

Úrskurður

Samgöngustofu nr. 5/2026 vegna kvörtunar um aflýsingu á flugi Air Greenland nr. GL746 þann 5. ágúst 2025

I. Erindi

Þann 26. ágúst 2025 barst Samgöngustofu (SGS) kvörtun frá ABCD (kvartendur). Kvartendur áttu bókað far með flugi nr. GL746 á vegum Air Greenland (AG) kl. 14:30 þann 5. ágúst 2025 frá Keflavík til Billund og var flugi þeirra aflýst á brottfarardegi.

Kvartendur fara fram á staðlaðar skaðabætur á grundvelli reglugerðar EB nr. 261/2004 um sameiginlegar reglur um skaðabætur og aðstoð til handa farþegum sem er neitað um far og þegar flugi er aflýst eða mikil seinkun verður, sbr. reglugerð nr. 466/2024 um réttindi flugfarþega.

II. Málavextir og bréfaskipti

SGS sendi kvörtunina til umsagnar AG með tölvupósti þann 27. ágúst 2025. Í svari AG, sem barst þann 9. september 2025, kemur eftirfarandi fram:

The passengers had booked a flight from Reykjavik (KEF) to Billund (BLL), with a scheduled arrival in Billund (BLL) on August 5, 2025, at 19:45 local time. This case concerns flight GL746, which was cancelled. The cancellation was due to adverse weather conditions, as stated in Exhibit A, which is the flight log for the flight. It is evident from the log that the flight was cancelled because of the weather conditions. GL746 was scheduled to fly from Nuuk (GOH) to Reykjavik (KEF) and then from Reykjavik to Billund (BLL), as stated in Exhibit B, which is a printout from Flightstats.com showing the flight's route. The airline wishes to point out that the aircraft could not take off from Nuuk (GOH) due to adverse weather conditions. As evidence of the adverse weather conditions, a TAF report for Nuuk Airport ("BGGH") is submitted in Exhibit C. The report was made by the airport's meteorologists and is therefore an external document. The report outlines the expected weather conditions for the day in question. Since this is a case of cancellation and not a delay, the evaluation of the weather conditions has been made based on a weather forecast, rather than actual weather conditions. This is because cancellations, by their nature, occur before the scheduled operation of the flight, and therefore the expected weather conditions at the time of the flight's operation are what matters.

SGS sendi kvartendum svar AG til umsagnar þann 9. september 2025. Í svari kvartenda kom fram:

The Airline's Own Evidence Shows the Cancellation Was Not Necessary

Air Greenland's central argument rests on the TAF weather forecast for Nuuk (GOH) on the morning of August 5, 2025 (Exhibit C). However, this forecast actually proves that a short delay, rather than an outright cancellation, would have been a more reasonable measure.

The flight from Nuuk (GOH) was scheduled to depart at 10:30 local time (11:30 UTC).

The airline bases its decision on the TAF report issued at 08:27 UTC. This report forecasts poor visibility with fog between 09:00 UTC and 12:00 UTC.

Crucially, the very same forecast shows the weather was expected to improve significantly starting just 30 minutes after the scheduled departure time. The report explicitly states: "BECMG 0512/0514 18018G28KT 9999 NSW BKN070".

This means that between 12:00 UTC and 14:00 UTC, the weather was forecast to become excellent, with visibility improving to over 10km ("9999") and "No Significant Weather" (NSW).

The airline made the decision to cancel a flight scheduled for 11:30 UTC, when their own evidence showed the weather would be clear for takeoff from 12:00 UTC onwards. A reasonable measure would have been to delay the flight by 30-60 minutes to await the forecast improvement, which would have allowed the entire rotation to proceed. An outright cancellation was not a reasonable or proportionate response.

Failure to Prove "All Reasonable Measures" Were Taken

The airline must prove they took all reasonable measures to avoid the cancellation. Their submission makes broad statements but offers no specific proof.

They claim they "could not have planned its resources differently" and that "there is minimal the airline can do". These are generic assertions, not evidence.

They have not provided any information on what, if any, alternative measures were considered. Did they have backup aircraft or crew available? Did they investigate delaying the flight from Nuuk, as the forecast suggested was possible?

The burden of proof is on the airline to demonstrate they exhausted all options. They have failed to do so. A "knock-on" delay caused by weather only exempts an airline if they can prove they did everything reasonably possible to mitigate its effects on subsequent flights.

Factual Inaccuracy in Air Greenland's Submission Regarding Rerouting

Finally, we must correct a significant factual error in Air Greenland's submission.

In their comments and Exhibit D, the airline's representatives repeatedly state that we were rebooked on a flight to our final destination of Billund (BLL).

This is incorrect. The airline's own evidence, the itinerary in Exhibit D, clearly shows the rebooking was for flight FI 202 from KEF to CPH (Copenhagen). Upon arrival in Copenhagen, we were then transported by bus to Billund.

This error not only misrepresents the level of inconvenience we experienced but also demonstrates a lack of attention to detail and accuracy in the airline's formal response to this authority.

