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AIR 
PASSENGER
 RIGHTS



Air Passenger Protection Regulations

Submissions to the Canadian Transportation Agency

by *Air Passenger Rights*

August 2018

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About *Air Passenger Rights*

Air Passenger Rights (APR) is an independent nonprofit network of volunteers, devoted to empowering travellers through education, advocacy, investigation, and litigation.

APR is in a unique position to comment on the regulations to be made under s. 86.11 of the *Canada Transportation Act* on behalf of the public interest:

- **Experience based.** *APR*'s submissions are based on the expertise and experience accumulated through assisting passengers daily in enforcing their rights.
- **Independence.** *APR* accepts no government or business funding.
- **No business interest.** *APR* has no business interest in the regulations to be made.

APR's presence on the social media includes the [Air Passenger Rights \(Canada\)](#) Facebook group, with over **8,500 members**, the [Air Passenger Rights](#) Facebook page, and the [@AirPassRightsCA](#) Twitter feed.

APR was founded and is coordinated by Dr. Gábor Lukács, a Canadian air passenger rights advocate, who volunteers his time and expertise for the benefit of the travelling public.

Gábor Lukács, PhD (Founder and Coordinator)

Since 2008, Dr. Lukács has filed **more than two dozen successful complaints**¹ with the Canadian Transportation Agency (the Agency), challenging the terms, conditions, and practices of air carriers, resulting in orders directing them to amend their conditions of carriage and offer better protection to passengers.

Dr. Lukács has appeared before courts across Canada, including the Federal Court of Appeal and the Supreme Court of Canada,² in respect of air passenger rights. He successfully challenged the Agency's lack of transparency and the reasonableness of the Agency's decisions.

In 2013, the Consumers' Association of Canada awarded Dr. Lukács its Order of Merit for singlehandedly initiating legal action resulting in the revision of Air Canada's unfair practices regarding overbooking. His advocacy in the public interest and expertise in the area of air passenger rights have also been recognized by both the judiciary³ and the legal profession.⁴

¹ See Appendix A.

² *Delta Air Lines Inc. v. Lukács*, 2018 SCC 2.

³ *Lukács v. Canada*, 2015 FCA 140 at para. 1; *Lukács v. Canada*, 2015 FCA 269 at para. 43; and *Lukács v. Canada*, 2016 FCA 174 at para. 6.

⁴ Carlos Martins: Aviation Practice Area Review (September 2013), WHO'SWHOLEGAL.

Executive Summary

APR is deeply concerned that the integrity of the present **public** consultation has been compromised by the Canadian Transportation Agency's **prior private, confidential** communications with representatives of the airline industry about the content of the regulations that would be made.

In spite of the appearance of institutional bias, *APR* has chosen to make these submissions out of respect to Parliament and those public servants at the Canadian Transportation Agency and Transport Canada who perform their work fairly and professionally in the face of an adverse institutional climate and leadership.

Compliance with Canada's international obligations

1. The Canadian Transportation Agency has no jurisdiction to make regulations to alter, limit, lower, or abolish the liability rules and obligations imposed on airlines by the *Montreal Convention*.
2. Monetary compensation payable under the regulations must be **in addition** to any amounts payable under the *Montreal Convention*.
3. The regulations to be made should be consistent with the principles of the *Montreal Convention*.

Baggage

4. The regulations to be made should incorporate the principles of the *Montreal Convention*, which provides a complete code with respect to airline liability for baggage in international carriage, and requires airlines to compensate passengers on the basis of full restitution. The same principles should be adopted for domestic carriage too.
5. The baggage liability cap in domestic carriage should be CAD\$4,500 (approximately US\$3,500, as in the United States). Passengers should be permitted to declare an excess valuation.⁵ There should be no cap in the event of wilful misconduct.⁶
6. In the event of baggage damage or loss (temporary or permanent), the airline should be required to refund any baggage fee collected—in addition to any other compensation paid.

⁵ Decision No. 483-C-A-2010, paras. 24-25 (leave to appeal to the Federal Court of Appeal denied: 10-A-42).

⁶ *Montreal Convention*, Article 22(5).

