

African Union, African Regional Bodies

Decision relating to the implementation of the Yamoussoukro declaration concerning the liberalisation of access to air transport markets in Africa

## Annex 6 to the Yamoussoukro Decision: Regulations on the Protection of Consumers of Air Transport Services

Legislation as at 17 March 2017

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African Union

**Decision relating to the implementation of the Yamoussoukro declaration concerning the liberalisation of access to air transport markets in Africa**

**Annex 6 to the Yamoussoukro Decision: Regulations on the Protection of Consumers of Air Transport Services**

Published

**Commenced on 17 March 2017**

*[This is the version of this document at 17 March 2017.]*

**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 Lome, Togo, 17th 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 18th and 19th 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 Lome 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 Lome 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;

**OBSERVING** 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;

**RECOGNISING** 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;



**NOTING** that passengers suffer considerable delays, overbookings, flight cancellations and often live in uncertainties;

**CONCERNED** that the increasingly liberalised environment requires the protection of consumers on the African continent.

HEREBY MAKE THE FOLLOWING REGULATIONS:

### **Article 1 – Citation**

These Regulations shall be cited as "*Regulation on Protection of Consumers, provision of an African Air Transport Fund and liability of service providers in passenger air transport services*".

### **Article 2 – Definitions**

For the purposes of this Regulation, the following expressions shall mean:

**"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.

**"Airlines"**, unless the context otherwise requires include eligible airlines, noneligible African Airlines, and non African airlines as defined in these Regulation;

**"Consumer"** means the person who takes or agrees to take the package ('the principal contractor'), or any person on whose behalf the principal contractor agrees to purchase the package ('the other beneficiaries') or any person to whom the principal contractor or any of the other beneficiaries transfers the package ('the transferee');

**"Consumer Protection Agency "** means the institution or organisation authorised by this Regulation to regulate consumer protection under the Yamoussoukro Decision, by the regional economic communities or by state parties;

**"Eligible airline"** mean any airline licensed duly licensed by a State Party and Certificated as an eligible airline to operate under the terms of the Yamoussoukro Decision and actually operating the flight in question under these regulations.

**"Ground handling"** means the services provided to airlines at airports and comprise the following sub-categories;

**"Passenger handling"** comprises any kind of information and assistance including those provided to arriving, departing, transfer or transit passengers, including checking tickets and travel documents, registering baggage and carrying it to the sorting area;

**"Baggage handling"** comprises handling baggage in the sorting area, sorting it, preparing it for departure, loading it on to and unloading it from the devices designed to move it from the aircraft to the sorting area and vice versa, as well as transporting baggage from the sorting area to the reclaim area;

**"Freight handling"** comprises physical handling of export, transfer and import freight, handling of related documents, customs procedures and implementation of any security procedure agreed between the parties or required by the circumstances;

**"Mail handling"** includes physical handling of incoming and outgoing mail, handling of related documents and implementation of any security procedure agreed between the parties or required by the circumstances;

**"Ramp handling"** comprises marshalling the aircraft on the ground at arrival and departure; assistance to aircraft packing and provision of suitable devices; communication between the aircraft and the air-side supplier of services; the loading and unloading of the aircraft, including the provision and operation of suitable means, as well as the transport of crew and passengers between the aircraft and the terminal, and baggage transport between the aircraft and the terminal; the provision and operation of appropriate units for engine starting; the

moving of the aircraft at arrival and departure, as well as the provision and operation of suitable devices and the transport, loading on to and unloading from the aircraft of food and beverages;

"**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;

"**Fuel and oil handling**" comprises the organization and execution of fuelling and refuelling operations, including the storage of fuel, also if adjacent to the airport, and the control of the quality and quantity of fuel deliveries; the replenishing of oil and other fluids;

"**Aircraft maintenance**" comprises routine services performed before flight; non-routine services requested by the airline; the provision and administration of spare parts and suitable equipment; the request for or reservation of a suitable parking and/or hangar space;

