

## Úrskurður

### **Samgöngustofu nr. 32/2026 vegna kvörtunar um neitun á fari með flugi Wizz air nr. W61540 þann 16. október 2025**

#### **I. Erindi**

Þann 30. október 2025 barst Samgöngustofu (SGS) kvörtun frá A (kvartandi). Kvartandi átti bókað far með flugi nr. W61540 á vegum Wizz air (WA) kl. 23:55 þann 16. október 2025 frá Keflavík til Varsjár en var neitað um far.

Í erindi kvartanda kemur m.a. fram:

This is a very unusual case and therefore I am seeking assistance regarding my situation. A detailed description is provided in the attached file “Initial message to Wizzair”. Briefly, I was denied boarding through no fault of my own. My Wizzair flight was delayed from 23:55 to 02:51. I arrived at the airport around 01:00, already checked in online with a valid boarding pass. However, ISAVIA closed airport security overnight and did not allow me to enter the airside area. Although this issue relates to airport operations, Wizzair has the responsibility to ensure that passengers are able to board the aircraft, especially when the flight is delayed by almost 3 hours. Wizzair's decision claims that I did not complete check-in procedures before the deadline. This is incorrect, as I had completed online check-in the day before the flight. Additionally, at no point does the ISAVIA (KEF) website state the operating hours of security or that the airport closes overnight. There was no way for me to know that the airport would close despite a scheduled (delayed) departure. I am seeking resolution from Wizzair, including full refund for the missed flight, compensation for denied boarding and reimbursement of the cost of the alternative flight with Icelndair and bus ticket to reach the destination.

Kvartandi fer 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. Einnig fer kvartandi fram á endurgreiðslu kostnaðar.

#### **II. Málavextir og bréfaskipti**

SGS sendi kvörtunina til umsagnar WA með tölvupósti þann 31. október 2025. Í svari WA, sem barst þann 31. október 2025 kemur eftirfarandi fram:

We have received the documentation with reference 25102137, regarding passenger A, flight W6 1540 from Keflavík (KEF) to Warsaw (WAW) on 17 October 2025, under reservation PGQLYL.

We are sorry to hear about the difficulties Mr. Trela experienced at Keflavík Airport. Our aim is always to support passengers and provide the best travel experience; however, it is important to note that not every aspect of airport operations and passenger processing falls within the airline's authority.

#### Boarding Obligation and GCC Requirements

According to Wizz Air's General Conditions of Carriage (GCC), accepted by all passengers during the booking process:

11.1.1 You must arrive at the airport sufficiently in advance of the scheduled departure time to complete all government and security formalities and present yourself at the gate no later than 30 minutes before your scheduled flight time. Procedures and timings may vary at different airports. The gate closure time is shown on your boarding pass and on our website.

For flight W6 1540, the gate closing time was 23:45 LT on 16 October 2025. Airport and system records confirm that the passenger arrived at approximately 01:00 LT, more than one hour after gate closure.

Although the flight experienced a delay departed later, this does not modify the published boarding or check-in deadlines, unless expressly communicated by the airline. The boarding process was completed according to the original timeline.

#### Airport Security Operations

We acknowledge the passenger's comments regarding the closure of security checkpoints.

However, airport security staffing and access to the secure area are managed solely by the airport operator. Airlines are not authorized to reopen security screening once airport procedures have closed and boarding has concluded.

#### Assessment Under EC261

To qualify as denied boarding under Regulation (EC) No. 261/2004, a passenger must present themselves for boarding on time and be refused carriage against their will.

As Mr. Trela did not reach the gate before the closing time and was therefore classified as a No-Show, this situation does not constitute denied boarding under the Regulation.

## Goodwill Refund

Notwithstanding the above, and as a gesture of goodwill, we confirm that a refund of 89.99EUR has already been issued to the passenger. This refund is not an admission of liability but a courtesy to support the passenger.

Based on:

- confirmed arrival time after gate closure,
- boarding completed according to scheduled timelines,
- airport security being outside airline control, and
- obligations established under the GCC and EC261,

we confirm that ground handling staff acted correctly and in full accordance with procedures.

Therefore, we are unable to reimburse the additional expenses claimed.

