

CHAPTER 5. INADMISSIBLE PERSONS AND DEPORTEES

A. General

5.1 In order to minimize disruptions to the orderly operations of international civil aviation, Contracting States shall cooperate with one another to promptly resolve any differences arising in the course of implementing the provisions of this Chapter.

5.2 Contracting States shall facilitate the transit of persons being removed from another State pursuant to the provisions of this Chapter, and extend necessary cooperation to the aircraft operator(s) and escort(s) carrying out such removal.

5.2.1 During the period when an inadmissible passenger or a person to be deported is under their custody, the state Officers concerned shall preserve the dignity of such persons and take no action likely to infringe such dignity.

Note.— These persons should be treated in accordance with the relevant international provisions, including the UN International Covenant on Civil and Political Rights.

B. Inadmissible persons

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.

Note.— Written notification can be either in paper form or in electronic form, such as e-mail.

5.4 Contracting States, through their public authorities, shall consult the aircraft operator on the time frame for removal of the person found inadmissible, in order to allow the aircraft operator a reasonable amount of time during which to effect the person's removal via its own services or to make alternative removal arrangements.

Note.— Nothing in this provision is to be construed so as to allow the return of a person seeking asylum in the territory of a Contracting State, to a country where his life or freedom would be threatened on account of his race, religion, nationality, membership in a particular social group or political opinion.

5.5 Contracting States shall ensure that a removal order is issued to the aircraft operator in respect of a person found inadmissible. The removal order shall include information regarding the inbound (arriving) flight carrying such person and, if known, the name, age, gender and citizenship of the person in question.

5.6 Contracting States ordering the removal of an inadmissible person who has lost or destroyed his travel documents shall deliver a covering letter in the format set forth in Appendix 9 (1) in order to give information to the authorities of the State(s) of transit and/or the commencement of journey. The covering letter, the removal order and any relevant information shall be handed over to the aircraft operator or, in the case of escorted persons, the escort, who shall be responsible for delivering them to the public authorities at the State of destination.

5.7 Contracting States ordering the removal of an inadmissible person whose travel documents have been seized pursuant to 3.33.1 shall deliver a covering letter in the format set forth in Appendix 9 (2) in order to give information to the authorities of the State(s) of transit and/or the commencement of journey. The covering letter together with a photocopy of

the seized travel documents and the removal order shall be handed over to the aircraft operator or, in the case of escorted persons, the escort, who shall be responsible for delivering them to the public authorities at the State of destination.

5.8 Contracting States that have reason to believe that an inadmissible person might offer resistance to his removal shall inform the aircraft operator concerned as far in advance as possible of scheduled departure so that the aircraft operator can take precautions to ensure the security of the flight.

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.

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.

5.10 When a person is found inadmissible and is returned to the aircraft operator for transport away from the territory of the State, the aircraft operator shall not be precluded from recovering from such person any transportation costs involved in his removal.

5.11 The aircraft operator shall remove the inadmissible person to:

- a) the point where he commenced his journey; or
- b) to any place where he is admissible.

5.11.1 **Recommended Practice.**— *Where appropriate, Contracting States should consult with the aircraft operator regarding the most practicable place to which the inadmissible person is to be removed.*

5.12 A Contracting State shall accept for examination a person removed from a State where he was found inadmissible, if this person commenced his journey from its territory. A Contracting State shall not return such a person to the country where he was earlier found inadmissible.

5.13 Contracting States shall accept the covering letter and other papers delivered pursuant to 5.6 or 5.7 as sufficient documentation to carry out the examination of the person referred to in the letter.

5.14 Contracting States shall not fine aircraft operators in the event that arriving and in-transit persons are found to be improperly documented where aircraft operators can demonstrate that they have taken adequate precautions to ensure that these persons had complied with the documentary requirements for entry into the receiving State.

5.15 **Recommended Practice.**— *When aircraft operators have cooperated with the public authorities to the satisfaction of those authorities, for example pursuant to memoranda of understanding reached between the parties concerned, in measures designed to prevent the transportation of inadmissible persons, Contracting States should mitigate the fines and penalties that might otherwise be applicable should such persons be carried to their territory.*

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.*

C. Deportees

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.

5.18.1 **Recommended Practice.**— *Contracting States and aircraft operators should, where practicable, exchange information as to the appropriate 24-hour point(s) of contact(s) to whom deportee inquiries should be directed.*

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.

Note.— *In order to ensure coordination of facilitation and security standards, attention is drawn to the applicable provisions of Annex 17, Chapter 4.*

5.19.1 The aircraft operator and/or the pilot-in-command shall have the option to refuse to transport a deportee on a specific flight when reasonable concerns relating to the safety and security of the flight in question exist.

