

## **DECISION**

### **No 40-02-168/12.03.2016**

On the grounds of Article 16e and Article 122q, par. 1, par. 3, pt. 2 and par. 4 of the Civil Aviation Act (CAA), with reference to a letter with our reg. No 40-02-513/16.11.2015 sent to "Sofia Airport" EAD requesting the delivery of an opinion and documentation regarding the appeal brought by "Bulgaria Air" AD against Resolution No 544/29.10.2015 of the Executive Director of DG "CAA", a letter with our reg. No 40-02-513/26.11.2015 containing "Sofia Airport" EAD's opinion on the matter together with an analysis of the costs by separate types of charges, minutes from the hearing dated 03.12.2015 held at the premises of DG "CAA" with the participation of "Sofia Airport" EAD and "Bulgaria Air" AD containing the explicitly expressed intention for a settlement between the two disputing parties to be reached, a letter with our No 40-02-534/08.12.2015 sent to "Sofia Airport" EAD and "Bulgaria Air" AD, received letter with our No 40-02-534/09.12.2015 from "Sofia Airport" EAD containing proposals for new levels of the discounts for Landing Charge and Passenger Charge, a letter with our No 40-02-534/09.12.2015 from "Bulgaria Air" AD requesting assistance for continuing the negotiations, a letter with our No 40-02-534/09.12.2015 sent to "Sofia Airport" EAD and "Bulgaria Air" AD containing guidelines for conducting further bilateral meetings concerning the additional discounts proposed by "Sofia Airport" EAD, minutes from the hearing held on 14.12.2015 with the participation of "Sofia Airport" EAD and "Bulgaria Air" AD containing a refusal to reach a settlement, letters with our No 51-00-172/11.12.2015 sent to "Sofia Airport" EAD and "Bulgaria Air" AD requesting the provision of additional economic information, fact sheets sent electronically by "Sofia Airport" EAD and "Bulgaria Air" AD, a letter with our reg. No 40-02-534/14.01.2016 sent to "Sofia Airport" EAD requesting a detailed allocation of the costs related to each airport charge, a letter with reg. No 40-02-513/16.11.2015 from "Sofia Airport" EAD containing the requested financial- accounting information, Report with reg. No 40-09-221/12.03.2016 from the Commission appointed by the Executive Director of DG "CAA" with Order No 45-01-578/16.11.2015, and in relation to Article 6, par.1 of the Rules of Procedure of DG "CAA",

#### **I HAVE ADOPTED THE FOLLOWING DECISION:**

- I.** I confirm my Resolution reg. No 45-06-4/28.12.2015 issued on the grounds of Article 122 1, par. 2 of CAA. Whereas Resolution No 544/29.10.2015 of the Executive Director of "Sofia Airport" EAD issued on the grounds of Article 122j, par. 1 of the CAA is confirmed in the part comprising items 1, 2, 4, 5 and 6 of it.
- II.** I confirm the Resolution of the Executive Director of "Sofia Airport" EAD under item I above in the part comprising item 3 – "Passenger Charge", with the exception of item 3.5.2 of it.
- III.** I amend item 3.5.2 of the Resolution of the Executive Director of "Sofia Airport" EAD under item I above as follows:  
In item 3.5.2 the words: "For number of departed passengers on International routes" shall be amended to read: "For number of departed passengers on routes".

Rationale:

Article 3 of Appendix 1 to the Charges Regulations applicable for the usage of public airports and for the provision of air navigation services in the Republic of Bulgaria – “Cost types included in Passenger Charge” foresees the possibility, for Passenger Charge, “the charge to be differentiated with respect to passengers on International flights and passengers on Domestic flights”. In this context, item 3.5.2 of the appealed resolution makes provision for differentiation in the Passenger Charge discount for the number of departed passengers on international routes.

After having examined and assessed the claims of the parties made in “Bulgaria Air” AD’s appeal and “Sofia Airport” EAD’s opinion on it, DG “CAA” as an independent supervisory authority considers that this possibility for differentiation in the level of the Passenger Charge should not be applied since the quality of services and the standards for safety and security should be and are equal for all serviced departed passengers, regardless of the route they are flying – on domestic or international services.

The decision under item I remains unchanged in the rest part and the rationale of this is as follows:

As per the accounting data and the information provided by “Sofia Airport” EAD as requested by DG “CAA” during the proceedings according to Chapter Xc of the CAA, it was concluded that the detailed information about the costs related to each type of the airport charges of the appealed decision coincided with the information initially submitted in the “Sofia Airport” EAD’s statement to the “Bulgaria Air” AD’s appeal and the enclosed analysis thereto.

As per the above stated arguments collected during the proceedings, it is evident that the costs related to the Landing charge, Parking charge, Passenger charge, Passenger Loading Bridge usage charge, Security charge and the Noise (Environmental) charge correspond to the ones described in pt. 1,2,3,4,5 and 6 of section III- Scope of the costs according to types of charges of the Appendix 1 to Article 1 (3) of the Charges Regulation for the usage of public airports and for the provision of air navigation services in the Republic of Bulgaria (Methodology of determination the amount of the airport charges at airports with annual traffic of more than 5 million transported passengers or at airports with the greatest number of passengers carried on the territory of the Republic of Bulgaria (Sofia Airport).

Evidenced by the arguments provided during the proceedings, the Airport Operator has complied with the statutory requirements for conducting consultations with the Sofia Airport users in accordance with Article 122f and 122g of the CAA. The Airport Operator has submitted to the users all necessary information for the aims of the consultations, referred in Article 122h, par.2 of the CAA.

- IV.** On the grounds of Article 122q, par.5 of the CAA this decision is subject to appeal within 14 days from its announcement on the website of GD “CAA” to the Sofia City Administrative Court by each party in the dispute.
- V.** This decision shall be announced on the official DG “CAA”’s website on the date of its issuing.
- VI.** This decision shall be sent by registered post with acknowledgement of receipt to “Sofia Airport” EAD and “Bulgaria Air” AD.

Mincho Tzvetkov  
Executive Director  
DG “CAA”