

Order No 122 of the Director of the Civil Aviation Agency

17.07 2012

Tbilisi

**On the rules for compensation and assistance to passengers in the event of denied
boarding and of cancellation or long delay of flights**

Pursuant to Article 9, Parts 1 and 1¹ of the Air Code of Georgia, Article 8, Paragraph 5 of the Law of Georgia on Management and Regulation of the Transport Sector, the Common Aviation Area Agreement between the European Union and its Member States and Georgia, and Regulation (EC) No. 261/2004 of February 11, 2004, *I hereby order:*

1. To approve the rules for compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights attached hereto.
2. The order shall take effect from September 1, 2012.

I.Davitadze

Attachment

**The rules for compensation and assistance to passengers in the event of denied
boarding and of cancellation or long delay of flights**

Article 1. Objective and scope of the Rules

1. The objective of these Rules (hereinafter referred to as the Rules) is to determine the rules and conditions for providing compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and the protection of passenger rights.
2. These Rules shall apply:

- (a) to passengers departing from an airport in the territory of Georgia by Georgian or foreign air carrier;
 - (b) to passengers departing from an airport located in a third country to Georgia by Georgian air carrier, unless they received compensation and were given assistance in that third country.
3. The compensation and/or assistance envisaged by these Rules shall apply on the condition that:
- (a) passengers have a reservation and/or a ticket confirming their right to a specific flight;
 - (b) passengers present themselves for check-in at the time indicated in the ticket or, if no time is indicated, not later than 45 minutes before the published departure time;
 - (c) passengers have tickets issued under a loyalty program or other frequent-flyer program by an air carrier or tour operator.
4. These Rules shall only apply to passengers transported by motorised fixed wing aircraft.
5. These Rules shall not apply to passengers travelling free of charge or at a reduced fare not available directly or indirectly to the public.
6. These Rules shall not apply in cases where a package tour is cancelled for reasons other than cancellation of the flight.

Article 2. Definitions

For the purposes of these Rules:

- (a) 'air carrier' means an air transport undertaking with a valid operating licence or, in the case of a foreign air carrier, an alternative document;
- (b) 'operating air carrier' means an air carrier that performs or intends to perform a flight under a contract with a passenger or on behalf of another person, legal or natural, having a contract with that passenger;
- (c) 'tour operator' means a person, legal or natural, with the exception of an air carrier, who regularly organizes and sells tourist packages directly or through its agent;
- (d) 'tourist package' (hereinafter referred to as the Package) means a combination of two or more different types of tourist services (food, accommodation, transport services, etc.) sold or offered for an overall price, exceeding 24 hours or including an overnight stay;
- (e) 'ticket' means a valid document confirming the existence of a Contract of Carriage between an air carrier and a passenger, containing the conditions for the carriage of the passenger, and giving entitlement to transport, issued by the air carrier or its authorised agent in material or electronic form;
- (f) 'reservation' means the fact that the passenger has a ticket, or other proof, which indicates that the reservation has been accepted and registered by an air carrier and/or tour operator;
- (g) 'final destination' means the destination on the ticket presented at the check-in counter or, in the case of directly connecting flights, the destination of the last flight;

- (h) 'person with reduced mobility' means any person whose mobility is reduced when using transport because of any physical disability, intellectual impairment, age or any other cause of disability, and whose situation needs special attention and adaptation to the person's needs of the services made available to all passengers;
- (i) 'denied boarding' means a refusal to carry passengers on a flight, although they have presented themselves for boarding under the conditions laid down in these Rules, except where there are reasonable grounds to deny them boarding, such as reasons of health, safety or security, or inadequate travel documentation;
- (j) 'volunteer' means a person who has presented himself for boarding under the conditions laid down in these Rules and responds positively to the air carrier's call to surrender his/her reservation on the flight specified in the ticket, in exchange for benefit;
- (k) 'long delay' means a flight delay of more than two hours;
- (l) 'cancellation' means the non-operation of a flight which was previously planned and on which at least one place was reserved;
- (m) 'extraordinary circumstances' means any circumstances such as political instability, meteorological conditions incompatible with the operation of the flight concerned, security risks, unexpected flight safety shortcomings and strikes that affect the activities of an operating air carrier and cause flight delay/cancellation;
- (n) 'compensation' means the amount payable by an operating air carrier to a passenger in cases of denied boarding, delay or flight cancellation in accordance with these Rules.
- (o) 'arc of a great circle' means the shortest distance between two points on the surface of a sphere;
- (p) 'child' means a person under 18 years of age.

