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**THE FIRST ORDINARY SESSION OF THE  
AFRICAN UNION SPECIALIZED TECHNICAL  
COMMITTEE ON TRANSPORT,  
INTERCONTINENTAL AND INTERREGIONAL  
INFRASTRUCTURES, ENERGY AND TOURISM**

**Lomé, Togo, 13<sup>th</sup> – 17<sup>th</sup> March 2017**

**REALIGNED**

**REGULATIONS ON THE PROTECTION OF  
CONSUMERS OF AIR TRANSPORT SERVICES**

**ANNEX 6 TO THE YAMMOUSSOUKRO  
DECISION**



## **ANNEX 6 TO THE YAMMOUSSOUKRO DECISION:**

### **African Union Regulations on the Protection of Consumers of Air Transport Services**

#### **Preamble**

**WE, the Ministers responsible for Transport, Infrastructure, Energy and Tourism meeting at the First Ordinary Session of the African Union Specialized Technical Committee on Transport, Transcontinental and Interregional Infrastructure, Energy and Tourism in Lomé, Togo, 17<sup>th</sup> March 2017 have adopted these Regulations developed by the Bureau of the Conference of African Ministers of Transport, meeting in Malabo, Republic of Equatorial Guinea, on 18<sup>th</sup> and 19<sup>th</sup> December 2014, on the occasion of the Fourth Meeting of the Bureau of the Conference of African Ministers of Transport dedicated mainly to implement the Executive Council Decisions EX.CL/Dec.826(XXV) endorsing the report of the Third Session of the Conference of African Ministers of Transport (CAMT);**

- CONSIDERING** the Constitutive Act of the African Union adopted in Lomé on 11<sup>th</sup> July 2000, namely its Article 3, 5, 6, 9, 13, 14, 15, 16 and 20;
- CONSIDERING** the Treaty establishing the African Economic Community signed in Abuja on 3<sup>rd</sup> June 1991, namely its articles 8, 10, 11, 13, 25 to 27;
- CONSIDERING** the Decision relating to the implementation of the Yamoussoukro Declaration concerning the liberalization of air transport markets access in Africa of 14<sup>th</sup> November 1999, approved by the Conference of Heads of State and Government of OAU and signed by the current Chairman in Lomé on 12<sup>th</sup> July 2000, hereinafter called the Yamoussoukro Decision;
- CONSIDERING** the African Union Commission's Statutes adopted by the Assembly of the African Union in Durban (South Africa) on 10<sup>th</sup> July 2002;
- CONSIDERING** the Decision EX. Cl/Dec.369 (XI) of the Assembly of Heads of State and Government of the African Union establishing the Executing Agency of the Yamoussoukro Decision of 1999, hereinafter called the Executing Agency of 27<sup>th</sup> July 2007;
- CONSIDERING** the resolution on the follow-up of the implementation of the Yamoussoukro Decision of 1999 adopted by the First African Union Conference of Ministers responsible for Air Transport in Sun City (South Africa) in May 2005;
- CONSIDERING** the resolution on air transport safety in Africa adopted by the Second Conference of African Union Ministers responsible for air transport in Libreville (Gabon) in May 2006;
- CONSIDERING** the need to speed-up the full implementation of the Yamoussoukro Decision with a view to giving a boost to the operations of African airlines and other air transport service providers and effectively



	meeting the challenges of globalisation of international air transport;
<b>OBSERVING</b>	the need to strike a balance between the right of airlines to operate efficiently in a liberalised and increasingly competitive market and the right of the consumer to be assured of sufficient protection and information of his rights;
<b>RECOGNISING</b>	the need to assist the travelling public through time saved by the legitimate (non-targeted) passenger while undergoing normal arrival formalities and thereby enhance quality of travel;
<b>NOTING</b>	that passengers suffer considerable delays, overbookings, flight cancellations and often live in uncertainties;
<b>CONCERNED</b>	that the increasingly liberalised environment requires the protection of consumers on the African continent;

HEREBY MAKE THE FOLLOWING REGULATIONS:

## **Article 1**

### **Definitions**

In these Regulations, unless the context otherwise requires:

**"Abuja Treaty"** means the Treaty Establishing the African Economic Community adopted at Abuja, Nigeria on the 3<sup>rd</sup> day of June, 1991 and which entered into force on 12 May 1994.

