

*Legal effects and review of the
Regulation 1107/2006
(disabled persons and persons with
reduced mobility when travelling by air)*

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Sarajevo International Airport
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International Legal Sources

- *ECAC Doc 30, Part I, Chapter 5*
- *ICAO Doc 9984 Manual on Access to Air Transport by Persons with Disabilities*
- *IATA Resolution 700*
- *IATA Recommendation 1700*



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IATA codes

- ▶ *BLND* – weak-sighted and blind persons
- ▶ *DEAF/BLND* – blind and deaf persons who can move only if escorted,
- ▶ *DPNA* – persons with intellectual disability or impairment
- ▶ *WCHR* – Passenger who can walk up and down stairs and move about in an aircraft cabin, but who requires a wheelchair or other means for movements between the aircraft and the terminal, in the terminal and between arrival and departure points on the city side of the terminal.
- ▶ *WCHS* – passengers who can move by themselves in aircraft cabin but not upstairs/downstairs, and they need assistance for movement in Terminal building, from the Terminal to aircraft and vice versa, and from Terminal to a transportation spot on the land (public) side of the airport,
- ▶ *WCHC* category includes bed-ridden passengers, passengers that can move only by means of a wheelchair or other mobility equipment

The notion of PRM passenger

- *PRM passenger means any person whose mobility when using transport is reduced due to any physical disability (sensory or locomotive, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or age, and whose situation needs appropriate attention and adaptation to his or her particular needs of the service made available to all passengers.*
- *Name of the regulation refers exclusively to disabled persons and persons with reduced mobility.*
- *On the another hand, Regulation includes the categories of passengers who require appropriate attention and adaptation of services to meet their particular needs, and those are pregnant women, obese passengers, fathers and mothers of minors.*
- *Notion of PRM passenger is too vague and leaves space for different interpretations and uneven implementation of the Regulation 1107/2006.*

The notion of PRM passenger

- *ECAC Doc 30 does not include MEDA, STCR and MAAS (the categories of passengers who require appropriate attention and adaptation of services to meet their particular needs, and those are pregnant women, obese passengers, fathers and mothers of minors.*
- *In practical implementation of the Regulation 1107/2006 in Greece, United Kingdom of Great Britain, Sweden, an obese passenger has not been treated as a PRM passenger.*
- *Passengers who need appropriate assistance cannot be classified, either as disabled persons or persons with reduced mobility, and separating the provisions concerning the persons whose condition requires appropriate assistance will not eliminate implementation of the Regulation on the mentioned passenger categories.*

Scope of implementation of the Regulation 1107/2006

- *Regulation 1107/2006 apply to disabled persons or persons with reduced mobility who intend to use the services of commercial air transport at departure from the airport, transit through the airport or at arrival to the airport, when the airport is situated in the territory of a Member State to which the Agreement applies.*
- *Regulation 1107/2006 also apply to disabled passengers and passengers with reduced mobility not using commercial air transport.*
- *From non EU airport, Regulation 1107/2006 is applicable from the interior of aircraft of the EU carrier that operate from airports in third countries to the airport in EU.*

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Scope of implementation of the Regulation 1107/2006

- *Provisions of the Regulation 1007/2006 do not apply to:*
 - 1) Airports in third countries,*
 - 2) Non-EU carriers that operate from an airport of a third country.*
- *Sui generis exemption – EU extended implementation of the Regulation 1107/2006 to the European Common Aviation Area (ECAA)*

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Allocation of PRMs, derogations, special conditions and information

- *Explicit ban on allocation of PRM passengers to the EMEX seats*
- *Allocation of PRM passengers is governed by PHMs*
- *An carrier, his agent or a tour operator, exclusively for safety reason, may require a PRM passenger to be escorted but is obliged to explain such a demand in details*
- *The carrier, tour operator and airport operator are not authorized to ask the person accompanying a PRM passenger to assist him at the airport*
- *Carriers require a PRM passenger to have a person accompanying him/her, according to General conditions of carriage and/or Passenger Handling Manual, if the PRM passenger is not able to take care of himself/herself, i.e. not able to breathe or eat on his/her own, to get up, communicate, use medical aids or use the aircraft toilet without assistance.*

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Notification of carriers and airport operators and transmission of information

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Notification of carriers and airport operators and transmission of information