Article 3. General

1. The operating air carrier is obliged to notify the passenger of the cancellation of the flight and offer him/her to continue the flight under comparable transport conditions (re-routing) or reimburse the cost of the ticket and provide him/her with the opportunity to return to the first point of departure in accordance with Article 8 of these Rules, as well as provide him with free services in accordance with Article 9 of these Rules. In addition, the operating air carrier is obliged to pay compensation to the passenger subject to the conditions specified in Article 7 of these Rules.
2. Passengers denied boarding may request, in accordance with Article 8 of these Rules, a reimbursement of the cost of the ticket and return to the first point of departure or re-routing to the final destination, as well as the free services referred to in Article 9 of these Rules. Both in the event of a reimbursement of the cost of the ticket, and in the event of a re-routing, they will be compensated in accordance with Article 7 of these Rules.
3. The Volunteer may, in exchange for benefits, request the operating air carrier to reimburse the cost of the ticket for the canceled flight and return to the first point of departure or re-routing to the final destination on an alternative flight in accordance with Article 8 of these Rules.
4. In the event of a long delay, the operating air carrier shall provide a passenger with free service in accordance with Article 9 of these Rules. In addition, if the flight is delayed for three hours or more, the passenger may require compensation in accordance with the conditions specified in Article 7 of

these Rules, and in the event of a flight delay of five hours or more, also require a reimbursement of the cost of the ticket and return to the first point of departure in accordance with Article 8 of these Rules.

5. Supervision over the fulfillment of the requirements of these Rules is carried out by the LEPL Georgian Civil Aviation Agency (hereinafter referred to as the Agency).

6. The operating air carrier shall provide the Agency with written information on all cases of denied boarding, flight cancellation or long delay, as well as on the provision of appropriate compensation and assistance to passengers.

7. 8. In cases of non-compliance with the requirements of these Rules, the Agency shall impose liability on the operating air carrier in accordance with the Code of Administrative Offenses of Georgia.

8. These Rules should not restrict the operating air carrier's right to seek compensation from any person, including third parties, in accordance with the law applicable.

9. These Rules should not restrict the right of a passenger and an operating air carrier to refer to court in accordance with the law applicable.

10. The distances specified in these Rules are calculated using the arc of the great circle.

Article 4. Denied boarding

1. When an operating air carrier reasonably expects to deny boarding on a flight, it shall first call for volunteers to surrender their reservations in exchange for benefits and provide services to them in accordance with Article 8 of these Rules.

2. If an insufficient number of volunteers comes forward to allow the remaining passengers with reservations to board the flight, the operating air carrier may then deny boarding to passengers and shall immediately compensate them in accordance with Article 7 of these Rules and assist them in accordance with Articles 8 and 9 of these Rules.

Article 5. Flight cancellation

In cases of cancellation of a flight, the passenger may:

(a) request assistance from the operating air carrier in accordance with Article 8 and Article 9(1)(a) and 9(1)(d), as well as, in event of re-routing when the reasonably expected time of departure of the new flight is at least 24 hours after the departure as it was planned for the cancelled flight, the assistance specified in Article 9(1)(b) and 9(1)(c);

(b) request compensation from an operating air carrier in accordance with Article 7, unless:

(b.a) passengers are informed of the cancellation at least 14 calendar days before the scheduled time of departure; or

(b.b) passengers are informed of the cancellation between two weeks and seven calendar days before the scheduled time of departure and are offered re-routing, allowing them to depart no more than two hours

before the scheduled time of departure and to reach their final destination less than four hours after the scheduled time of arrival; or

(b.c) passengers are informed of the cancellation less than seven calendar days before the scheduled time of departure and are offered re-routing, allowing them to depart no more than one hour before the scheduled time of departure and to reach their final destination less than two hours after the scheduled time of arrival.