**"Aeronautical Authority"** means any Governmental authority, body corporate or organ duly authorised to perform any function to which these Regulations relate.

**"Air transport undertakings"** include airlines and other air transport service providers.

**"Air transport services" means**

**"Air transport service providers"** include airports, air navigation service providers, airport ground passenger and cargo handling companies, travel agents, suppliers of computer reservations systems or global distribution systems, and all other categories of services provided to airlines directly at the airports.

**"Aircraft services"** comprise the external and internal cleaning of the aircraft, and the toilet and water services; the rearrangement of the cabin with suitable cabin equipment, the storage of this equipment.

**"Airline"** means an air transport enterprise holding a valid Air Operators Certificate and operating air transport services within the territory of a State Party.

**"Airport"** means any area of land especially adapted for the landing, taking-off and manoeuvres of aircraft, including the ancillary installations which these operations may involve



for the requirements of aircraft traffic and services including the installations needed to assist commercial air services

**“Cargo”** means any property carried on an aircraft other than mail, stores and accompanied or mishandled baggage.

**“Consumer”** in relation to passengers means the person who takes or agrees to purchase an airline ticket or take a tour package (i.e., a combination of air transportation and ground or cruise accommodations) or tour component (e.g., a hotel stay) ('hereinafter, the principal contractor'), or any person on whose behalf the principal contractor agrees to purchase the ticket, package or component ('the other beneficiaries') or any person to whom the principal contractor or any of the other beneficiaries transfers the ticket, package or component ('the transferee'); and in relation to mail and cargo means any property carried on an aircraft other than mail, stores and accompanied or mishandled baggage.

**“Eligible airline”** means any airline duly licensed by a State Party and authorised to lift and put down passengers, cargo and mail in the territory of one or more State Parties and actually operating the flights in question and Certificated as an eligible airline to operate under the terms of the Yamoussoukro Decision.

**“Ground handling”** means the services provided to airlines at airports and comprise the following passenger handling, baggage handling, freight handling, mail handling, ramp handling, oil and fuel handling, aircraft maintenance, flight operations and crew administration, and surface transport.

**“Licence”** means a valid licence granted by the Civil Aviation Authority or its equivalent under valid Regulations of States Parties to an air transport undertaking.

**“Non-eligible airline”** means any airline duly licensed by a State Party and authorised to operate intra-African routes but has not been certificated as an eligible airline to operate under the terms of the Yamoussoukro Decision.

**“Non-African airline”** means an airline licensed by a third party state and authorised by a State Party to lift and put down passengers, cargo and mail in the territory of one or more State Parties and actually operating the flight in question.

**“Shipper”** means

**“State Party”** shall include each African State signatory to the Abuja Treaty and such other African country which, though not a party to the said Treaty, has declared in writing its intention to be bound by the Yamoussoukro Decision.

## Article 2

### Scope of application of the Regulations

1. This Regulation shall apply to the implementation of Article 9.6 of the Yamoussoukro Decision
2. It prescribes rights of consumers of air transport services within Africa and lays down responsibilities of air transport undertakings.



3. This Regulation shall not apply to passengers travelling free of charge or at a reduced fare not available directly or indirectly to the public. However, it shall apply to passengers having tickets issued under a frequent flyer programme, other commercial arrangement or programme by an airline or tour operator.

### **Article 3**

#### **Objectives**

1. The objective of these Regulations is to protect the consumer of air transport services against unfair treatment in the provision of services.
2. It provides a basis for compensation for the consumer for breach of the rights of the consumer by air transport services providers and a mechanism for the consumer to seek redress.

### **Article 4**

#### **Prohibitions: Unfair and Deceptive Practices**

(1) , Under these Regulations, the following are inherently unfair practices:

a) Misleading Advertising

- i. Shall be considered , an unfair marketing and deceptive practice for any seller of scheduled air transportation within, to or from any State Party, or of a tour, or tour component that includes scheduled air transportation within, to or from any State Party, to increase the price of that air transportation, tour or tour component to a consumer, including but not limited to an increase in the price of the seat, an increase in the price for the carriage of passenger baggage, or an increase in an applicable fuel surcharge, after the air transportation has been purchased by the consumer, except in the case of an increase in a government-imposed tax or fee. A purchase is deemed to have occurred when the full amount agreed upon has been paid by the consumer.
- ii. No airline or travel agent shall charge or collect additional fare (whether commissions, brokerage fees, administrative charges, or any other fees) to passengers not expressly advertised, displayed in the marketing material or expressly communicated to the consumer at the initial inquiry displayed.

