



# Inadmissible Persons and Deportees: IATA's Experiences and Concerns

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# Focus Areas

- Definitions
- SARPS and how they should impact decisions
- The Good, the Bad and the Ugly
- How we can improve cooperation and ensure safe and timely removals

# Definitions

## ➤ Deportee:

A person who had legally been admitted to a State by its authorities or who had entered a State illegally, and who at some later time is formally ordered by the competent authorities to leave that State.

# Definitions

## ➤ Inadmissible Person

A person who is or will be refused admission to a State by its authorities.

# Definitions

## ➤ Deportation Order

A written order, issued by the competent authorities of a State and **served upon a deportee, directing him to leave that State.**

# Definitions

## ➤ Removal Order:

A written order served by a State on the operator on whose flight an **inadmissible person** travelled into that State, directing the operator to remove that person from its territory.

## SARPS and how they should impact decisions

- 3.43 The aircraft operator shall be responsible for the custody and care of disembarking passengers and crew members from the time they leave the aircraft until they are accepted for examination as provided in 3.42.
  
- 3.45 The responsibility of an aircraft operator for custody and care of passengers and crew members shall terminate from the moment such persons have been admitted into that State.

## SARPS and how they should impact decisions

- 5.3 Contracting States shall without delay notify the aircraft operator, confirming this as soon as possible in writing, when a person is found inadmissible, pursuant to 3.44.

## SARPS and how they should impact decisions

- 5.9 The aircraft operator shall be responsible for the cost of custody and care of an improperly documented person from the moment that person is found inadmissible and returned to the aircraft operator for removal from the State.

## SARPS and how they should impact decisions

- 5.9.1 The State shall be responsible for the cost of custody and care of all other categories of inadmissible persons, including persons not admitted due to document problems beyond the expertise of the aircraft operator or for reasons other than improper documents, from the moment these persons are found inadmissible until they are returned to the aircraft operator for removal from the State.

## SARPS and how they should impact decisions

- 5.16 Contracting States shall not prevent the departure of an operator's aircraft pending a determination of admissibility of any of its arriving passengers.

*Note.— An exception to this provision could be made in the case of infrequent flights or if the Contracting State had reason to believe that there might be an irregularly high number of inadmissible persons on a specific flight.*

## SARPS and how they should impact decisions

- 5.17 A Contracting State deporting a person from its territory shall serve him a deportation order. Contracting States shall indicate to the deportee the name of the destination State.
- 5.18 Contracting States removing deportees from their territories shall assume all obligations, responsibilities and costs associated with the removal..

## SARPS and how they should impact decisions

- 5.20 Contracting States, in making arrangements for the removal of a deportee to a destination State, shall use direct non-stop flights whenever practicable.
  
- 5.21 A Contracting State, when presenting a deportee for removal, shall ensure that all official travel documentation required by any transit and/or destination State is provided to the aircraft operator.

## SARPS and how they should impact decisions

- 5.19 Contracting States, when making arrangements with an aircraft operator for the removal of a deportee, shall make available the following information as soon as possible, but in any case not later than 24 hours before the scheduled time of departure of the flight:
  - a) a copy of the deportation order, if legislation of the Contracting State allows for it;
  - b) a risk assessment by the State and/or any other pertinent information that would help the aircraft operator assess the risk to the security of the flight; and
  - c) the names and nationalities of any escorts.

## SARPS and how they should impact decisions

- Obvious that Annex 9 addresses Deportees and Inadmissible Persons as entirely separate issues
- Roles and responsibilities are clearly defined:
  - Deportees are a State responsibility
  - Inadmissible Persons are largely airline responsibility
  - Cooperation and communication is clearly anticipated

# The Good, the Bad and the Ugly

## ➤ The Good

- Government and airline communicate
- Each assumes its roles and responsibilities
- Concerns are addressed and policies observed
- The removal or return takes place as scheduled

# The Good, the Bad and the Ugly

## ➤ The Bad

### ➤ Scenario 1:

- 21 Transit Passengers

- Falsified documents noted but outbound planed blocked

- Receiving carrier ordered to accept and carry onward

### ➤ Scenario 2:

- Family of 5 with 1 found with expired passport – all ordered back on full flight after 5 hour delay. Flight with 225 held pending

- 17 others with complex flights missed flights and waited 3 days.

# The Good, the Bad and the Ugly

## ➤ The Ugly

- 21 year old female deportee
- 2 attempts to deport fail due coached bad behaviour
- Carrier forced to accept against internal policy for 3<sup>rd</sup> removal attempt on a commercial flight
- Prior to departure, escorts attempt to subdue, and deportee fatally injured in front of other passengers
- As bad as it can possibly get

# How it should work in real life

- States and airlines must understand their obligations under Annex 9 and abide by appropriate SARPS
- Deportees and INADPAX **ARE** different cases and need to be handled accordingly
- Communication and cooperation are critical
- Ensuring Aviation Security is essential

# How it should work in real life

- Guidance materials exist to describe options and best practices
- ICAO's Facilitation Manual is a resource
- IATA/Control Authorities Working Group have established "informal" best practice guides based on Annex 9 SARPs that describe appropriate solutions in detail



# Thank You !

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