"**Flight operations and crew administration**" comprise the preparation of the flight at the departure airport or at any other point; in-flight assistance, including re-dispatching if needed; post-flight activities; crew administration;

"**Surface transport**" comprises the organization and execution of crew, passenger, baggage, freight and mail transport between different terminals of the same airport, but excluding the same transport between the aircraft and any other point within the perimeter of the same airport and any special transport requested by the airline;

"**Licence**" means a valid licence granted by the Civil Aviation Authority or its equivalent under valid Regulations of States Parties to an airline, a travel agent, a tour operator;

"**Non-eligible African airline**" means any airline duly licensed by a State Party and authorised to operate international routes but has not been certificated as an eligible airline to operate under the terms of the Yamoussoukro Decision and actually operating the flight in question under these regulations;

"**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 under these regulations;

"**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 3 – 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 the passengers originating from or destined for the territory of a State Party and lays down responsibilities of airlines and other service providers.
- (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 or other commercial programme by an airline or tour operator.

### **Article 4 – Objectives and principles**

The objective of these Regulations is to protect the consumer of air transport services provided in the territories of state parties of the Yamoussoukro Decision from suffering unfair treatment in the provision of services and lack of or inadequate information on services provided leading to a poor treatment.

## **Part one – Consumer losses**

### **Article 5 – Interruption of services**

- (1) No airline, travel agency, consolidator, packaged tour operator, shall accept payment to lift passengers, mail and cargo from the territory of any state party into another state party or the territory of a state not party to the Abuja Treaty unless it has insurance coverage to fulfill the contract with consumers in case of interruption of services.
- (2) The Executing Agency shall establish a framework for mitigating losses incurred by consumers resulting from the interruption of services by airlines, travel agents, consolidators and packaged tour suppliers.
- (3) An airline, travel agent, package tour operator, consolidator or any other individual or organisation may not be permitted to accept payment for any service for air transportation, tour or tour component from a consumer, unless it has a valid insurance as required by Article 6.7 of the Yamoussoukro Decision.

## **Part two – Prohibitions**

### **Article 6 – Prohibitions: Unfair and deceptive practices**

- (1) On the initiative of the Executing Agency, a Regional YD Authority, a State Party (hereafter, Consumer Protection Agency), or the complaint of a consumer, an association or associations of consumers, an eligible airline, a non-eligible African airline, a non-African airline, or a air ticket agent, and if the Executing Agency, the Regional YD Authority or the State Party considers it is in the public interest, it may investigate and decide whether an eligible airline, a non-eligible African airline, a non African airline or ticket agent has been or is engaged in an unfair or deceptive practice in air transportation or the sale of air transportation.
- (2) If the Consumer Protection Agency in question, after notice and an opportunity for a hearing, finds that an airline or ticket agent is engaged in an unfair or deceptive practice, it shall order that eligible airline or ticket agent to stop the practice or method.
- (3) In enforcing this Article against an eligible airline, the Consumer Protection Agency may opt to apply Article 4 (1) of the Competition Regulations].
- (4) Subject to the power of the Consumer Protection Agency to review, the following are inherently unfair practices and in breach of paragraph 1 of this provision:
  - a) Misleading advertising
    - i. It shall be considered a misleading advertisement; an unfair marketing and deceptive practice for any seller of scheduled air transportation within, to or from any country in Africa, or of a tour (i.e., a combination of air transportation and ground or cruise accommodations), or tour component (e.g., a hotel stay) 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 taxes, commissions, brokerage fees, administrative charges, or any other fees) from passengers not expressly

advertised, displayed in the marketing material or expressly communicated to the consumer at the initial inquiry displayed.

b) Disclosure Requirement for Sellers of Tickets for Flights

- (5) Where an eligible airline, a non-eligible African airline, a non-African airline, or a air ticket agent fails to disclose, whether verbally in oral communication or in writing in written or electronic communication, prior to the purchase of a ticket
- i. (A) the name of the air carrier providing the air transportation; and
  - ii. (B) 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) Internet offers