Conclusion

The cancellation of our flight GL746 from Keflavík to Billund was not the result of an unavoidable extraordinary circumstance. It was the result of a business decision by Air Greenland to cancel the flight rotation rather than impose a minor delay.

Their own evidence (Exhibit C) shows the weather in Nuuk was forecast to clear shortly after the scheduled departure time. The failure to wait for this improvement constitutes a failure to take "all reasonable measures."

Therefore, we maintain our right to compensation of €400 per passenger, as stipulated in Regulation 261/2004.

Þann 27. janúar bað SGS AG um skýringar á seinkun á fyrra flugi vélarinnar sem átti að framkvæma flug kvartenda frá Keflavík. Í svari AG þann 5. febrúar kom m.a. fram:

ICETRA has requested that Air Greenland provide clarification for the previous flight from Billund (BLL) with GL765 that landed with a delay at 12.06 local time more than 2 hours after the fog had cleared.

Air Greenland wishes to emphasize that this is correctly interpreted. In light of this, the airline must assert the following regarding the cancellation of GL746 on August 5, 2025:

The previous rotation with GL765 was scheduled to fly from Billund (BLL) to Nuuk (GOH) with an expected arrival on August 5, 2025, at 09:30 local time.

However, GL765 was diverted due to adverse weather conditions. As documentation for this, Exhibit E is provided, which includes extracts from Flightradar24.com. These show that the flight was diverted to Kangerlussuaq (SFJ), as indicated by

"Diverted to SFJ." Exhibit E also shows that GL765 began to circle over Nuuk at 10:20 UTC (09:20 local time). ...

As a result of this, the flight was diverted to Kangerlussuaq (SFJ). The flight then proceeded from there to Nuuk (GOH) and landed at 13:06 UTC (12:06 local time).

As a result of this, the crew's working hours expired, which led to the necessity of canceling GL746. As documentation for this, Exhibit G is presented, which provides an explanation of the above in Danish from Air Greenland's operations department. Exhibit G includes the following explanation (translated from Danish to English):

“Here is a calculation of FDP for the flight on August 5, 2025

BLL/GOH/KEF/BLL:

FDP for a flight with 3 landings is 12:30 hours maximum in the planning phase, this can be exceeded during the flight by a maximum of 2 hours if the crew is aware and fit to exceed.

The current flight in DK times for the crew, based in BLL, is:

GL765 STD BLL 0745 local = crew check-in 0645

GL765 could not land in GOH, so it was diverted to SFJ.

GL765 SFJ/GOH ATD SFJ 1432 – ATA GOH 1508

GL4746 GOH/BLL ATD 1555 – ATA BLL 2015

The current FDP for the flight was 13:30 hours, which is an excess of 1:00 hour.

If we were to fly via KEF on the way to BLL, it would mean the follow-ing routing:

BLL/SFJ/GOH/KEF/BLL – this would result in an additional reduction of FDP by another 0:30 hours. It would mean a maximum FDP of only 12:00 hours for the crew. Moreover, the landing in KEF along with de-scent and climb in/out would be forgotten according to flying directly GOH/BLL. This would again lead to excesses of 3 to 4 hours beyond the maximum FDP of 12:00 hours.

Therefore, there is absolutely no legal possibility based on FTL to fly via KEF on the way from GOH to BLL.”

(The Airline’s translation)

Thus, it was not possible to carry out the flight as the crew’s working hours would have expired. As a result, GL746 was canceled.

III. Forsendur og niðurstaða Samgöngustofu

SGS fer með eftirlit með réttindum neytenda samkvæmt ákvæðum XVI. kafla laga um loftferðir nr. 80/2022 og skal grípa til viðeigandi aðgerða til að tryggja að réttindi farþega séu virt, sbr. 2. mgr. 207. gr. laganna.

Farþegar og aðrir sem eiga hagsmuna að gæta geta skotið ágreiningi er varðar fjárhagslegar kröfur og einkaréttarlega hagsmuni samkvæmt ákvæðum XVI. kafla laga um loftferðir til SGS, sbr. 1. mgr. 208. gr. laganna. Náist ekki samkomulag eða sátt skal SGS skera úr ágreiningi með úrskurði.

Samkvæmt 1. mgr. 204. gr. sömu laga er flugrekanda skylt að veita farþegum aðstoð og eftir atvikum greiða þeim bætur, í samræmi við þau skilyrði sem sett eru í reglugerð sem ráðherra setur, ef: tjón hefur orðið vegna tafa á flutningi, farþega er neitað um far, flugi er aflýst eða þegar flutningi er flýtt.

Um réttindi flugfarþega er fjallað í reglugerð EB nr. 261/2004 um sameiginlegar reglur um skaðabætur og aðstoð til handa farþegum sem neitað er um far og þegar flugi er aflýst eða mikil seinkun verður, sem var innleidd hér á landi með reglugerð nr. 466/2024. Samkvæmt 2. gr. reglugerðar nr. 466/2024 er SGS sá aðili sem ber ábyrgð á framkvæmd reglugerðarinnar samanber 16. gr. reglugerðar EB nr. 261/2004.

