



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

**Issued by the Department of Transportation
on the 16th day of January, 2025**

Türk Hava Yollari, A.O.

**Violations of 49 U.S.C. § 41712,
14 CFR Part 259, and Article 19 of
the Montreal Convention**

**Docket DOT-OST-2025-0001
DOT-OST-2020-0236**

Served January 16, 2025

CONSENT ORDER AND ORDER OF DISMISSAL

This consent order concerns violations of consumer protection laws by Türk Hava Yollari, A.O. (Turkish Airlines). Specifically, the U.S. Department of Transportation (Department or DOT) has determined that from March 2020 to September 2021, Turkish Airlines routinely failed to provide timely refunds to passengers for flights to and from the United States that the carrier cancelled or significantly changed in violation of 49 U.S.C. § 41712 (Section 41712) and 14 CFR Part 259. The Department also has determined that from July 2019 through June 2020, Turkish Airlines arbitrarily limited compensation for damages related to mishandled checked baggage on flights to and from the United States in contravention to the Convention for the Unification of Certain Rules for International Carriage by Air (Montreal Convention). This order directs Turkish Airlines to cease and desist from future similar violations of 49 U.S.C. § 41712, 14 CFR Part 259, and Article 19 of the Montreal Convention and assesses the carrier \$1,300,000 in civil penalties.

Applicable Law

Refund Requirements Effective Prior to May 16, 2024

The refund violations covered by this order occurred prior to May 16, 2024, the date the FAA Reauthorization Act of 2024 (2024 FAA Act) was signed into law.¹ Section 503 of the 2024 FAA Act, which is codified at 49 U.S.C. 42305, modified U.S. and foreign air carriers' obligations with respect to refunds for cancelled or significantly delayed or changed flights.²

¹ The FAA Reauthorization Act of 2024, Public Law 118–63, Sec. 544 (May 16, 2024).

² The Department published a final rule on April 26, 2024, to establish requirements for refunds and other protections for consumers of air travel. *See* 89 FR 32760 (Apr. 26, 2024). Subsequent to publication of that final rule, the 2024 FAA Act) was signed into law on May 16, 2024. On August 12, 2024, the Department published a final rule to amend the Department's refund regulations to be consistent with the 2024 FAA Act. *See* 89 FR 65534 (Aug. 12, 2024).

Pursuant to 49 U.S.C. § 41301, a foreign air carrier³ may provide foreign air transportation⁴ only if the foreign air carrier holds a permit from the Department authorizing the foreign air transportation or has a valid exemption from that section.⁵ A foreign air carrier that holds a foreign air carrier permit from the Department is subject to the requirements of 49 U.S.C. § 41712, which prohibits an air carrier, foreign air carrier, or a ticket agent from engaging in an unfair and deceptive practices in air transportation or the sale of air transportation. Section 41712 authorizes the Department to investigate and decide whether a carrier or ticket agent is engaging in an unfair or deceptive practice, and if so, to prohibit such a practice.⁶

Under the Department’s pre-May 2024 refund requirements, the Department long interpreted the prohibition against unfair practices to mean airlines cannot refuse to provide refunds to passengers holding non-refundable tickets when the carrier cancels or makes a significant change to a flight. In April and May 2020, in response to the high volume of air travel service complaints received, many of which concerned refunds, the Department’s Office of Aviation Consumer Protection (OACP) issued notices to help consumers understand their rights and emphasize to airlines that the unprecedented impact COVID-19 had on air travel has not changed the airlines’ obligation under Section 41712 to refund passengers for flights that airlines cancel or significantly change.⁷ Then, in December 2020, the Department published in the Federal Register a final rule titled “Defining Unfair or Deceptive Practices.”⁸ The rule defined the terms “unfair” and “deceptive” for purposes of Section 41712. Pursuant to the rule, a practice is “unfair” to consumers within the meaning of Section 41712 if it causes substantial harm to consumers, the harm is not reasonably avoidable, and the harm is not outweighed by benefits to consumers or competition.⁹ For the reasons set forth below, the practice of cancelling or significantly changing a flight to or from the United States without providing a refund is “unfair” as that term is defined by regulation, irrespective of the reason for the cancellation.

³ 49 U.S.C. § 40102(a)(21) defines a “foreign air carrier” as “a person, not a citizen of the United States, undertaking by any means, directly or indirectly, to provide foreign air transportation.”

⁴ 49 U.S.C. § 40102(a)(5) defines “air transportation” as “foreign air transportation, interstate air transportation, or the transportation of mail by aircraft.” 49 U.S.C. § 40102(a)(23) defines “foreign air transportation” as “the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, between a place in the United States and a place outside the United States when any part of the transportation is by aircraft.”

⁵ The authority required by section 41301 is separate and distinct from the operations specifications and approvals that such an entity must obtain from the Federal Aviation Administration (FAA) for operations to and from the United States.