*[Please note: numbering as in original.]*

- (6) In the case of an offer to sell tickets described in subsection (I) on an Internet Web site, disclosure of the information required by paragraph (1) shall be provided on the first display of the Web site following a search of a requested itinerary in a format that is easily visible to a viewer.
- (7) 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.
- (8) 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.
- (9) The Consumer Protection Agency shall monitor the terms, conditions and extent of compliance by airlines of their obligations under the Warsaw Convention applicable in any State Party. Where it is observed that any practice, 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, 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. Such practices shall be considered as unfair and deceptive practice.
- (10) Failure by an eligible airline to obtain and, at all material times, maintain the required insurance cover shall be adjudged unfair practice and deceptive practice. The Consumer Protection Agency may demand that details of the insurance schedule and any amendments thereto be filed with it.
- (11) A chronically delayed flight shall be considered as unfair and defective practice. Flights shall be considered chronically delayed flight as a flight by an airline, that is operated at least 30 times in a calendar quarter and arrives more than 15 minutes late, or is cancelled, more than 70 percent of the time during that quarter.

## **Article 7 – Obligations of service providers**

This section lays down general and specific obligations of service providers providing services directly to the passenger and includes airlines, tour operators, consolidator, travel agents, airport operators, Air Navigation Services Providers, Caterers and ground handling agencies whether operating as agents of one provider or not.

## **Part three – Obligations on service providers**

### **General obligations**

#### **Article 8 – Maintaining adequate third party insurance cover**

- (1) Each 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 passengers visiting the premises.
- (2) Where demanded by public officials inspecting the airline under Article 19 of the Executive Council Regulation on the Powers and Functions of the Executing Agency, the 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.
- (3) The Executive Council may, on a proposal from the Executing Agency approved by the Council of Ministers for Air Transport in Africa adopt rules on insurance designed to benefit the end-consumer.

#### **Article 9 – 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, physical stature, shall be prohibited.
- (2) The Executive Council may, on a proposal from the Executing Agency and adoption by the Conference (Committee) of Ministers of Transport of the Subcommittee of Ministers responsible for civil aviation and after consulting the African Parliament adopt rules designed to prohibit such discrimination.

#### **Article 10 – Means of communication**

- (1) Airlines, tour operators, consolidators and agents shall be obliged at all material times to obtain and hold a telephone number 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 emergencies.
- (2) Subject to the data protection rules applicable in the territories of state parties, the contact details, including telephone number, fax or email address obtained shall only be used to contact the passenger 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 at what times the office will be open. Where such information is available on the website of the airline, it shall suffice that a reference is made either on the ticket, or the website, at the airport check-in desk, on board each flight, at the destination airport or in a leaflet made available to each passenger. In applying this provision the airline shall pay particular attention to the language barriers in the territories of the state parties, and any difficulty any particular passenger may have in reading in any particular language.
- (4) Service providers concerned shall ensure that they utilise the preferred mode of contact of each passenger in cases involving anticipated cancellations, overbooking, delays, save that where the notice is in less than

12 hours of the departure of the flight in question, unless the passenger has confirmed that he is able to retrieve his emails on a mobile device, such notice shall be communicated by phone or SMS.