b) Failure to disclose Ticket Conditions

Where an airline, or an air ticket agent fails to disclose, verbally or in written communication, prior to the purchase of a ticket the following:

- i. the name of the air carrier providing the air transportation; and



- ii. if the flight has more than one flight segment, the name of each air carrier providing the air transportation for each such flight segment.

(c) Persistent boarding denials

It is an unfair and deceptive practice if an airline persistently denies boarding to passengers involuntarily, without requesting for volunteers or where so requested fails to allow a reasonable time for passengers to volunteer, or persistently fails to pay the accepted amount of compensation.

(d) Persistent abuse of free-seating policy

It is an unfair and deceptive marketing practice if an airline persistently denies checked-in passengers their right to sit on the seat classes they have paid for and/or have been assigned to them at check-in as a result of the imposition of a free seating policy.

(e) Discriminatory application of compensation under Warsaw/Montreal Convention

. Where it is observed that any practices, conduct, policy or procedure adopted by an airline consistently falls short of the required obligations including but not limited to compelling consumers to accept compensation regimes less than what they are entitled to under the Warsaw Convention/Montreal 1999, imposing additional burdens calculated at or capable of frustrating their efforts to obtain compensation, or where compensation, though paid is paid under such terms as to nullify the usefulness of such compensation.

(f) Chronically delayed flights

A series of delayed flights shall be considered as unfair and defective practice. An airline shall be considered as operating chronically delayed flights if flights by an airline is operated at least 30 times in a calendar quarter arrives more than 15 minutes late, or is cancelled more than 50 percent of the time during that quarter.

(2) The Executing Agency, a Regional Yamoussoukro Decision Authority or a State Party may on its own initiative or upon the receipt of a complaint, and if it considers it to be in the public interest, investigate and decide whether an airline or ticket agent has or is engaged in an unfair or deceptive practice in air transportation.

(3) The Executing Agency, a Regional Yamoussoukro Decision Authority or a State Party, before investigating, shall serve sufficient notice to the airline or ticket agent and afford it a fair opportunity to be heard.

4. If the Executing Agency, a Regional Yamoussoukro Decision Authority or a State Party establishes that an airline or ticket agent is engaged in an unfair or deceptive practice, it shall order that airline or ticket agent to stop the practice or method.

5. In enforcing Article 4 against an airline, the Executing Agency, a Regional Yamoussoukro Decision Authority or a State Party may opt to apply Article 4 (1) of the Regulations on Competition in Air Transport Services within Africa.

## Article 5



## **Non-Discrimination**

(1) Within the scope of application of this Regulation, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality, race, sex, age, colour, creed, physical ability, and physical stature, shall be prohibited in accordance with the African Charter of Human and Peoples Rights

## **Article 6**

### **Maintaining adequate third party insurance cover**

(1) Each air transport service provider shall at all material times maintain an insurance cover as required by the laws of the State Party in which it operates, including but not limited to third party liability, and shall visibly display the insurance schedule or certificate at a reception visited by or accessible to consumers.

(2) Where demanded by authorized officials inspecting the airline under Article 19 of the Regulations on the Powers, Functions and Operations of the Executing Agency, the air transport service provider shall demonstrate compliance with this Article by providing the officials with a deposit of an insurance certificate or other evidence of a valid insurance from a recognised third party insurance company.

## **Article 7**

### **Means of Communication**

(1) Airlines, tour operators, consolidators and agents shall be obliged at all material times to obtain and hold a telephone number and/or email address of the passenger or, in the case of a group, the group leader or the person responsible for arranging the booking or for payment of the booking, and where more than one mode of communication is offered, obtain from the person concerned the preferred mode of communication in case of emergencies.

(2) Subject to the data protection rules applicable in the territories of State Parties, the contact details obtained shall only be used to contact the person who is on record to rearrange a flight, inform him of any possible delay or arrange for alternative means of transport or pass any essential information relevant to the flight in question.