Denied boarding

7. “Denied boarding” is not limited to overbooked flights, but also includes situations where the airline refuses to carry or otherwise prevents a passenger from boarding the flight on which the passenger holds a confirmed booking, even though they presented themselves for check-in and boarding on time and they have all necessary travel documents.
8. “Denied boarding within the airline’s control but necessary for safety purposes” and “denied boarding that is outside the airline’s control” are fictitious notions. Airlines are responsible for having adequate crew and equipment, including for maintaining their fleet. Natural phenomena and security events can cause flight delay or cancellation, but they cannot cause denied boarding.
9. No passenger should be involuntarily denied boarding before the airline calls for volunteers to give up their confirmed booking on a flight in exchange for benefits offered by the airline.
10. Passengers who are involuntarily denied boarding should be compensated for their expenses and losses incurred (such as meals, ground transportation, accommodation, telecommunication expenses, and lost wages), **plus** a lump sum based on the delay it causes them at the destination:
 - 0-2 hours: CAD\$450;
 - 2-4 hours: CAD\$900; and
 - over 4 hours: CAD\$1,800.
11. All compensation must be payable in cash; however, the passenger may choose to accept travel vouchers in lieu of compensation if the following conditions are met:⁷
 - (R1) carrier must inform passengers of the amount of cash compensation that would be due, and that the passenger may decline travel vouchers, and receive cash or equivalent;
 - (R2) carrier must fully disclose all material restrictions before the passenger decides to give up the cash or equivalent payment in exchange for a travel voucher;
 - (R3) carrier must obtain the signed agreement of the passenger, confirming that the passenger was provided with the aforementioned information, prior to providing travel vouchers in lieu of compensation;
 - (R4) the amount of the travel voucher must be not less than 300% of the amount of cash compensation that would be due; and
 - (R5) passengers are entitled to exchange the travel vouchers to cash at the rate of \$1 in cash being equivalent to \$3 in travel vouchers within one (1) month.

⁷ [Decision No. 227-C-A-2013](#), para. 37; [Decision No. 342-C-A-2013](#), paras. 47-50; and [Decision No. 31-C-A-2014](#), para. 80.

12. In addition to monetary compensation, passengers who are denied boarding should be offered the choice between continuing or cancelling their trip.
- If the passenger chooses to continue their trip, the airline must offer them the choice between:
 - transportation to their destination at the **earliest available opportunity**, including on **flights of other airlines**, regardless of class of service; or
 - transportation to their destination at a later date.
 - If the passenger chooses to cancel their trip, the airline must transport the passenger back to the first point of departure at the earliest opportunity **and** refund the passenger's ticket.

Flight Delay and Cancellation

13. Flight delay and cancellation should be defined broadly, to avoid airlines circumventing the obligations set out in the regulations by creatively speaking of a “schedule change.”
14. In order to avoid conflicts with provisions of the *Montreal Convention*, the phrase “required for safety purposes, including in situations of mechanical malfunctions” must be interpreted narrowly, and much in the same way as “extraordinary circumstances” in *Regulation (EC) 261/2004*.
15. Passengers whose flight is delayed or cancelled for reasons within the airline's control should be treated the same way as passengers who have been involuntarily denied boarding; however, the amount of compensation should be determined based on the change in the passenger's travel (departing earlier or arriving later than booked) that the delay or cancellation has caused:
- 0-2 hours: CAD\$0;
 - 2-4 hours: CAD\$900; and
 - over 4 hours: CAD\$1,800.
16. In the event of flight delay or cancellation outside the airline's control, the passenger should be offered a choice between a refund of the unused portion of their ticket and transportation to their destination at the earliest available opportunity.

Tarmac Delays

17. No passenger should be confined against their will to an aircraft on the tarmac for more than **90 minutes**.
18. After 90 minutes of delay on the tarmac, passengers should be offered the option to disembark.

Seating of Children under the Age of 14 Years

19. Children under 14 should be seated adjacent to an accompanying adult, that is, in the same row **and** without any other passenger sitting between the child and the accompanying adult.
20. At the time of the booking, the airline should assign the child and an accompanying adult seats meeting the above requirements, and inform the passengers about their right to such seating.
21. Failure of the airline to assign seats meeting the above requirements should be deemed an act of denied boarding falling in the scope of paragraph 86.11(1)(b)(i) of the *Act*.

