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Ministerio de Fomento  
AESA  
User Support Unit  
Po de la Castellana, 67  
28071 Madrid  
Spain

*Attachment(s):*

CD-R with recorded phone conversation with Iberia customer services 2009-04-28

Re: Complaint under EC Regulation 1107/06

**Dear Sirs,**

I hereby acknowledge the receipt of the three letters AESA have sent me dated March 11<sup>th</sup> 2009, July 23<sup>rd</sup> 2009 and September 8<sup>th</sup> 2009.

I must admit I found your first letter a bit strange, as you had obviously mistaken the regulation under which I've made a complaint (EC 1107/2006) with a completely different one (CE 261/04).

Therefore, I was pleased to understand from Annelie Sjölund, your colleague at Swedish Transportstyrelsen, and from your later letters that you now have corrected the mistake and are undertaking a serious investigation against Iberia.

1. In this matter, I would like to present AESA with the following facts/circumstances:  
The night to the 1<sup>st</sup> of May 2009 I had my return flight from Tenerife to Stockholm via Madrid with Iberia. As usual, I called Iberia's customer services in advance to the 48 hours prior to departure, as stipulated by the EC regulation, to assure access and accommodation. With the last flight in mind, where I had to pay the overweight fee, I this time recorded the conversation. It is a legal right of any citizen of Sweden to record a conversation by phone or elsewhere in which the citizen himself partakes without telling other partakers of the conversation; consent is not necessary. I have enclosed the conversation, transferred to a CD-R, with this letter. The only editing which has been made is a volume adjustment of my voice as it was inaudible in the original recording (made with cell phone). The recording can also be accessed as an MP3 at  
[http://www.independentliving.org/anmalningstjansten/images/IberiaStockholm2008-11-01\\_1241560465.mp3](http://www.independentliving.org/anmalningstjansten/images/IberiaStockholm2008-11-01_1241560465.mp3)

According to the conversation, the information about my overweight due to medical supplies was already registered with Iberia and put into the internal system. In other words, this was already in Iberia's system when I travelled from Stockholm to Tenerife via Madrid on November 1<sup>st</sup> 2008 and was forced to pay the overweight fee of 1 000 SEK. This contradicts what Iberia representatives at Arlanda airport told me, even though I made repeat inquiries. They said there was nothing in the system whatsoever about my overweight due to medical supplies, although I had called their customer services in advance and been assured by customer services representatives it had been put into the internal system, just like this time.

During the recorded conversation, I repeatedly asked Iberia's representative to confirm the information was already in the system and I was promised I would not have any problem with this what so ever at Reina Sofia (TFS). As you can hear, I also asked the representative to confirm today's date and time, which was April 28<sup>th</sup> 2009, 5 pm.

To my surprise, Iberia held their promise this time. At the airport, I did not have to withstand any of the humiliating and discriminatory behavior Iberia held towards me at Arlanda airport. They asked nothing about the weight of the bag and did not mention, nor charge any overweight fee although the bag was weighed +20 kg just like last time. The only question I was asked was if my bag contained scuba diving equipment, since the bag in itself is a bag for carrying such equipment.

**Hence, this time I travelled without paying anything at all for my overweight. My view is that Iberia thereby have admitted they made a mistake when they charged me 1 000 SEK when I travelled to Tenerife.**

2. I'd like to comment on the question about whether "medical equipment" would not mean "medical supplies", in the matter I say it does, and the weight of my bag in correlation to my period of stay (six months).

I made a brief inquiry with contemporary dictionaries and they basically all say "equipment" in this matter means "a set of tools, devices, kit, etc. assembled for a specific purpose". "Supplies" on the other hand has many connotations of which "equipment" is one in all of the dictionaries I have looked into.

**With this in mind, I'd say "medical equipment" and "medical supplies" are equivalents and means all things (medicines, mobility aids, auxiliary aids, etc) that are necessary for a person with a disability to function properly in daily life.**

Not interpreting the regulation formulation that way would be strange, as it would mean airline carriers are required to carry electric wheelchair which weigh in excess of 300 kilos, but not my bag of 20 kilos which contained things that are absolutely necessary for me to be able to live my life at all. This would make no sense at all.

**However, since Iberia didn't charge anything for my medical supplies when I had my return flight, I'd say this is not a matter of semantics, but practice.**

3. Very important for you to know is that the length of stay is not relevant in this case. Let me translate a passage of my original complaint to Swedish authority Transportstyrelsen: "Because I'm staying abroad all winter – 6 months – the things I've listed above (list of medical equipment/supplies) together weigh over 20 kilos. **But even without this aspect the total weight would be around 20 kg.**" (My marking.) **Therefore it would be a mistake to dismiss my complaint for this reason.**

For me, it is not a matter of the 1 000 SEK. It is a matter of principles. Iberia shouldn't be allowed to treat customers with disabilities this way. It is a matter of "ableism" which I will never condone. Neither should AESA. But of course my position is that Iberia should be forced to repay the charge and also pay whatever damages/penalties possible from the EC regulation. If they are not, my legal right to travel freely being an EU citizen with a disability is greatly diminished and it would mean that I would always have to consider the fact an airplane ticket could be +1000 SEK more expensive for me as a traveler with disability.

In this matter, I'd like AESA to inform me on what penalties have been put into effect in Spain according to article 16 of the EC regulation and what measures AESA will take against Iberia.

Lastly, I'd like to inform you that I made a complaint with the Swedish Discrimination Ombudsman under Swedish law The Prohibition of Discrimination Act (2003:307) and according to article 15 of the EC regulation 1107/2006 this does not forfeit my right to make a complaint under the regulation. This law applies to the situation since it happened in Sweden and Iberia is operating in Sweden. At the moment, I do not know how far the discrimination complaint investigation has come.

If possible, I would prefer continued communication by e-mail [hans@filipsson.org](mailto:hans@filipsson.org). Please confirm reception of this letter to that email address.

Sincerely,

Hans Filipsson