⁶ The Department’s regulations impose obligations on airlines that cannot be avoided through contractual provisions. See *Spirit Airlines vs. DOT*, 687 F.3d 403, 416 (D.C. Cir. 2012) (DOT may implement rule that airlines must change their policies to permit a passenger to cancel a reservation without penalty within 24 hours, based on DOT’s finding that existing practices were unfair or deceptive).

⁷ “Enforcement Notice Regarding Refunds by Carriers Given the Unprecedented Impact of the Covid-19 Public Health Emergency on Air Travel” (April 3, 2020), available at www.transportation.gov/airconsumer/enforcement_notice_refunds_apr_3_2020; “Frequently Asked Questions Regarding Airline Ticket Refunds Given the Unprecedented Impact of the Covid-19 Public Health Emergency on Air Travel” (May 12, 2020), available at www.transportation.gov/airconsumer/FAQ_refunds_may_12_2020.

⁸ 85 Fed. Reg. 78707 (December 7, 2020).

⁹ 14 CFR 399.79(b)(1).

First, the practice imposes substantial harm to consumers because they paid money to the carrier for a service that the carrier did not provide. Consumers incur harm from delays in receiving refunds, as well as from the time, effort, and expense involved in seeking a refund.

Second, the harm is not reasonably avoidable. A consumer acting reasonably would believe that he or she was entitled to a refund under U.S. law if the carrier cancelled or significantly changed the flight whatever the reason for the cancellation or significant change. Moreover, a reasonable consumer would not believe that it is necessary to purchase a more expensive refundable ticket in order to be able to recoup the ticket price when the airline fails to provide the service paid for through no action or fault of the consumer. Reasonable consumers understand that “refundable” tickets are valuable because they ensure a refund if the *passenger* cancels their own flight reservation.

Third, the harm is not outweighed by countervailing benefits to consumers or competition. The Department seeks to regulate practices that are injurious to consumers in their net effects.¹⁰ In enforcing Section 41712, which is modeled on Section 5 of the Federal Trade Commission (FTC) Act, the Department recognizes, like the FTC, that practices may be harmful to consumers in some ways, but beneficial in others. For example, offsetting benefits may include lower prices or a wider availability of products and services resulting from competition.¹¹ Here, there are no offsetting benefits to consumers that would outweigh the harm of retaining passengers’ funds for lengthy periods of time.

In addition to the general prohibition on unfair and deceptive practices, pursuant to 14 CFR 259.5¹², U.S. and foreign air carriers operating at least one aircraft having a designed seating capacity of 30 or more seats were required to adopt a Customer Service Plan and adhere to the Plan’s terms. All covered carriers operating flights to and from the United States were required to adopt these Customer Service Plans and comply with the Plan terms, which provided a baseline, uniform, minimum level of service. At the time of the violations, the Department’s rules mandated that the Customer Service Plan must include certain commitments related to the payment of refunds to passengers when required by Section 41712. Section 259.5(b)(5) required: “Where ticket refunds are due, providing prompt refunds, as required by 14 CFR 374.3 and [Regulation Z, 12 CFR Part 1026] for credit card purchases, and within 20 days after receiving a complete refund request for cash and check purchases, including refunding fees charged to a passenger for optional services that the passenger was unable to use due to an oversale situation or flight cancellation.” OACP found that refunds were “due” when failure to provide them would constitute an unfair or deceptive practice under Section 41712. Regulation Z states, at 12 CFR 1026.11(a)(2), that for credit card purchases, refunds must be provided within seven business days of receipt of a written

¹⁰ See <https://www.ftc.gov/public-statements/1980/12/ftc-policy-statement-unfairness>.

¹¹ See *Id.*

¹² The language in this order reflects Section 259.5(b)(5) as it existed at the time of the violations. On April 26, 2024, and August 12, 2024, the Department published two final rules modifying U.S. and foreign air carriers’ commitments in Customer Service Plans related to refunds for cancelled or significantly delayed or changed flights. See 89 FR 32832 and 89 FR 65534.

request from the consumer. Pursuant to 14 CFR 374.3(b), violations of Regulation Z constitute violations of 49 U.S.C. Subtitle VII.¹³