(3) Where a passenger is unable to offer either a telephone number or an email for any destination, the airline shall inform him of a telephone number at which the local office at the destination in question may be reached, in which language he can contact the local office and the opening hours of the local office. Where such information is available on the website of the airline, it shall suffice that a reference to the website is clearly made at the customer service point. In applying this provision the airline shall make available this information in at least one official language of the African Union.

(4) The airline and/or the air transport service provider shall ensure that they utilise the preferred mode of contact of each passenger in cases involving anticipated cancellations, overbooking, or delays. Where the notice is made less than 12 hours of the departure of





the flight, unless the passenger has confirmed that he/she is able to retrieve his/her emails on a mobile device, such notice shall be communicated by phone or SMS.

(5) The burden of proof rests with the air transport service provider in question as to whether the preferred details of a passenger was obtained when it was used to contact the passenger or whether alternative means of communication has been furnished and under what circumstances.

## **Article 8**

### **Information to the consumer**

(1) At the time of purchase of the ticket or at the check-in counter the airline and the ground handling agent shall be obliged to inform the passenger in one official language of the African Union understood by the passenger the following:

- a. The obligation to supply a means of communication for emergencies;
- b. Any planned cancellations or long term delays anticipated at least 12 hours before the scheduled flight;
- c. The airline's obligations to provide alternative solutions and compensation in case of denied boarding, free seating, flight cancellation, delayed flight;
- d. Right to request for documents, policies procedures on insurance, compensation, assistance, complaints procedures in line with these Regulations;
- e. Appropriate alternative means of communication as an illiterate, visually impaired, and/or physically challenged persons;
- f. Any other information the Executing Agency may demand to be displayed to the passenger under the terms of this provision.

(2) Air transport service providers shall visibly display information on their premises, on their websites and relevant marketing materials stating the rights of the consumer in relation to specific services provided.

(3) Information displayed under the terms of sub-paragraph 2 of this Article shall include:

- a. Mission of the institution with specific regard to customer service;
- b. Right of the client to specific information regarding the services provided by the institution;
- c. Right to complain against the institution in case of a failure of the service provider in question to meet the minimum service standard;
- d. Complaints procedures indicating the agency to whom the complaint may be submitted, and;
- e. Right to specific redress including but not limited to compensation as prescribed in this Regulation and its Appendixes.





## **Article 9**

### **Complaints Procedures**

Each Air transport service provider shall, either establish a consumer relations desk or contact person at every airport it operates for the purpose of receiving, resolving and channelling complaints to their head offices, as well as liaising with the aeronautical authorities, where necessary.

## **Article 10**

### **Overbooking**

(1) An airline shall, in overbooking a flight, utilise intelligent market analysis tools to assist it analyse regular loading patterns which may eventually result in certain flights being oversold but shall take all necessary measures to limit negative effect on passengers including, but not limited to, offering passengers online boarding facilities.

(2) When, upon utilising pre-boarding facilities an airline reasonably expects to deny boarding on a flight, it shall, where such can be established in excess of six hours before the flight, contact passengers by phone, SMS or email, where a passenger has offered to accept email in emergency communication, first call for volunteers to surrender their reservations in exchange for benefits under conditions to be agreed between the passenger concerned and the airline which shall not be lower than the compensation scheme applied in **Article 18** to these Regulations. Airlines shall, in this regard, pay particular attention to passengers travelling furthest from the departing airport as a measure of preventing unnecessary hardship on consumers and may for this reason compile information on which part of the territory passengers are likely to travel from.

(3) In the event of the airline having to deny boarding at check-in or during boarding on the day of the flight, the airline shall be permitted to make discrete requests for volunteers subject to requested volunteers being informed of their rights to compensation as applicable under these Regulations.

(4) If an insufficient number of volunteers come forward, the airline may then deny boarding to passengers against their will subject to the following conditions:

- a) that the smallest practicable number of persons holding confirmed reserved space on that flight are denied boarding involuntarily;
- b) that passengers are compensated in accordance with its compensation scheme which shall not be lower than the compensation scheme applied in **Article 18** hereof.