2. An operating air carrier shall not be obliged to pay compensation in accordance with Article 7 of these Rules, if it can prove that the cancellation is caused by extraordinary circumstances, which could not have been avoided even if all reasonable measures had been taken.

2¹. The burden of proof concerning the questions as to whether and when the passenger has been informed of the cancellation of the flight shall rest with the operating air carrier.

Article 6. Flight delay

1. In the event of a flight delay, the operating air carrier is obliged to provide assistance to passengers in accordance with Article 9(1)(a) and 9(1)(d) of these Rules, if the flight delay beyond the established departure time is:

(a) two hours or more in the case of flights of 1 500 kilometres or less; or

(b) three hours or more in the case of flights between 1 500 and 3 500 kilometres; or

(c) four hours or more in the case of flights of more than 3 500 kilometres.

2. When the reasonably expected time of departure is at least 24 hours after the time of departure previously announced, the operating air carrier is obliged to provide assistance to passengers in accordance with Article 9(1)(b) and 9(1)(c) of these Rules.

3. When the delay is at least five hours, the operating air carrier shall provide assistance to passengers in accordance with Article 8(1)(a) of these Rules.

4. If the actual time of arrival at the point of destination is 3 or more hours after the time of departure previously announced, the passenger may request compensation from the operating air carrier in accordance with Article 7 of these Rules, unless the latter proves that the flight delay is caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.

Note: Where reference is made to these Rules, when a passenger is offered re-routing to his/her final destination on an alternative flight pursuant to Article 8, and the passenger arrives at the destination at the time specified in the original ticket, the obligation to provide compensation referred to in Article 7 of these Rules does not apply if such an alternative flight is delayed by at least 3 hours.

Article 7. Right to compensation

1. In cases of denied boarding, delay and/or flight cancellation, the compensation amounts to:
 - (a) EUR 250 for all flights of 1 500 kilometres or less;
 - (b) EUR 400 for all flights between 1 500 and 3 500 kilometres;
 - (c) EUR 600 for all flights of more than 3 500 kilometres.
2. When, in cases of denied boarding, delay and/or flight cancellation, passengers are offered re-routing to their final destination on an alternative flight pursuant to Article 8 of these Rules, the operating air carrier may reduce the compensation provided for in paragraph 1 of this Article by 50 % if the arrival time does not exceed the scheduled arrival time of the flight originally booked:
 - (a) by two hours, in respect of all flights of 1 500 kilometres or less; or
 - (b) by three hours, in respect of all flights between 1 500 and 3 500 kilometres; or
 - (c) by four hours, in respect of all flights of more than 3 500 kilometres.
3. When, in cases of flight delay, passengers are offered re-routing to their final destination on an alternative flight pursuant to Article 8 of these Rules, the operating air carrier may reduce the compensation provided for in paragraph 1 of this Article by 50 % if the arrival time does not exceed the scheduled arrival time of the flight originally booked by four hours, in respect of all flights of more than 3 500 kilometres.
4. The compensation shall be paid in cash or by bank transfer.