Reimbursements for Mishandled Checked Baggage

The Montreal Convention imposes restrictions on a carrier's ability to limit its liability with respect to mishandled checked baggage.¹⁴ Under Article 19 of the Montreal Convention, carriers are liable for damages caused by delay of baggage.¹⁵ The liability limit for lost, delayed, or damaged checked baggage under Article 22 of the Montreal Convention is currently 1,288 Special Drawing Rights (SDRs) for each passenger.¹⁶ Nothing in the Montreal Convention permits blanket exclusions or otherwise allows carriers to disclaim liability for any class or category of item, such as jewelry, electronics, or high value goods, that they have accepted for transport as checked baggage. Moreover, nothing in the Montreal Convention permits carriers to limit to a pre-set amount compensation for expenses resulting from delayed baggage based on class of service, length of delay, or other factors. Such exclusions contravene Article 19 because they have the effect of limiting—with respect to items falling within their ambit—a carrier's liability to an amount lower than that set by Article 22. Under Departmental enforcement case precedent, a violation of Article 19 of the Montreal Convention also constitutes an unfair and deceptive practice and an unfair method of competition in violation of 49 U.S.C. § 41712.¹⁷

Facts and Conclusions

Extreme Delays in Providing Refunds

Turkish Airlines, a foreign air carrier, holds a foreign air carrier permit to operate flights to and from the United States pursuant to 49 U.S.C. § 41301. Turkish Airlines uses at least one aircraft having a designed capacity of more than 30 passenger seats. One condition of Turkish Airlines' foreign air carrier permit is that Turkish Airlines “comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department, with all applicable orders or regulations of other U.S. agencies and courts, and with all applicable laws of the United States.”¹⁸ Accordingly, Turkish Airlines was subject to the requirements in 49 U.S.C. § 41712 and 14 CFR 259.5 in effect at the time when violations discussed below occurred.

¹³ In enforcement orders, DOT has clarified that violations of section 259.5 are violations of Section 41712 specifically, not just 49 U.S.C. Subtitle VII generally. *See, e.g., American Airlines*, DOT Order 2017-7-9.

¹⁴ *Convention for the Unification of Certain Rules for International Carriage by Air*, ch. I, art. 1, adopted on May 28, 1999.

¹⁵ *Id.* at ch. III, art. 19.

¹⁶ *Id.* at Ch. III, art. 22. The Montreal Convention originally set the liability limit for delayed baggage at 1,000 SDRs but included a provision for reviewing and increasing the liability limit every five years. Montreal Convention, *supra*, Ch. III, art. 24. The most recent revision of the liability limits became effective in December 2019 and set the limit of carrier liability for delayed luggage at 1,288 SDRs. *See* 84 Fed. Reg. 3104 (Jan. 17, 2020).

¹⁷ *See Korean Air Lines Co., Ltd.*, Order 2013-7-5 (July 5, 2012); *Caribbean Airlines Limited*, Order 2011-10-20 (October 28, 2011); and *Emirates*, Order 2011-8-24 (August 30, 2011).

¹⁸ *See* Notice of Action Taken in DOT-OST-2005-21183 (March 21, 2024), paragraph 11.

Between March 1, 2020, and September 30, 2021, a substantial number of consumers complained to OACP alleging that Turkish Airlines failed to provide requested refunds for flights to or from the United States that the carrier cancelled or significantly changed due to the COVID-19 pandemic and associated governmental restrictions. Based on these complaints, OACP conducted a thorough investigation, which included reviewing Turkish Airlines' refund policies and procedures, data provided by the carrier, and consumer complaint files, among other information. The investigation revealed that Turkish took more than 100 days to process a significant number of the refund complaints filed with the Department for flights that the carrier cancelled or significantly changed. While Turkish could not provide the Department definitive information regarding the length of time that it took to process the majority of refunds to passengers who filed complaints and requested refunds directly with the carrier, Turkish admits that in some instances it failed to do so in a timely manner. OACP is of the view that Turkish taking more than 100 days to provide timely refunds to a significant number of the passengers who filed complaints with the Department is sufficient to establish liability in this matter. Irrespective of Turkish's stated refund policy, in practice, Turkish did not provide timely refunds. As a result, a substantial number of Turkish Airlines consumers experienced significant harm from the extreme delays (over 100 days) in receiving their refunds.

Limiting Reimbursements for Mishandled Checked Baggage

Türkiye and the United States are signatories of the Montreal Convention. Baggage claims arising from flights between the two countries are subject to the provisions of the Montreal Convention. Accordingly, Turkish Airlines may not limit its liability for expenses related to delayed baggage to an amount lower than 1,288 SDRs.

Based on a consumer complaint,¹⁹ OACP investigated Turkish Airlines' policies and practices in connection with its handling of monetary claims for mishandled checked baggage on flights to and from the United States. A review of consumer baggage claims received by Turkish Airlines from July 2019 through June 2020, revealed that in many instances, the carrier arbitrarily limited reimbursement for delayed or lost baggage to a maximum amount of \$50 USD payment per day for a maximum of six days regardless of the content consumers submitted in their claims. Turkish Airlines' actions effectively limited its liability for damage occasioned by the delay of checked baggage and the loss of items in checked baggage to an amount far less than the 1,288 SDRs for each passenger in violation of Article 19 of the Montreal Convention and 49 U.S.C § 1712.