- *Carrier is informed about a PRM passenger's requests via e-mail, phone or the application on its web page.*
- *Carriers notify airport operators by SITA messages.*
- *SITA messages forwarded by carriers are: Passenger Assistance List and Change Assistance List (CAL message). However, PAL and CAL messages are not present so much in practice.*
- *Apart from SITA messages, carriers may inform airport operator on necessity to provide assistance using e-mail, what is mostly done by tour operators because they do not have access to SITA messages.*

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Quality standards for assistance to PRM passengers

- *Airport operators with annual traffic over 150.000 passengers shall set quality standards for assistance in cooperation with the Airport Users Committee and organisations representing disabled persons and persons with reduced mobility.*
- *Quality standards must include the following: 1) description of services, 2) measures and resources the airport operator is going to use in order to meet the demands from Annex of the Regulation 1107/2006, 3) level of service the airport operator is obliged to provide.*
- *Carrier and airport operator may reach an agreement that the airport operator will provide additional services, apart from those from Annex I of the Regulation, or to render the services whose quality is better than set in quality standards.*

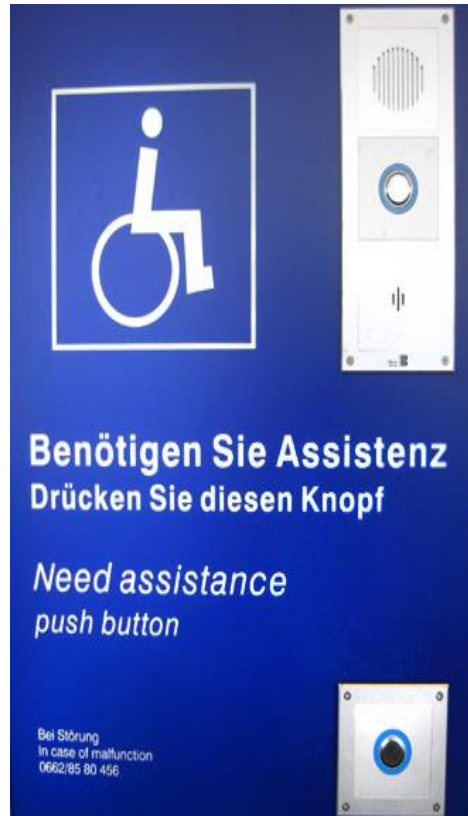
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Designation of points of arrival and departure



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Designation of points of arrival and departure

- *Points of departure and arrival are usually marked with a wheelchair sign, placed on strategic spots like parking areas, taxi stands, bus stops and subway stops for departing and arriving passengers, under condition they are placed within the airport boundary.*
- *Airport operator is obliged to designate at least two points of departure and arrival at the airport, out of which one has to be in terminal building and one out of it.*
- *Points of departure and arrival have to be clearly signed, as the spots where passengers can receive basic information about the airport, in accessible formats.*
- *Regulation 1107/2006 contains technical definition of the airport, what means that the points of departure and arrival may be placed out of perimeter fence of the airport.*

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Right to assistance

- *Airport operator has to provide assistance even if not being informed about it- **all reasonable efforts clause.***
- *At departure, the airport operator shall provide assistance to a PRM passenger from the point of departure to the embarking, and on board the plane from the door of the plane to the PRM passenger's seat.*
- *On arrival, the assistance is provided from the PRM passenger's seat to the door of the plane, and at the airport, from the plane to the point of arrival.*

Airport operator

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- *Concept of reasonable efforts is conditional.*
- *The concept of reasonable efforts is applied only for allocation of the seat that meets needs of a PRM passenger and to allocate the person accompanying the PRM passenger .*

Carrier



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Subcontracting of assistance to PRM passengers

- *Assistance to PRM passengers is an exemption from the rule that Ground Handling of PRM passengers may be rendered by carriers or third providers.*
- *Notion of subcontracting is contrary to the autonomous provision of Ground Handling services – no self-handling*
- *Airport operator decides on subcontracting of services if not being a provider of Ground Handling at the airport.*
- *The systemic interpretation indicates that it is necessary that an airport operator has annual traffic over 150.000 passengers in order to subcontract the Ground Handling of PRM passengers.*

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Subcontracting of assistance to PRM passengers

- *Airport operator's affiliated company,*
- *Third provider of Ground Handling services,*
- *Legal entities specialized for GH of PRM passengers,*
- *Regulation 1107/2006 did not stipulate the procedure for selection of subcontractors, nor the access to the infrastructure of airport operator.*

The question arises whether a subcontractor must be a third provider of Ground Handling services or it may be a third legal entity?