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

### **Article 11 – Information to the consumer**

- (1) The travel agent, airline, tour operator, and the ground handling agent shall be obliged at the time of purchase of the ticket and at check-in by the passenger shall be obliged to inform the passenger in a language understood by the passenger of his rights in the following situations:
- a. to be informed in his own language of his obligation to supply a means of communication for emergencies;
  - b. to be informed at least 12 hours before the flight of any planned cancellations or long term delays anticipated;
  - c. to be informed of the airline's obligations in case of denied boarding, free seating, flight cancellation, delayed flight in particular in relation to alternative solutions and compensation
  - d. to request for documents, policies procedures on insurance, compensation, assistance, complaints procedures in line with these Regulations;
  - e. as an illiterate and/or visually impaired, and/or physically challenged to appropriate alternative means of communication;
  - f. Any other information the consumer protection agency may demand to be displayed to the passenger under the terms of this provision.
- (2) Airlines, travel agents, tour operators, airports, cargo handling agents, shall visibly display information at their premises, on their websites, marketing materials and brochures stating the rights of the consumer in relation to specific services provided by them to the consumer.
- (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 12 – Complaints procedures**

Every service provider shall establish a consumer relations desk and particularly at every airport it operates and shall appoint an officer to manage the desk for the purpose of receiving, resolving and channeling complaints to their Head offices, as well as liaising with the Civil Aviation Authority of the state party where necessary.

### **Article 13 – Filing of advanced flight and passenger information**

- (1) Airlines shall transmit in advance of arrival into the territory of a state party information on each flight and on each passenger carried on board into an airport of a state party whether or not the passenger in question is destined to enter the state.
- (2) The advanced flight and passenger information which shall be filed in accordance with national legislation of each state party shall be transmitted to the authorised recipient notified in schedule of this regulation and shall contain no less than the standard set of information notified numbers 1 and 2 of schedule 1.

States party who require further information listed in number 3 of schedule 1 shall submit a specific requirements list to the airline.

- (3) The Executing Agency shall liaise with states parties and propose further measures to the Sub Committee on Transport of the Specialised Technical Committee (STC) No. 4 on Transport, Intercontinental and Interregional Infrastructure, Energy and Transport. State parties may submit formal complaints to the Executing Agency against an airline which persistently fails to supply the required advanced information.
- (4) Without prejudice to paragraph 3 of this Article, the Executing Agency shall conduct a thorough review within 5 years of entry into force of these Regulations including but not limited to the need for a continental or regional administration of the data.

### **Article 14 – Compliance with Warsaw Liability Regimes**

Airlines shall strictly comply with compensation requirements under the Warsaw Liability as applicable to each passenger and shall not impose any onerous terms and conditions on the passenger or otherwise apply policies and procedures or make any such demands of the consumers as is calculated or may be interpreted as limiting or having the effect of limiting its relevant liabilities

### **Article 15 – Denied boarding**

- (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 including offering passengers SMS or 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 but at any rate not which shall not be lower than the compensation scheme applied in **Article 23** to these Regulations. Airlines shall, in this regards, pay particular attention to passengers travelling furthest from the departing airport as a measure of preventing unnecessary hardship in aborted and shall for this matter 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 as prescribed under Article (6 (iv), above under right of information).
- (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 23 to these Regulations

### **Article 16 – 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 that 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. refreshments including water, soft drinks, confectioneries or snacks;
  - iii. two international telephone calls, SMS or e-mails, and
  - iv. that an announcement will 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. refreshments including water, soft drinks, confectioneries or snacks;
  - iii. a meal;
  - iv. hotel accommodation;
  - v. two international telephone calls, SMS or e-mails, and
  - vi. transport between the airport and place of accommodation (hotel or other accommodation); and
  - vii. that an announcement will 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, 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;
  - ii. re-routing, under comparable transport conditions, to their final destination at the earliest opportunity; or
  - iii. re-routing, 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 paragraph a(1) or b(1) above, the airline shall ensure 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 17 – 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 are informed at the airport, or where the passenger on



a connecting flight may have begun the earlier part of his flight hours 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) 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 at least two weeks before the scheduled time of departure; or
  - b) 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
  - c) 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 22, 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 18 – 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 19 – Travel agents and package tour operators**

Subject to the general obligations in this Part of the 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 retailer's 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;
  - iv. in the case of journeys or stays abroad by minors, information enabling direct contact to be established with the child or the person responsible 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 20 – Airport operators**