## **Article 11**

### **Delay**

When an airline reasonably expects a flight to be delayed beyond its scheduled time of departure:

- a. between two and four hours the airline shall:



- i. inform the passengers every 45 minutes of the earliest time they will be expecting to depart, the specific reasons for the delay and, where the flight is supposed to last for less than 3 hours, informed of their right to reschedule their flight without incurring any penalties and travel within an agreed period on the same route on a flight operated by the same airline;
  - ii. provide refreshments including water, soft drinks, confectioneries or snacks;
  - iii. provide two international telephone calls, SMS or e-mails, and
  - iv. cause an announcement to be made at their airport of arrival of the new estimated time of arrival.
- b. for four hours or more, the airline shall:
- i. inform the passengers every 45 minutes of the earliest time they will be expecting to depart, the specific reasons for the delay and, where the flight is supposed to last for less than 2 hours, informed of their right to reschedule the flight without incurring any penalties and travel within an agreed period on the same route on a flight operated by the same airline;
  - ii. provide refreshments including water, soft drinks, confectioneries or snacks;
  - iii. provide a meal;
  - iv. provide hotel accommodation;
  - v. provide two international telephone calls, SMS or e-mails,
  - vi. supply transport between the airport and place of accommodation (hotel or other accommodation); and
  - vii. cause an announcement to be made at their airport of arrival of the new estimated time of arrival.
- c. when the reasonably expected time of departure is at least six hours after the time of departure previously announced, the airline shall:
- i. inform the passengers of their right to immediate reimbursement 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 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;
  - ii. re-route the consumer, under comparable transport conditions, to their final destination at the earliest opportunity; or
  - iii. re-route the consumer, under comparable transport conditions, to their final destination at a later date at the passenger's convenience, subject to availability of seats.
- d. In applying this provision, the following additional terms shall apply when arrangements are made under paragraphs a – c above:
- i. In instances where a passenger opts to reschedule a flight under sub-paragraphs a



- (i) or b (i) of this provision, the airline shall assure itself of the availability of seats on the flight the passenger is requesting.
- ii. When an airline 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.
- iii. The airline shall, at all materials times, prioritize the needs of persons with reduced mobility and any persons accompanying them, as well as to the needs of unaccompanied minors.

## **Article 12**

### **Cancellation of Flight**

- (1) In case of cancellation of a flight,
  - a) Where the decision to cancel the flight is taken less than 24 hours before the scheduled departure of the flight in question and the passengers at the airport, or where the passenger on a connecting flight may have begun the earlier part of his/her flight before the decision to cancel the flight and may only know of the cancellation on arrival at the airport, the airline shall:
    - i. inform the passengers of the specific reasons for the cancellation and, inform them of their rights under this provision including but not limited to:
      - (i) Right to cancel their booking in accordance
      - (ii) Right to be re-routed or offered an alternative means of transport, where convenient to the passenger in question, and
      - (iii) Right to compensation.
      - (iv) Offer refreshments including water, soft drinks, confectioneries or snacks;
      - (v) Right to two international telephone calls, SMS or e-mails
  - b) Where the decision to cancel is taken at least 24 hours before the flight the airline shall immediately contact passengers affected by the decision, offer them the option not to travel to the airport if they have not already set off and advise them of their rights under this provision including but not limited to:
    - i. Right to cancel their booking
    - ii. Right to be re-routed or offered an alternative means of transport, where convenient to the passenger in question, and
    - iii. Right to compensation.
- (2) When passengers are informed of the cancellation, an explanation shall be given concerning possible alternative transport which may include but not be limited to travel on the same airline but on a different date or time whether or not from the same airport, travel



on another airline from the same airport on a different date or time whether or not from the same airport, travel on another mode of transport, where reasonable and convenient to the passenger.

(3) Passengers shall have the right to compensation by the airline for a cancelled flight unless:

- a) they are informed of the cancellation between two weeks and seven 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) they are informed of the cancellation less than seven 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.

(4) An airline shall not be obliged to pay compensation in accordance with Article 21, 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.

(5) The burden of proof concerning the questions as to whether and when the passenger was informed of the cancellation of the flight or of the alleged extraordinary circumstances shall rest with the airline.

### **Article 13**

#### **Downgrading**

(1) If an airline places a passenger in a class lower than that for which the ticket was purchased, including but not limited to operating a free seating policy, it shall within seven days reimburse:

- (a) 25% of the price of the ticket for all flights of 3 hours duration or less, or
- (b) 50% of the price of the ticket for all flights of more than 3 or more hours duration.