Um aflýsingu flugs og þá aðstoð sem flugrekandi skal veita í slíkum tilvikum er fjallað um í 5. gr. reglugerðar EB nr. 261/2004. Samkvæmt 1. mgr. 5. gr. skal farþegum ef flugi er aflýst, boðin aðstoð af hálfu flugrekandans í samræmi við 8. gr. og a-lið 1. mgr. 9. gr. og 2. mgr. 9. gr. Í 8. gr. reglugerðarinnar er fjallað um rétt farþega til þess að fá endurgreitt eða að fá flugleið breytt. Þar kemur nánar tiltekið fram að flugfarþegar eigi eftirfarandi kosta völ; að fá innan sjö daga endurgreitt að fullu upprunalegt verð farmiðans, að breyta flugleið með sambærilegum flutningsskilyrðum til lokaákvörðunarstaðar eins fljótt og auðið er eða að breyta flugleið með sambærilegum flutningsskilyrðum og komast til lokaákvörðunarstaðar síðar meir.

Auk framangreinds gildir að sé flugi aflýst eiga farþegar rétt á skaðabótum frá flugrekanda í samræmi við 7. gr., hafi ekki verið tilkynnt um aflýsingu á þann hátt sem mælt er um í i) – iii) liðum c-liðar 1. mgr. 5. gr. Þetta gildir nema flugrekandi geti sýnt fram á að flugi hafi verið aflýst af völdum óviðráðanlegra aðstæðna sem ekki hefði verið hægt að afstýra jafnvel þótt gerðar hefðu verið allar nauðsynlegar ráðstafanir, sbr. 3. mgr. 5 gr. reglugerðarinnar.

Loftferðalögum nr. 80/2022 og reglugerð EB nr. 261/2004 er ætlað að tryggja ríka vernd fyrir farþega sem neytendur flugþjónustu. Meginreglan samkvæmt reglugerð EB nr. 261/2004 er réttur farþega til skaðabóta skv. 7. gr. reglugerðarinnar sé um að ræða aflýsingu eða mikla seinkun á brottfarartíma flugs og ber að skýra undantekningarreglu 3. mgr. 5. gr. reglugerðarinnar þröngt, sbr. dóm Evrópudómstólsins frá 22. desember 2008, í máli C-549/07 Friederike Wallentin-Hermann v Alitalia.

Staðlaðar skaðabætur

Fyrir liggur í málinu að kvartendur áttu bókað far með flugi nr. GL746 frá Keflavík til Billund þann 5. ágúst 2025 og að fluginu var aflýst á brottfarardegi. Álitaefni þessa máls er hvort aflýsing á flugi kvartenda sé bótaskyld á grundvelli reglugerðar EB nr. 261/2004, sbr. reglugerð nr. 466/2024. Í því samhengi kemur til skoðunar hvort að aflýsingu á flugi kvartenda megi rekja til óviðráðanlegra aðstæðna í skilningi 3. mgr. 5. gr. reglugerðar EB nr. 261/2004.

Við meðferð málsins var sérfræðingur flugrekstrardeildar SGS beðinn um að leggja mat á framlögð veðurgögn AG til að skera úr um hvort að veðuraðstæður í Nuuk þann 5. ágúst 2025 hafi verið með þeim hætti að forsvaranlegt hafi verið af hálfu AG að aflýsa flugi kvartenda. Í svari sérfræðings flugrekstrardeildar kemur fram að veður í Nuuk á brottfarartíma vélarinnar

sem síðar átti að framkvæma flug kvartenda frá Keflavík til Billund hafi verið með þeim hætti að réttlæt看legt hafi verið að aflýsa flugi kvartenda.

Með hliðsjón af þeim upplýsingum sem koma fram í svari sérfræðings flugrekstrardeildar SGS er það mat stofnunarinnar að aflýsing á flugi kvartenda nr. GL746 þann 5. ágúst 2025 falli í flokk óviðráðanlegra aðstæðna í skilningi 3. mgr. 5. gr. reglugerðar EB nr. 261/200, sbr. 14. inngangslíður reglugerðarinnar.

Að mati SGS hefur AG þannig sýnt fram á að félagið hafi lagt sig fram við að takmarka afleiðingar af hinum óviðráðanlegu aðstæðum eftir bestu getu. Er kröfu kvartenda um staðlaðar skaðabætur á grundvelli reglugerðar EB nr. 261/2004, sbr. reglugerð nr. 466/2024, því hafnað.

Úrskurðarorð

Kröfum kvartenda um staðlaðar skaðabætur úr hendi Air Greenland vegna aflýsingar á flugi nr. GL746 þann 5. ágúst 2025 samkvæmt reglugerð EB nr. 261/2004 sbr. reglugerð 466/2024, er hafnað.

Samkvæmt 4. mgr. 208. gr. laga um loftferðir nr. 80/2022 verður úrskurði Samgöngustofu ekki skotið til annarra stjórnvalda. Þegar úrskurður hefur verið kveðinn upp geta aðilar lagt ágreining sinn fyrir dómstól á venjulegan máta. Málshöfðun frestar ekki heimild til aðfarar skv. 6. mgr. 208. gr.

Reykjavík, 20. febrúar 2026

Ómar Sveinsson

Ludvig Árni Guðmundsson