Subject to the general obligations in this Part of the Regulations, Passengers and all other persons attending the airport in any capacity excluding those waving off, dropping off, picking up or welcoming passengers, shall, subject to national security and safety legislation, be entitled to:

- a) Visible notices on passengers rights
- b) 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

## **Part four – Rights of the consumer**

### **Article 21 – Right to reimbursement**

- (1) When reference is made in this Regulation to the right of the passenger to reimbursement, reimbursement shall be made 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.
- (2) The reimbursement shall be paid in cash, by electronic bank transfer, bank orders or, with the signed agreement of the passenger, in travel vouchers and/or other services.

### **Article 22 – Right to be re-routed**

Where passengers are offered the right of re-routing, passengers shall have the choice of:

- 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 and accommodation;
- re-routing, under comparable transport conditions, to their final destination at the earliest opportunity and accommodation; or:
  - a) re-routing, under comparable transport conditions, to their final destination at a later date at the passenger's convenience, subject to availability of seats.
  - b) When, in the case where a town, city or region is served by several airports, 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 23 – 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 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 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 22, the arrival time of which 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

- c) by four hours, in respect of all flights in excess of 6 hours.
- (4) The airline may reduce the compensation provided for in paragraph 1 by 50%.
- (5) The compensation shall be paid in cash, by electronic bank transfer, bank orders or, with the signed agreement of the passenger, in travel vouchers and/or other services.

## **Part five – Administration**

### **Article 24 – Administrative procedures**

- (1) Each Civil Aviation 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 (RYA) Authority shall establish consumer protection units and advertise their details, including but not limited to their contact details and their procedures on a website dedicated to the implementation of this regulation.
- (3) A complainant may make a complaint to the Civil Aviation Authority against a service provider, or failing a satisfactory resolution to the RYA 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 Civil Aviation 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;
  - 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.
- (7) Complainants can present a class action before the Civil Aviation Authority especially in relation to a service provider that owes them a duty of care under Article 25, but must appoint a representative for the class.

### **Article 25 – Investigation**

- (1) The Executing Agency, the RYA or the Authority shall cause an investigation to be carried out 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, an officer designated by the Authority shall have all the powers of investigation under national law or under the provisions of the Dispute Resolution Regulation, and in addition may request for submissions to be made by any interested person(s) in relation to a complaint.
- (3) The Authority 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 procedure it has taken to resolve the matter.

### **Article 26 – Determination of complaints**

- (1) After every assessment, the investigator shall make an assessment report and shall make recommendations therein.
- (2) Upon a 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 Authority shall make a determination in one of the following respects:
  - a) the complaint lacks merit pursuant to which the complaint would be struck out;
  - 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 Authority's administrative hearing procedure in accordance with national law.
- (3) The Authority shall give notice of its determination to the interested parties.

### **Article 27 – Penalty**

- (1) Any service provider that violates any provision of these Regulations shall, subject to national law, be liable to penalties imposed by the Authority.
- (2) The penalties imposed by the Authority under Section 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 considered.
- (3) It shall be unlawful for any service provider, their employees or agent to obstruct or prevent the Authority or any of its designated officers from carrying out investigations or refuse to provide information requested by the Authority, relating to any violation of these Regulations.
- (4) The Executive Council may, on a proposal from the Executing Agency and adoption by the Council of Ministers for Air Transport and after consulting the African Parliament adopt and maintain in place a schedule of penalties to be imposed for breach of provisions of this regulation.