(2) If an airline places a passenger in a class higher than that for which the ticket was purchased, it shall not be entitled to any supplementary payment.

### **Article 14**

#### **Travel Agents and Package Tour Operators**

Subject to the provisions of this Regulations, where applicable the travel agent and or tour operator, in a contract that involves air travel provided by an airline as well as other services including but not limited to accommodation and other tourist services, shall:

- a) provide the consumer, in writing or any other appropriate form, before the contract is concluded, with general information on passport and visa requirements applicable to nationals of the State Party concerned and in particular on the periods for obtaining



them, as well as with information on the health formalities required for the journey and the stay;

- b) provide the consumer, in writing or any other appropriate form, with the following information in good time before the start of the journey:
- i. the times and places of intermediate stops and transport connections as well as details of the place to be occupied by the consumer;
  - ii. the name, address and telephone number of the organizer's and/or its local representative or, failing that, of local agencies on whose assistance a consumer in difficulty could call.
  - iii. Where no such representatives or agencies exist, the consumer must in any case be provided with an emergency telephone number or any other information that will enable him to contact the agent or the airline, as the case may be;
  - iv. in the case of journeys or stays abroad by minors, information enabling direct contact to be established with the child or guardian at the child's place of stay;
  - v. information on the optional conclusion of an insurance policy to cover the cost of cancellation by the consumer or the cost of assistance, including repatriation, in the event of accident or illness.
  - vi. Where the consumer is prevented from proceeding with the package, he may transfer his booking, having first given the organizer or the retailer reasonable notice of his intention before departure, to a person who satisfies all the conditions applicable to the package. The transferor of the package and the transferee shall be jointly and severally liable to the organizer or retailer party to the contract for payment of the balance due and for any additional costs arising from such transfer.

## **Article 15**

### **Airport Operators**

- a) An airport operator shall provide the following for passengers and all other persons within the airport premises: visible notices on passengers rights decent and healthy toilet facilities;
- c) Reasonable seating space before check-in, after security and passport checks and while waiting for arriving or departing aircraft, and;
- d) Reasonably clean and safe environment.

## **Article 16**

### **Right to reimbursement**

(1) When reference is made in these Regulations to the right of the passenger to reimbursement, reimbursement shall be made within thirty (30) days for the full cost of the ticket at the price at which it was bought for:



- a) the part or parts of the journey not made, and
- b) 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.

(2) The reimbursement shall be paid in the form in which the ticket or tour package was purchased.

## **Article 17**

### **Re-routing**

1. Where an airline decides to re-route a passenger, the passenger shall be entitled to:
  - a) reimbursement within thirty (30) 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,
  - b) a return flight to the first point of departure, at the earliest opportunity and accommodation;
2. Either re-routing, under comparable transport conditions, to their final destination at the earliest opportunity and accommodated; or at a later date at the passenger's convenience, subject to availability of seats.
3. Where a town, city or region is served by several airports, and an airline offers a passenger a flight to an airport alternative to that for which the booking was made, the airline 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 18**

### **Right to compensation**

(1) Where reference is made to this Regulation to the passenger's right to compensation, other than compensation pursuant to the Warsaw Convention or Montreal Convention as applicable in the State Party, passengers shall receive compensation amounting to:

- a) USD 250 for all flights with an estimated duration of 3 hours or less for the entire flight;
- b) USD 400 for all flights with an estimated duration between 3 hours and 6 hours for the entire flight;
- c) USD 600 for all flights with an estimated duration of more than 6 hours for the entire flight.

(2) In determining the duration of the flight, the basis shall be the last destination at which the denial of boarding or cancellation will delay the passenger's arrival after the scheduled



time and shall include all scheduled stop over, transit or any other scheduled break in the flight.

(3) When passengers are offered re-routing to their final destination on an alternative flight pursuant to **Article 17**, the airline may reduce the compensation provided for in paragraph 1 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 3 hour duration or less; or

b) by three hours, in respect of flights lasting between 3 and 6 hours; or

by four hours, in respect of all flights in excess of 6 hours,

(4) The compensation shall be paid in the form in which the ticket or tour package was purchased.

## **Article 19**

### **Administrative Procedures**

(1) Each Aeronautical Authority shall appoint a customer relations officer at each airport to whom complaints may equally be addressed.

