place, with the airlines assuming oversight of the unaccompanied minor during delay or disruption. If a significant disruption occurs that requires a flight to land at an unmanned location, Contracted Ground Staff may be asked to escort the unaccompanied minor.

2.14. Some ECAC Member States also indicated that, during such disruption, an unaccompanied minor may be placed in the care of social services or the equivalent body in that country. Such care should take place overnight or until the unaccompanied minor is able to resume their journey.

2.15. A further situation that was brought to light by study group members is where an unaccompanied minor's onward carriage is refused by an airline on an interline or multi-sector journey. With ECAC Member States returns highlighting a reliance on aircraft operators procedures when a minor is in transit, it is quite possible that the Member State will be asked to intervene or alerted to an issue if this occurs.

2.16. Current IATA/CAWG guidance states that 'In circumstances where the unaccompanied minor is embarked on a journey involving multi sectors and there are significant concerns which cannot be resolved quickly, consideration should be given to placing the unaccompanied minor into the care of the Control Authority at the first available opportunity'.

Interline or multi-sector journeys

2.17. Almost half the aircraft operator responses indicated that it is possible that an unaccompanied minor may be carried on interline or multi-sector journeys. There were varying situations where this may occur however the prevalent practice is that carriage has to be at the agreement of all the airlines concerned.

2.18. The majority of aircraft operators additionally indicated that the completion of an unaccompanied minors declaration form was required before carriage. The same percentage of returns reflected that the unaccompanied minor's documents were held by staff of aircraft operators during the journey. IATA/CAWG best practice material reflects that 'It is recommended that minors remain the responsibility of the delivering aircraft operator until accepted for travel by the onward aircraft operator'.

2.19. There is no current standardised format for an unaccompanied minors declaration form and further work is required by ECAC to consider whether a standardised format is required and, if so, which body should be responsible for developing this format.

Training

2.20. ECAC Member States indicated that training supplied to their officers varies between basic training, training to identify victims of trafficking through profiling, behavioural training to more specialist courses covering assistance for minors.

2.21. IATA/CAWG guidance suggests that 'Control Authorities should undertake to provide front line staff with adequate and appropriate training in respect of specific issues relating to minors'.

2.22. The majority of aircraft operators indicated via their returns that training on minors issues was incorporated within the generic training for crew and ground staff. In some instances, this training was also delivered to Customer Service and Reservations staff. Several airlines additionally indicated that specialist training is provided to flight escorts.

2.23. IATA/CAWG guidance indicates that ‘Carriers should establish clear procedures for handling unaccompanied minors, including multi-sector journey, delay and disruption procedures. Training programmes should take into account the need for both ground and cabin staff to be fully conversant with these procedures’.

Removal of inadmissible persons and deportees

2.24. In response to concerns associated with the removal of unaccompanied minors, ECAC Member States were asked whether they made contact with the minor’s family members and/or ensured suitable reception arrangements were made before a removal was organised. The majority of ECAC Member States confirmed that contact is made ahead of a removal to ensure that there are suitable reception arrangements available for the minor.

Boarding procedures and Seating

2.25. The majority of aircraft operators indicated that they board unaccompanied minors before other passengers. Two-thirds of these aircraft operators then introduce the unaccompanied minor to the crew and/or flight leader and director.

2.26. Aircraft operators advised that care needs to be given when assigning seats for unaccompanied minor. This ensures that not only the minor is protected but also adult passengers from claims of abuse. One example of this is that cultural differences may result in a friendly gesture being misinterpreted.

2.27. The majority of aircraft operators offered restricted seating to unaccompanied minors, with dedicated areas e.g. the first rows or near galleys being the seating predominantly provided. Additional seating restrictions included not sitting unaccompanied minors on emergency rows or exit rows, not next to a deportee, an adult male or an adult generally. Seating restrictions differed according to the type of aircraft used.

Statistical Information

2.28. Almost all the ECAC Member States retained statistics on minors for specific purposes rather than as part of a distinct statistical area. It was also apparent that the areas covered by the statistics varied from State to State.

2.29. The IATA/CAWG Best Practice paper states ‘Control Authorities should consider improving the collection, collation and retention of statistical data on arriving minors. Where control authorities already have a system in place they should consider extending it to include categories of minors other than those seeking asylum. Control Authorities are encouraged to share data with one another’.

2.30. More work is necessary on the collection and use of statistics.

APPENDIX
ECAC DOC 30 DEFINITIONS AND RECOMMENDATIONS ON UNACCOMPANIED MINORS

2.4.1 Definitions

- 2.4.1.1 Minor: a child who is not yet legally of adult age.
- 2.4.1.2 Unaccompanied Minor: a child travelling alone or travelling only in the company of another child. Note: This definition shall not affect any obligation which may result from the application of Schengen or national border checks regulations.
- 2.4.1.3 Accompanying person: an adult who is travelling with a child. This person will not necessarily be the parent or legal guardian of the minor. This definition shall not affect any obligation which may result from the application of Schengen or national border checks regulations.

2.4.2 Recommendations

- 2.4.2.1 Aircraft operators should consider the ability of the accompanying person to care for the minor during the journey, regardless of the accompanying person's age.
- 2.4.2.2 Where a minor is permitted to travel unaccompanied, aircraft operators should conduct identity checks on the persons escorting the minor prior to departure and collecting them on arrival. The minor should not be permitted to depart or released to the person collecting them on arrival if there are any doubts as to the authenticity of the identification produced.
- 2.4.2.3 Where data privacy and protection restrictions permit, aircraft operators should raise any concerns regarding the welfare of a minor with the relevant public authorities.
- 2.4.2.4 Where an aircraft operator has any concerns regarding the welfare of a minor, they should retain copies of the documentation provided by the minor as evidence of permission to travel.
- 2.4.2.5 Member States and aircraft operators should, where practicable, exchange information as to the appropriate 24 hour point(s) of contact (s) to whom issues concerning the welfare of a minor could be addressed.
- 2.4.2.6 If there are significant concerns regarding the welfare of an unaccompanied minor during a journey which cannot be resolved quickly, Member States should consider placing the unaccompanied minor into the care of the relevant Public Authority at the first available opportunity.
- 2.4.2.7 An unaccompanied minor should only be allowed to proceed on a multi-sector journey if carriage has been previously agreed by all the aircraft operators involved.
- 2.4.2.8 Aircraft operator's staff should ensure that an unaccompanied minor's declaration form is completed² before an unaccompanied minor is permitted to proceed on their journey.

² There is currently no standardised format for an unaccompanied minors declaration.

- 2.4.2.9 Where an unaccompanied minor utilised a multi-sector journey, the unaccompanied minor's declaration form should be signed by a representative of the connecting airline before the unaccompanied minor is released into their care.
- 2.4.2.10 Member States should ensure that their Public Authorities are trained to consider the welfare of minors both accompanied and unaccompanied.
- 2.4.2.11 Aircraft operator training programmes should ensure that ground and cabin crew are fully conversant on the procedures for handling unaccompanied minors. Consideration should also be given to delivering training on minors to Customer Service and Reservations staff.
- 2.4.2.12 Where a removal of an inadmissible person or a deportee relates to an unaccompanied minor, Member States should ensure that suitable reception arrangements are available for the minor.
- 2.4.2.13 Aircraft operators should carefully consider the safety and comfort of the unaccompanied minor and the passengers around them before assigning seating.

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