## **Part six – Miscellaneous**

### **Article 28 – Duty of care**

- (1) Consumers shall have no claim against air navigation service providers, airports, ground handling companies, travel agents, consolidators, cargo handling companies, freight forwarders, tour operators and other service providers for any delay, cancellation or overbooking of their flights or the failure by the airline to transport their cargo and or mail which delay, cancellation, overbooking or failure to transport cargo or mail is the direct action or omission of the airline.
- (2) Without prejudice to the generality of the paragraph 1 of this Article [7], service providers in a contractual relationship with the airline owe a duty of care to the consumer not to negligently or recklessly provide unsafe services to the airline as may if relied on by the airline without exceptional caution make the aircraft or the operation of the aircraft unsafe and endanger the lives of passengers on board the aircraft or cause damage to cargo or mail on board the aircraft.
- (3) The consumer shall, without prejudice to paragraph 2 of this Article, be required to prove the damage, the negligence or recklessness of the third party service provider and the causal relationship between defective service rendered to the airline and damage sustained.

- (4) Consumers shall have no claim on any service provider for the delay, or cancellation of their flights or the failure by the service to transport or effect the transportation of their cargo and or mail which delay, cancellation, or failure to transport cargo or mail is the direct consequence of a natural disaster and over which no service provider shall have been able to control.
- (5) Where, as a result of the provisions of this Regulation, two or more service providers are liable for the same damage, they shall be liable jointly and severally, without prejudice to the provisions of national law concerning the rights of contribution or recourse.
- (6) The Executive Council may, on a proposal from the Executing Agency and adoption by the concerned Ministerial Organ of the African Union and after consulting the African Parliament adopt appropriate rules on liability of service providers in relation to unsafe services.

### **Article 29 – Service providers right of redress**

In cases where an airline pays compensation or meets the other obligations incumbent on it under this Regulation, no provision of this Regulation may be interpreted as restricting its right to seek compensation from any service provider, including third parties, in accordance with the law applicable in the state party. In particular, this Regulation shall in no way restrict the airline's right to seek reimbursement from a travel agent, ground handling company, airport operator, air navigation service provider, tour operator or another person with whom the operating air carrier has a contract. Similarly, no provision of this Regulation may be interpreted as restricting the right of a travel agent or tour operator or a third party, other than a passenger, with whom an airline has a contract, to seek reimbursement or compensation from the airline in accordance with applicable laws.

### **Article 30 – Review by the Executing Agency**

Within 2 years of entry into force of this Regulation, the Executing Agency shall report to the concerned Ministerial Organ of the African Union on the operation and the results of this Regulation. The report shall be accompanied where necessary by legislative proposals.

### **Article 31 – Entry into force**

This Regulation shall enter into force immediately following its endorsement by the Assembly of Heads of State and Government.

### **Schedule 1**

In relation to Article 13 the following constitute the data to be supplied by each airline:

#### **Data relating to the flight**

<b>No.</b>	<b>Data required</b>	<b>Data description</b>
1	<b>Flight Identification</b>	IATA Airline code and flight number
2	<b>Scheduled Departure Date</b>	Date of scheduled departure of aircraft based on local time of departure location

No.	Data required	Data description
3	<b>Scheduled Departure Time</b>	Time of scheduled departure of aircraft (based on local time of departure location)
4	<b>Scheduled Arrival Date</b>	Date of scheduled arrival of aircraft (based on local time of arrival location)
5	<b>Scheduled Arrival Time</b>	Time of scheduled arrival of aircraft (based on local time of arrival location)
6	<b>Last Place/Port of Call of Aircraft</b>	Aircraft departed from this last foreign place/port of call to go to "place/port of aircraft initial arrival"
7	<b>Place/Port of Aircraft Initial Arrival</b>	Place/port in the country of destination where the aircraft arrives from the "last place/port of call of aircraft"
8	<b>Subsequent Place/Port of Call within the country</b>	Subsequent place/port of call within the country
9	<b>Number of Passengers</b>	Total number of passengers on the flight

**Data relating to each individual passenger:**

**(a) – Core data elements as may be found in the machine readable zone of the official travel document**

1	<b>Official Travel Document Number</b>	Passport or other official travel document number
2	<b>Issuing State or Organization of the Official Travel Document</b>	Name of the State or Organization responsible for the issuance of the official travel document
3	<b>Official Travel Document Type</b>	Indicator to identify type of official travel document