Note.— *Reference is made to the ICAO Aviation Security Manual (Doc 8973), paragraphs 12.2.1.3 and 12.2.1.6.*

5.19.2 Contracting States, when making arrangements for the removal of a deportee, shall take into consideration the aircraft operator's policy concerning the number of such persons that may be transported on a given flight.

Note.— *Contracting States are to consult with the aircraft operator regarding the most practicable flight or alternate method of transportation.*

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.

5.22 A Contracting State shall admit into its territory its nationals who have been deported from another State.

5.23 A Contracting State shall give special consideration to the admission of a person, deported from another State, who holds evidence of valid and authorized residence within its territory.

5.24 Contracting States, when determining that a deportee must be escorted and the itinerary involves a transit stop in an intermediate State, shall ensure that the escort(s) remain(s) with the deportee to his final destination, unless suitable alternative arrangements are agreed, in advance of arrival, by the authorities and the aircraft operator involved at the transit location.

D. Procurement of a replacement travel document

5.25 When a replacement travel document must be obtained in order to facilitate removal and acceptance of an inadmissible person at his destination, the State ordering the removal shall provide as much assistance as practicable in obtaining that document.

Note.— In order to clarify application of this Standard, attention is drawn to Standard 5.13.

5.26 A Contracting State shall, when requested to provide travel documents to facilitate the return of one of its nationals, respond within a reasonable period of time and not more than 30 days after such a request was made either by issuing a travel document or by satisfying the requesting State that the person concerned is not one of its nationals.

5.27 A Contracting State shall not make the signing by the person concerned of an application for a travel document a prerequisite for the issuance of that document.

5.28 When a Contracting State has determined that a person for whom a travel document has been requested is one of its nationals but cannot issue a passport within 30 days of the request, the State shall issue an emergency travel document that attests to the nationality of the person concerned and that is valid for readmission to that State.

5.29 A Contracting State shall not refuse to issue a travel document to or otherwise thwart the return of one of its nationals by rendering that person stateless.

APPENDIX 9. SUGGESTED FORMATS FOR DOCUMENTS RELATING TO THE RETURN OF INADMISSIBLE PERSONS

1. ATTESTING DOCUMENT RELATING TO LOST OR DESTROYED TRAVEL DOCUMENTS (see 5.6)

From: Immigration or other appropriate authority: (Name)
Airport: (Name)
State: (Name)
Telephone:
Telex:
Facsimile:

To: Immigration or other appropriate authority: (Name)
Airport: (Name)
State: (Name)

The person for whom this document is issued arrived on (date) at (name of) Airport on flight (flight number) from (City and State).

This person, who was found to be inadmissible, has lost or destroyed his travel documents and claims to be/is understood to be (strike out whichever is not applicable and add any appropriate supporting information).

Surname:

Given name(s):

Date of birth:

Place of birth:

Nationality:

Residence:

Photograph

if available

The incoming carrier was instructed to remove the passenger from the territory of this State on flight (flight number) departing on (date) at (time) from (name of) airport.

Pursuant to Annex 9 to the Convention on International Civil Aviation, the last State in which a passenger previously stayed and most recently travelled from is invited to accept him for re-examination when he has been refused admission to another State.

Date:

Name of Official:

Title:

Signature:

Name of immigration or other appropriate authority:

(Warning: This is NOT an Identification Document)

2. LETTER RELATING TO FRAUDULENT, FALSIFIED OR COUNTERFEIT TRAVEL DOCUMENTS OR GENUINE DOCUMENTS PRESENTED BY IMPOSTERS (see 5.7)

From: Immigration or appropriate authority: (Name) Airport: (Name) State: (Name) Telephone: Telex: Facsimile:	To: Immigration or appropriate authority: (Name) Airport: (Name) State: (Name)
Enclosed herewith is a photocopy of a fraudulent/falsified/counterfeit passport/identity card/genuine document presented by an imposter. Document number: State in whose name this document was issued:	
The above-mentioned document was used by a person claiming to be:	
Surname: Given name(s): Date of birth: Place of birth: Nationality: Residence:	<div style="border: 1px solid black; width: 150px; height: 120px; margin: 0 auto; display: flex; align-items: center; justify-content: center;"> <p style="margin: 0;">Photograph if available</p> </div>
This person arrived on (date) at (name of) Airport on flight (flight number) from (City and State).	
The holder was refused entry to (name of State) and the incoming carrier has been instructed to remove the passenger from the territory of this State on flight (flight number) departing at (time) and (date) from (name of airport).	
The above-mentioned document will be required as evidence in the holder's prosecution and has been impounded. As this document is the property of the State in whose name it was issued, it will be returned, following prosecution, to the appropriate authorities.	
According to Annex 9 to the Convention on International Civil Aviation, the last State in which a passenger previously stayed and most recently travelled from is invited to accept him for re-examination when he has been refused admission to another State.	
Date:	Name and signature of Official: Title: Name of immigration or appropriate authority:
(Warning: This is NOT an Identification Document)	