(2) The Executing Agency and the Regional Yamoussoukro Decision Authority shall establish consumer protection units and publish their details, including but not limited to their contact details and their procedures on their websites.

(3) A complaint may be made to the Aeronautical Authority against a service provider, or failing a satisfactory resolution to the Regional Yamoussoukro Decision Authority or the Executing Agency, in relation to the breach of these Regulations by filling and submitting a complaint form, after the consumer must have notified the service provider in question of such a breach and the complaint remains unresolved.

(4) A complaint may be made in writing as in the prescribed form and transmitted to the Aeronautical Authority.

(5) Every complaint shall be accompanied by:

a) a copy of the airline ticket;

b) a copy of the letter to the air service provider in question stating a claim for breach of the regulations or any evidence of the complaint;

c) any response or responses or correspondence thereto;

d) any other relevant document(s).

(6) Where a complaint has been made in a representative capacity, the representative shall provide the complainant's written authority to act on his or her behalf.

Complainants can present a class action before the Aeronautical Authority.





## **Article 20**

### **Investigation**

- (1) The Executing Agency, the Regional Yamoussoukro Decision Authority or the Aeronautical Authority shall carry out an investigation on the substance of the complaint and the response of the service provider within a reasonable period of time after the receipt thereof.
- (2) In carrying out any assessment under these Regulations, a designated officer shall have all the powers of investigation under national law or under the provisions of the Regulations on Dispute Resolution under the Yamoussoukro Decision, and in addition may request for submissions to be made by any interested person(s) in relation to a complaint;
- (3) It shall be unlawful for any service provider, their employees or agent to obstruct or prevent the designated officers from carrying out investigations or withhold any information requested and relating to any violation of these Regulations.
- (4) The designated officer shall amongst other things:
  - (a) Notify the Respondent that a request has been lodged under these rules;
  - (b) Require the Respondent to respond to the complaint within 7 days;
  - (c) Require the Respondent to describe the procedures taken to resolve the matter.

## **Article 21**

### **Determination of Complaints**

- (1) After each investigation an assessment report shall be produced with its recommendations therein.
- (2) Upon consideration of the assessment report, the nature of the conduct alleged against the Respondent, the extent of the claim by the complainant, public interest and other relevant factors, the Executing Agency, the Regional Yamoussoukro Decision Authority or the Aeronautical Authority shall make a determination in one of the following respects:
  - a) the complaint lacks merit pursuant to which the complaint shall be deemed dismissed;
  - b) the complaint is of such a nature as to advise the parties to resolve the dispute through mediation.
  - c) the complaint is of such a nature as to be subjected to the administrative hearing procedure in accordance with applicable regulations of the relevant body conducting the investigations.
- (3) The Executing Agency, the Regional Yamoussoukro Decision Authority or the Aeronautical Authority shall give notice of its determination to the interested parties with fourteen (14) days.



## **Article 22**

### **Penalty**

(1) Any service provider that violates any provision of these Regulations shall, be liable to penalties imposed by the Executing Agency, the Regional Yamoussoukro Decision Authority or the Aeronautical Authority in accordance with applicable law.

(2) The penalties imposed shall be dissuasive, proportionate to both the gravity of the case, and the economic capacity of the service provider concerned. The defaulter's compliance record shall also be taken into consideration.

(3) The Executing Agency shall draft a schedule of penalties to be imposed for breach of provisions of this Regulation and submit for adoption by the appropriate Organs of the African Union.

## **Article 23**

### **Review by the Executing Agency**

Within 2 years of entry into force of this Regulation, the Executing Agency shall report to the concerned Specialized Technical Committee of the African Union on the operation and the results of this Regulation. The report shall be accompanied where necessary by proposals to modify this regulations.

## **Article 24**

### **Amendments**

1. Each State Party may propose amendments to this Regulation.

2. Any proposal for amendment to these Regulations shall be submitted to the Executing Agency in writing, which shall within thirty (30) days of its receipt communicate it to the State Parties.

3. Amendments to these **Regulations** shall enter into force after the approval by the Heads of State and Government of the African Union.

## **Article 25**

### **Entry into Force**

These Regulations shall enter into force immediately following its adoption by the Assembly of Heads of State and Government.