Article 8. Right to reimbursement or re-routing

1. Where reference is made to these Rules, the operating air carrier shall offer passengers a choice between:
 - (a) reimbursement, within seven days, of the full cost of the ticket at the price at which it was bought, for the part or parts of the journey not made, and for the part or parts already made if the flight is no longer serving any purpose in relation to the passenger's original travel plan, together with, when relevant, a return flight to the first point of departure, at the earliest opportunity;
 - (b) re-routing, under comparable transport conditions, to their final destination at the earliest opportunity; or
 - (c) re-routing, under comparable transport conditions, to their final destination at a later date at the passenger's convenience, subject to availability of seats.
2. Paragraph 1(a) of this Article shall also apply to passengers whose flights form part of a Package, except for the right to reimbursement.
3. When, in the case where a town, city or region is served by several airports, and an operating air carrier offers a passenger a flight to an airport alternative to that for which the booking was made, the operating air carrier shall bear the cost of transferring the passenger from that alternative airport either to that for which the booking was made, or to another close-by destination agreed with the passenger.

Article 9. Right to care

1. Where reference is made to these Rules, the operating air carrier shall offer passengers free of charge:
 - (a) meals and refreshments in a reasonable relation to the waiting time;
 - (b) hotel accommodation in cases where a stay of one or more nights becomes necessary;
 - (c) transport between the airport and place of accommodation (hotel or other);
 - (d) two telephone calls, telex or fax messages, or e-mail;
2. The operating air carrier shall pay particular attention to the needs of persons with reduced mobility and any persons accompanying them, as well as to the needs of unaccompanied children.

Article 10. Upgrading and downgrading

1. If an operating air carrier places a passenger in a class higher than that for which the ticket was purchased, it may not require any supplementary payment for any upgraded service.
2. If an operating air carrier places a passenger in a class lower than that for which the ticket was purchased, it shall, within seven days from the flight date specified in the reservation and/or ticket, reimburse:
 - (a) 30 % of the price of the ticket for all flights of 1 500 kilometres or less;
 - (b) 50 % of the price of the ticket for all flights between 1 500 and 3 500 kilometres; or
 - (c) 75 % of the price of the ticket for all flights of more than 3 500 kilometres.

Article 11. Persons with reduced mobility or special needs

1. Operating air carriers shall give priority to carrying persons with reduced mobility and any persons accompanying them, as well as unaccompanied children.
2. In cases of denied boarding, cancellation and delays of any length, persons with reduced mobility and any persons accompanying them, as well as unaccompanied children, shall have the right to care in accordance with Article 9 as soon as possible.

Article 12. Further compensation

1. These Rules shall apply without prejudice to a passenger's rights to further compensation. The compensation granted under these Rules may be deducted from such compensation.
2. Paragraph 1 of this Article shall not apply to passengers who have voluntarily surrendered a reservation.

Article 13. Obligation to inform passengers of their rights

1. The operating air carrier shall ensure that passengers are informed about their rights.
2. The operating air carrier shall ensure that a clearly legible notice in Georgian and English is displayed at the passenger check-in counter, informing passengers that in the event of denied boarding, flight cancellation or long delay, they may ask at the check-in counter or boarding gate for the text stating their rights, particularly with regard to compensation and assistance.

Along with this, passengers must be provided with contact details of the Agency.

3. In cases of denied boarding, flight cancellation or long delay, the operating air carrier shall provide each passenger affected with a written notice (by e-mail, telex or fax messages) setting out the rules for compensation and assistance.
4. In respect of blind and visually impaired persons, information shall be provided to them by appropriate alternative means.
5. Obligations vis-à-vis passengers pursuant to these Rules may not be limited or waived, notably by a derogation or restrictive clause in the Contract of Carriage.
6. If, nevertheless, such a derogation or restrictive clause is applied in respect of a passenger, or if the passenger is not correctly informed of his rights and for that reason has accepted compensation, which is inferior to that provided for in these Rules, the passenger shall still be entitled to obtain additional compensation.

Order No. 178 of the Director of Civil Aviation Agency of the Civil Aviation Agency of November 6, 2012 - website, 07.11.2012.

Order No. 274 of the Director of the Civil Aviation Agency of the Civil Aviation Agency of December 9, 2021 - website, 15.12.2021.

Order No. 293 of the Director of the Civil Aviation Agency of the Civil Aviation Agency of December 27, 2021 - website, 30.12.2021.