SGS sendi kvartanda svar WA til umsagnar þann 3. nóvember 2025. Í svari kvartanda sem barst 25. nóvember kom m.a. fram:

### Summary statement

The handling of my case by Wizz Air has been inconsistent and confusing. In my direct communication with the airline, I was initially informed that I had *not completed the check-in process on time*. This explanation was clearly incorrect, as I had completed online check-in the day before the flight, held a valid boarding pass, and was travelling with hand luggage only. Once I presented this counterargument, Wizz Air did not provide any further clarification.

However, when the case was escalated through Samgöngustofa, Wizz Air changed its narrative and claimed that I had *arrived at the airport after boarding had been completed*. As demonstrated in my previous statements, this is factually untrue. I arrived at the airport well before the aircraft had even landed in Iceland, and more than one hour before boarding began. The claim that boarding was completed is contradicted by the operational timestamps provided by Airport Associates.

I firmly believe that I should not bear responsibility for the lack of communication between the airline and its passengers, and, most importantly, the lack of coordination between Wizz Air and the airport operator. I arrived at the airport within the timeframe instructed by Wizz Air, and I fully intended to board my flight. In cases of delay, it is the airline's responsibility to provide passengers with accurate information and ensure they have the ability to reach the aircraft. None of these obligations were fulfilled in my case.

Furthermore, several other passengers experienced the same problem, indicating a broader operational failure rather than an individual mistake.

Given all of the above, I believe Wizz Air should be held accountable for this mismanagement and compensate me for denied boarding, as well as reimburse my additional travel expenses, including the alternative flight and bus transportation that I was forced to purchase.

### **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.

Í 3. mgr. 4. gr. reglugerðar EB nr. 261/2004 kemur fram að ef farþega er neitað um far skal hann eiga rétt á skaðabótum skv. 7. gr. reglugerðarinnar og rétt til að fá endurgreitt eða að breyta flugleið samkvæmt 8. gr. reglugerðarinnar. Í j-lið 2. gr. reglugerðar EB nr. 261/2004 má sjá skýringu á hugtakinu að farþega sé meinað að ganga um borð þótt hann hafi gefið sig fram til þess samkvæmt skilyrðum þeim sem mælt er fyrir um í 2. mgr. 3. gr. reglugerðarinnar, nema réttmætar ástæður séu til þess, t.d. af heilbrigðis- eða öryggisástæðum eða ef ferðaskilríki eru ófullnægjandi.

#### **Staðlaðar skaðabætur**

SGS hefur tekið til skoðunar hvort um bótaskylda neitun á fari sé að ræða í skilningi reglugerðar EB nr. 261/2004. Í 3. mgr. 4. gr. reglugerðar EB nr. 261/2004 kemur fram að ef farþega er neitað um far skal hann eiga rétt á skaðabótum skv. 7. gr. reglugerðarinnar og rétt til að fá endurgreitt eða að breyta flugleið samkvæmt 8. gr. reglugerðarinnar. Í j-lið 2. gr. reglugerðar

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Í a-lið 2. mgr. 3. gr. reglugerðar EB nr. 261/2004 er tilgreind sú skylda að farþegum beri að innrita sig eigi síðar en flugrekandi mælir fyrir um, eða 45 mínútum fyrir auglýstan brottfarartíma ef enginn innritunartími er tilgreindur. Í máli þessu var upphaflegur brottfarartími áætlaðs flugs kl. 23:55.

Líta ber til samningsskilmála við kaup flugfara hjá WA en í 11.1.1. gr. skilmálanna er tilgreint sérstaklega að innritun í flug ljúki 30 mínútum fyrir áætlaðan brottfarartíma til þess að m.a. tryggja afhendingu farangurs og öryggisleit. Þrátt fyrir að fluginu hafi verið seinkað var kvartanda ekki tilkynnt um breyttan innritunartíma. Þar sem kvartandi mætti of seint til innritunar er ekki um bótaskylda neitun á fari að ræða. Þær aðstæður sem um ræðir í máli þessu falla því ekki innan gildissviðs reglugerðar EB nr. 261/2004 og ber því að hafna kröfu kvartanda.

### *Úrskurðarorð*

Kröfu kvartanda um staðlaðar skaðabætur úr hendi Wizz air vegna neitunar á fari með flugi nr. W61540 þann 16. október 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, 22. júní 2026

Ómar Sveinsson

Aldís Geirdal Sverrisdóttir