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Training



- *Regulation 1107/2006 does not stipulate duration of the training of the airport operator's and carrier's employees.*
- *Provision according to which all new employees of both the airport operator and carrier have to attend disability related training is unfounded and challenged for valid reasons.*

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Charges for PRM passengers

- *PRM charge is not the airport charge.*
- *Airport operator is not obliged to set up a special PRM charge or the charge integrated into a passenger charge.*
- *While establishing a PRM charge, the principle of cost efficiency, transparency, non-discrimination, solidarity and consultation must be obeyed.*
- *PRM charge is justified when the principle of cost efficiency has been met and non-justified if the revenues resulting from PRM charges exceed the costs of Ground Handling of PRM passengers.*
- *The basis for the PRM charge is not a number of transported PRM passengers but a number of all the passengers transported to or from the airport concerned.*

Enforcement body

- *The enforcement body must be independent from the provider of assistance to PRM passengers.*
- *Exclusive competence of the enforcement body for the following:*
 - ✓ *meeting the quality standards in Ground Handling of PRM passengers,*
 - ✓ *provision of assistance that airport operators are obliged for, including the obligations from the Annex,*
 - ✓ *implementation of provisions on PRM charges,*
 - ✓ *taking measures concerning notification of PRM passengers on their rights from the Regulation 1007/2006 and on possibility of raising an objection to the relevant body or bodies.*

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Compensation for lost and damaged wheelchairs, other mobility equipment and assistive devices

- *Montreal Convention 1999*
- *Regulation 889/2002 on carrier liability in the event of accidents*
- *Wheelchairs, mobility equipment and assistive devices may be both checked (automatic bag tag) and cabin (marked with a DAA bag tag – Delivery at Aircraft) baggage.*
- *Low-cost carriers generally do not allow that wheelchairs, mobility equipment and assistive devices are marked with DAA tags.*
- *Montreal Convention defines carrier's objective liability for damage on checked baggage.*
- *Carrier's liability for damage on cabin baggage is subjective since the carrier is responsible for the damage on cabin baggage made by his fault or the fault of his employees or his agents.*

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Airport operator's liability for damage on wheelchair, mobility equipment and other assistive devices

- *Airport operator shall have a non-contractual obligation to compensate the damaged baggage.*
- *Objective liability of airport operator for the damage on checked baggage.*
- *Subjective liability for damage on cabin baggage.*
- *AO liability for checked baggage of a PRM passenger only if after the check-in procedure, an employee of the airport operator caused the damage on the wheelchair, mobility equipment or other assistive devices, and the flight is cancelled or the passenger is denied boarding or he decided not to fly for certain reasons, or if the PRM passenger is called for security reasons to remove the battery which is treated the dangerous goods from his wheelchair that was already registered and then he finds out it has been damaged.*

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Complaint procedure



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Complaint procedure

- *A form of complaint has not been established by the Regulation 1107/2006, what means that a complaint may be lodged to the airport operator or carrier, both verbally and in a written form.*
- *Complaint procedure in two steps. In first instance PRM passenger can bring the matter to the attention of either the airport operator or carrier.*
- *In the second instance objection is to be raised to a relevant Directorate for civil aviation or other body appointed by a Member State.*
- *Lack of provision on the procedure for bringing action is a failure to define an subjective and objective deadline in which a PRM passenger may lodge a complaint concerning the Ground Handling, the deadline in which airport operator or carrier is obliged to decide if the complaint has been justified, the deadline in which the PRM passenger is obliged to raise an objection against the decision of the airport operator or carrier, and, finally, the deadline in which the enforcement body has to make a decision about the PRM passenger's objection.*

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Conclusion

- *Notion of a PRM passenger does not correspond to the name of the Regulation 1107/2006.*
- *Insufficient awareness of PRM passengers of their rights and insufficient awareness of tour operators of PRM passengers' rights and IATA codes for PRM passengers.*
- *Lack of defined deadline, both subjective and objective one, in which a PRM passenger may lodge a complaint concerning Ground Handling, the deadline in which an airport operator or carrier are obliged to make a decision whether a PRM complaint is justified, the deadline in which a PRM passenger may raise an objection against a decision of an airport operator or carrier, and the deadline in which an enforcement body is obliged to make a decision on a PRM passenger's objection.*
- *Setting up the obligation upon all new employees who are not in direct or indirect contact with PRM passengers to attend a training, and failure to define duration of the training of airport operator's and carrier's employees.*

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Questions

