

GAP ANALYSIS QUESTIONNAIRE ON PASSENGER PROTECTION

STATE:

Purpose:

Following the 1st Workshop on Passenger Protection recently held under the ARISE Plus Civil Aviation Project, the purpose of this Questionnaire is to gather data from AMS on national legislation adopted or promulgated covering air passenger protection and its dissemination, monitoring of application and public reaction, as well as claim procedures established and experience gained with claim settlement.

Background:

The Convention for the *Unification for Certain Rules for International Carriage by Air (Montreal Convention, 28 May 1999)* carries principles and rules for consumer protection as applicable to air passengers. Six of the ASEAN Member States (AMS) have ratified this basic Convention to date. In an effort to balance industry competitiveness and consumer protection, ICAO developed guidance material in such areas as conditions of carriage, fare guarantee, baggage, tariff disclosure, denied boarding and code sharing. This guidance can, among others, be found in the *Policy and Guidance Material on the Economic Regulation of International Air Transport* (Doc 9587). ICAO has also issued *Core Principles on Consumer Protection*, applicable to air travel. As well, ICAO has carried out a study on the *Effectiveness of Consumer Protection Regulations*.

In the EU, the two main instruments on passenger protection, apart from the 1999 Montreal Convention are *REGULATION (EC) No 261/2004*, which establishes common rules for the EU on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and *REGULATION (EC) No 1107/2006*, which lays down the rights of disabled persons and persons with reduced mobility when travelling by air,

During the Inception Phase visits of the ARISE Plus Civil Aviation Project in April 2018, it was found that consumer/passenger protection laws exist in the AMS and that work is on-going within ASEAN on a harmonization of such laws across all sectors. Specific air passenger protection regulations and implementation procedures vary widely among AMS. In some AMS air passenger protection is applied to all passengers while in others it covers domestic passengers only. Some AMS indicated that work was in progress to enhance their related regulations and procedures and make them more widely applicable. Where air passenger protection regulations and implementation procedures exist, these typically are applied by the civil aviation administrations in conjunction with other entities. It was pointed out that AMS are not fully aware of the situation on the subject in neighboring States. Based on the findings of the ARISE Plus Inception Phase visits, and considering that passenger protection is a topic not previously addressed by the predecessor project EU-AATIP, the initial workshop was conducted with the AMS to:

- enhance awareness of AMS on air passenger protection in ASEAN
- share initial European experience on issues that are being identified
- review existing laws, regulations, procedures and practices employed by the AMS so as to provide the basis for an analysis of AMS' air passenger protection

Question 1

Is your State a party to the Montreal Convention of 1999?

If yes, has your State extended MC99 to cover domestic flights and/or foreign carriers?

If not, have steps been taken to become a party and what are specific hurdles experienced or anticipated?

Question 2

Has your State enacted legislation covering passenger protection which covers air passengers, such as measures for denied boarding, cancellation of flights, air fare advertising etc.?

If yes, please provide reference of such legislation and a copy in the English language. How is 'damage' defined in your State regulations?

Has this legislation been published widely and is it easily accessible to the public?

Question 3

Has your State transport administration (MoT/CAA) established implementation procedures or a manual covering air passenger protection?

If yes, please provide reference of such procedures and copies in the English language.

Question 4

Has training to MoT/CAA, air carrier, airport staff etc. been provided on regulations and procedures for air passenger protection?

If yes, please provide copies of curricula/attendance numbers in the English language.

Question 5

Is your State transport administration (MoT/CAA) monitoring the application of air passenger protection regulations and implementation procedures by air carriers, airports and public reaction, keeping statistics, intervening with stakeholders and providing assistance as necessary?

If yes, please provide copies of monitoring and statistics' samples in the English language.

Please explain interventions/assistance provided and results, including examples of penalties enforced.

Question 6

Do your State regulations and implementation procedures cover access to air transport for persons with disabilities and specific assistance to them, including assistance with claims?

Question 7

Do your State regulations and implementation procedures provide that air passengers receive adequate attention and assistance in cases of massive disruptions which lead to long delays and cancellations, possibly affecting many flights?

Question 8

Do your State regulations oblige air carriers to have in place insurance for passenger claims, to cover liability as per MC99 and other State regulations?

Please return filled-in Questionnaire/Attachments by 15 January 2019 to CAA Thailand as the lead of Passenger Protection under the ARISE PLUS project - Mr. Cholathit Suthiklom: cholathit.s@caat.or.th