Response

In response, Turkish Airlines states that it takes compliance with Departmental requirements very seriously. Turkish Airlines states that, like all carriers during the COVID-19 pandemic, it had difficulty addressing the massive influx of refund requests it received due to changes to its schedule. Turkish Airlines states that its employees in its North America office and its Istanbul headquarters worked tirelessly to address requests from its customers, including customers who were not traveling to or from the United States. Turkish Airlines states that it explored

¹⁹ OACP received one formal complaint regarding Turkish Airlines' handling of reimbursements for expenses resulting from the delay in returning checked baggage. DOT-OST-2020-0236-0001 (Nov. 16, 2020).

implementing technological solutions as early as April 2020 to address the massive influx of refund requests. For example, Turkish Airlines states that on its website marketed to U.S. consumers, Turkish Airlines clearly explained its obligations both under its contract of carriage and under Departmental enforcement policy to provide timely refunds. Turkish Airlines states that it regrets that it was unable to meet the Departmental standards for a substantial number of requests due to the unprecedented influx of refund requests.

Turkish Airlines states that when it was served with the third-party complaint regarding baggage handling, it conducted an internal review of its policies and procedures for providing reimbursement to passengers whose checked baggage was delayed at the passenger's final destination. Turkish Airlines states that through this review it identified areas of its procedures that could be updated to ensure consistent handling of delayed baggage claims. Turkish Airlines states that it implemented those policies in the summer of 2021. Turkish Airlines states that the Department conducted a subsequent review of baggage handling complaints after the implementation of the updated policies and that the Department did not identify a practice of arbitrarily limiting reimbursement for delayed or lost baggage after Turkish Airlines streamlined its claims process.

Decision

OACP views seriously Turkish Airlines' violations of 49 U.S.C. § 41712, 14 CFR Part 259, and Article 19 of the Montreal Convention. Accordingly, after carefully considering all the facts in this case, including those set forth above, OACP believes that enforcement action is warranted.²⁰ In order to avoid litigation and without admitting any violation, Turkish Airlines consents to the issuance of this order to cease and desist from future violations of 49 U.S.C. § 41712, 14 CFR Part 259, and Article 19 of the Montreal Convention and to the assessment of \$1,300,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301. The compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest. It establishes a strong deterrent to future similar unlawful practices by Turkish Airlines and other carriers.

This order is issued under the authority contained in 49 CFR Part 1.

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that by significantly delaying the payment of refunds to passengers for flights to or from the United States that Türk Hava Yollari, A.O. cancelled or significantly changed, Türk Hava Yollari, A.O. engaged in an unfair practice in violation of 49 U.S.C. § 41712;

²⁰ OACP reviewed the formal complaint against Turkish Airlines for improperly limiting reimbursements for damages resulting from the delay in returning checked baggage and found it to be meritorious. This complaint was considered in OACP's decision to pursue an order against Turkish Airlines and in the civil penalty assessed against Turkish Airlines. To promote the efficient use of OACP's resources, OACP is dismissing this complaint through this Consent Order and concurrently providing notice of the Consent Order and Order of Dismissal to the complainant.

3. We find that failing to adhere to its customer commitment related to providing prompt refunds, Türk Hava Yollari, A.O. violated 14 CFR 259.5(b)(5), which also constitutes a violation of 49 U.S.C. § 41712;
4. We find that Türk Hava Yollari, A.O. violated Article 19 of the Montreal Convention by limiting reimbursement for expenses resulting from delays in returning checked baggage to amounts significantly less than the potential liability set forth in the Montreal Convention, which also constitutes a violation of 49 U.S.C. § 41712;
5. We order Türk Hava Yollari, A.O. and its successors and assigns to cease and desist from further violations of 49 U.S.C. § 41712, 14 CFR 259.5, and Article 19 of the Montreal Convention;
6. We assess Türk Hava Yollari, A.O. \$1,300,000 in compromise of civil penalties that might otherwise be assessed for the violations described in paragraphs 2, 3, and 4, above;
7. We order Türk Hava Yollari, A.O. to pay within 60 days of the issuance of this order the penalty assessed in ordering paragraph 6, above, through Pay.gov to the account of the U.S. Treasury. Payment shall be made in accordance with the instructions contained in the Attachment to this order. Failure to pay the penalty as ordered shall subject Türk Hava Yollari, A.O. to the assessment of interest, penalty, and collection charges under the Debt Collection Act and to further enforcement action for failing to comply with this order.
8. We dismiss, with prejudice, the complaint filed in DOT-OST-2020-0236.

This order will become a final order of the Department 10 days after its service date unless a timely petition for review is filed or the Department takes review on its own motion.

BY:

Kimberly Graber
Deputy Assistant General Counsel
Office of Aviation Consumer Protection

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