4	<b>Expiration Date of Official Travel Document</b>	Expiration date of the official travel document
5	<b>Surname/Given Name(s)</b>	Family name and given name(s) of the holder as it appears on the official travel document.
6	<b>Nationality</b>	Nationality of the holder
7	<b>Date of Birth</b>	Date of birth of the holder
8	<b>Gender</b>	Gender of the holder

**(b) – Additional data elements**

9	<b>Visa Number</b>	Number of the Visa issued
10	<b>Issue Date of the Visa</b>	Date of the Visa issuance
11	<b>Place of Issuance of the Visa</b>	Name of the place where the Visa was issued
12	<b>Other Document Number Used for Travel</b>	The other document number used for travel when the official travel document is not required
13	<b>Type of Other Document used for Travel</b>	Indicator to identify type of document used for travel
14	<b>Primary Residence</b>	
a.	<b>Country of Primary Residence</b>	Country where the traveller resides for the most of the year
b.	<b>Address</b>	Location identification such as street name and number
c.	<b>City</b>	City
d.	<b>State/Province/County</b>	Name of the State, Province, County, as appropriate
e.	<b>Postal code</b>	Postal code



15	<b>Destination Address</b>	
a.	<b>Address</b>	Location identification such as street name and number
b.	<b>City</b>	City
c.	<b>State/Province/County</b>	Name of the State, Province, County, as appropriate
d.	<b>Postal code</b>	Postal code
16	<b>Place of Birth</b>	Place of birth such as city and country
17	<b>Traveller's Status</b>	Passenger, Crew, In-transit
18	<b>Place/Port of Original Embarkation</b>	Place/port where traveller originates foreign travel, refer to 8.1.6
19	<b>Place/Port of Clearance</b>	Place/port where the traveller is cleared by the border control agencies
20	<b>Place/Port of Onward Foreign Destination</b>	Foreign place/port where traveller is transiting to, refer to 8.1.7
21	<b>Passenger Name Record Locator Number (or unique identifier</b>	As available in the traveller's Passenger Name Record in the carrier's airline reservation system

## Schedule 2

### Details of recipients of API data and required mode of communication

Country	Main contact point	Receiving authority	Address	Mode of communication
People's Democratic Republic of Algeria				

Republic of Angola				
Republic of Benin				
Republic of Botswana				
Burkina Faso				
Republic of Burundi				
Republic of Cameroon				
Republic of Cape Verde				
Central African Republic				
The Republic of Chad,				
Union of the Comoros				
Republic of the Congo				
Republic of Cote d'Ivoire				
Democratic Republic of the Congo				
Republic of Djibouti				
Arab Republic of Egypt				
Republic of Equatorial Guinea				

State of Eritrea				
Federal Democratic Republic of Ethiopia				
Gabonese Republic				
Republic of the Gambia				
Republic of Ghana				
Republic of Guinea				
Republic of Guinea-Bissau				
Republic of Kenya				
Kingdom of Lesotho				
Republic of Liberia				
Libya				
Republic of Madagascar				
Republic of Malawi				
Republic of Mali				
Republic of Mauritania				
Republic of Mauritius				
Kingdom of Morocco				

Republic of Mozambique				
Republic of Namibia				
Republic of Niger				
Federal Republic of Nigeria				
Republic of Rwanda				
Republic Arab Saharawi Democratic				
Democratic Republic of sao Tome and Principe				
Republic of Senegal				
Republic of Seychelles				
Republic of Sierra Leone				
Somali Republic				
Republic of South Africa				
Republic of South Sudan				
Republic of The Sudan				
Kingdom of Swaziland				

United Republic of Tanzania				
Togolese Republic				
Tunisian Republic				
Republic of Uganda				
Republic of Zambia				
Republic of Zimbabwe				
Republic of Wersrtern Sahara				