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### **Problems of realization of the right to compensation in case of flight delay**

*In this research, an attempt has been made to determine the range of problems encountered by passengers in recovering compensation for flight delays and possible ways to eliminate the corresponding obstacles in the implementation of this passenger right. The justification of the necessity of forming a centralized mechanism for realizing the passenger right to compensation in connection with flight delay is presented.*

In the process of its emergence as a European state, Ukraine needs effective aviation interstate and national communications. Efficiency of air transportation is an integral part of the formation of a stable economy and the development of international relations. Efficient international air transportation of passengers is able to provide labor migration and investment development. During the last decade, Ukraine has taken a number of serious steps in the development of air transportation of passengers designed to improve the quality of airline passenger services.

The formation of the appropriate basis for legal regulation played a decisive role in improving the quality of air travel of passengers. This is the ratification of the Convention on the Unification of Certain Rules for International Carriage by Air [1], the entry into force of Regulation (EC) No 2027/97 of the Council of the European Union "On the liability of air carriers for the carriage of passengers and baggage" [2] and Regulation (EC) No 261/2004 European Parliament and Council on the establishment of common rules on compensation and assistance to passengers in the event of denied boarding, cancellation or long delay of flights and the abolition of Regulation (EEC) N 295/91 "[3], as well as the adoption of the Air Code of Ukraine [4 ] Significant delays and cancellations led to the adoption of the new Airtransportation Passenger and Baggage Rules in 2012 [5]. The provisions of these regulations are detailed in the rules adopted by each of the air carriers. Also, it should be noted that the relationship with the provision of air transportation services covered by the Law of Ukraine "On Protection of Consumer Rights" [6].

With the help of the above-mentioned documents, important safeguards for air passengers were secured at the legislative level. In particular, the right to compensation in case of flight delay was determined, the limits and deadlines for payment of such compensation were determined in accordance with the length of the delay, and provided for an exclusion, subject to which no corresponding compensation was granted.

At the same time, the crisis in passenger air transport in 2018 drew attention to the unfairness of air carriers, which caused a number of significant delays in flights, as well as other incidents in air transport during the transportation of

passengers, up to emergency situations. Air traffic checking to ensure the safety of air travel of passengers also caused delays in certain flights and the emergence of passenger rights for compensation in connection with such a delay. Consequently, the realization of the right of passengers for compensation in connection with the flight delay is in practice have some of the problems.

This study is intended to identify these problems and identify possible ways to eliminate them.

According to Article 103, 106 of the Air Code of Ukraine, Article 19 of the Convention on the Unification of Certain Rules for International Carriage by Air, Chapter 1, Section 16, Airtransportation Passenger and Baggage Regulations, the right to compensation in connection with the delay of the flight have passengers as regular and charter flights in the presence of such conditions as: confirmed flight booking and timely arrival for registration [1; 4; 5]. The procedure for such confirmation, the requirements for the documents which must be confirmed such presence by the law is not defined. The body or official who must provide a documentary confirmation of the presence of the passenger for registration is also not specified. In the implementation of these conditions, there are such problems as: refusal to confirm the presence of a passenger for registration by representatives of the airline or airport administration.

In addition to the above, when applying for a court regarding compensation for the delay of the flight, the passenger has to prove the fact of such a delay. In practice, the fact of a flight delay and the presence of a passenger for registration is possible to validate with the representatives of the airline carrier, which are located at the airport and airport officials. In practice, these individuals often refuse to provide documentary evidence of these facts, arguing that they lack the authority and instructions for such actions. Notarization of copies of web pages is also not provided. In extreme cases, passengers whose flight is significantly delayed, and the air carrier does not provide information on the causes of the delay, fix such a fact by drawing up a protocol on administrative violations. This way of fixing is possible since passengers are consumers of air transportation services for passengers and their luggage, and the air carrier has the duty to inform passengers about the reasons for the delay of the flight. In certain cases, it is enough to confine the drawing up of the corresponding act certified by at least two witnesses.

Moreover, the air carrier has an obligation to fully inform passengers about the rights that they have in connection with the long flight delay so that they can effectively exercise such rights [3, p.20]. Instead, there are cases where air carriers not only do not fully inform passengers about possible compensation but also refuse to indemnify it voluntarily because the flight was chartered.

Difficulties also arise in the process of determining the amount of compensation due to the delay flight. According to the current legislation, the longest the delay time, the higher the amount of compensation. But the question arises from which moment is the record of flight delay time: from the moment specified on the flight coupon, since the announcement of flight data at the airport itself or from the moment when the passenger is informed about the flight delay by the air carrier. After all, the legislator does not determine how the passenger should be informed about the flight delay, and the moment is deducted quite abstractly

"from the scheduled departure time" [4, art. 106]. It is especially difficult to prove the scheduled departure time in case of purchase of an air ticket through the Internet.

It should be noted that most major international and national carriers usually satisfy the claims for compensation due to the delay in the voyage voluntarily.

The above-mentioned possible complications in the realization of the right to compensation in the event of flight delays necessitate the formation of a centralized mechanism for the implementation of the relevant provisions of legislative acts.

**Conclusions.** When realizing the right to compensation in connection with the flight delay, arises such complications as: uncertainty of the form and content of the documents, which is the basis for the recovery of compensation; refusal of the employees of the air carrier or airport in the certified fact of timely appearance for registration and flight delay; Failure to fulfill their duties to inform passengers about flight delays, its causes and the possibility of effective realization of the right to such compensation; abstract timestamp timing and others. Elimination of such complications is possible through the formation of a centralized mechanism for the implementation of the relevant provisions of legislative acts on the right of passengers for compensation in connection with flight delays.

### References

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4. The Air Code of Ukraine of 19.05.2011 №3393-VI // Voice of Ukraine. - - No. 110. - 18.06.2011. (in Ukraine)

5. Order of the Ministry of Infrastructure of Ukraine "On approval of the rules of air transportation of passengers and baggage" dated December 30, 2012 №735 // Official bulletin of Ukraine. - No. 4. - 2013. - P. 303. Art. 136. (in Ukraine)

6. Law of Ukraine "On Protection of Consumer Rights" dated May 12, 1991, No. 1023-XII // Voice of Ukraine. - No. 30. - 1991. - Art. 379. (in Ukraine)