Scope and Applicability when Multiple Airlines are Involved

22. The regulations to be made should apply uniformly to all carriers and all licence holders operating flights within, to, and from Canada.
23. The regulations must conform to the provisions of the *Montreal Convention*, which impose:
 - mutual liability on the marketing (contracting) carrier and the operating (actual) carriers for each others' acts and omissions, and a right to bring an action against either or both of them;⁸ and
 - joint and several liability on the first and last carrier with respect to baggage.⁹

Enforcement

24. Airlines should have a positive duty to pay compensation, without a demand from the passenger.
25. All regulations made under s. 86.11 of the *Canada Transportation Act* should be designated as ones the contravention of which carries an administrative monetary penalty of up to \$25,000.
26. The Canadian Transportation Agency must adopt a zero tolerance policy with respect to contraventions of the regulations, and direct its enforcement officers to issue an administrative monetary penalty in each and every case that an airline fails to comply with the regulations.
27. The Canadian Transportation Agency must cease and desist its unlawful practice of issuing “formal warnings” instead of Administrative Monetary Penalties.

⁸ *Montreal Convention*, Chapter V.

⁹ *Montreal Convention*, Article 36(3); see also [Decision No. 420-C-A-2014](#), para. 21.

I. Lack of Integrity in the Consultation

APR is deeply concerned that the integrity of the present **public** consultation has been compromised by the Canadian Transportation Agency's **private** communications with representatives of the airline industry about the content of the regulations that would be made. These private communications occurred **before** Bill C-49 was ever passed into law. *APR* is of the view that these actions have created a reasonable apprehension of institutional bias, which undermines the integrity and credibility of the present consultation process.

The International Air Transport Association (IATA) is the trade association for the world's airlines, representing some 290 airlines,¹⁰ including most commercial airlines flying within, to, and from Canada. According to the affidavit sworn by Ms. Nicola Colville, Area Manager, Canada and Bermuda for IATA, on June 16, 2017:

The Agency has sought IATA's input with regard to the regulations it will draft. IATA is actively participating in the consultation process with Transport Canada and the Agency on this topic.¹¹

The private "consultation" between IATA and the Canadian Transportation Agency took place before June **2017**, at which time Bill C-49 had neither been studied nor passed into law by Parliament; yet, the Agency engaged in these **private, confidential** discussions with IATA about the content of the regulations that would be made. Notably, the Canadian public and the consumer advocacy community has been excluded from these private discussions.

APR is struggling to understand why the Agency communicated with IATA in private about the regulations to be made in private in **2017** (or earlier) given that public consultations about the regulations commenced only a year later, in **2018**.

These circumstances create the impression that the current "public consultation" is a sham, a dog and pony show, serving the sole purpose of lending an air of legitimacy to the regulations that the Agency has already made up its mind to make based on its **private** communications with IATA.

APR urges the Canadian Transportation Agency to publicly disclose all its communications with IATA in relation to the regulations, including the communications referenced in Ms. Colville's affidavit.

¹⁰ "About us", IATA's official website (retrieved: August 9, 2018).

¹¹ [Affidavit of Nicola Colville](#), Affirmed June 16, 2017, filed on behalf of IATA in Supreme Court of Canada File No. 37276, at para. 25.

II. Canada’s International Obligations: The *Montreal Convention*

APR is concerned that the regulations to be made will be interpreted as limiting or displacing the rights of passengers under the *Montreal Convention*. APR is of the view that:

- The Canadian Transportation Agency has no jurisdiction to make regulations to alter, limit, lower, or abolish the liability rules and obligations imposed on airlines by the *Montreal Convention*.
- Monetary compensation payable under the regulations must be **in addition** to any amounts payable under the *Montreal Convention*.
- The regulations to be made should be consistent with the principles of the *Montreal Convention*.

The *Montreal Convention* is an international treaty governing the rights of passengers travelling on international itineraries. Canada is a signatory to the *Montreal Convention*. The *Carriage by Air Act* incorporates the *Montreal Convention* as Schedule VI, and s. 2(2.1) of the Act gives the *Montreal Convention* the **force of law in Canada**. Thus, the Canadian Transportation Agency has **no jurisdiction** to make regulations that alter, limit, lower, or abolish the liability rules and obligations established by the *Montreal Convention*.

Thus, the regulations to be made can require airlines to compensate passengers only with respect to matters and in a manner that are either: (a) consistent with the *Montreal Convention*; or, (b) fall outside the substantive and temporal scope of the Convention.

The Supreme Court of Canada held that the *Montreal Convention* is exclusive and preempts domestic law with respect to matters falling within the substantive and temporal scope of the Convention.¹² At the same time, the European Court of Justice held that the *Montreal Convention* does not preempt legislation to “redress, in a standardised and immediate manner, the damage that is constituted by the inconvenience that delay in the carriage of passengers by air causes.”¹³ Therefore, in order to avoid conflicts with the *Montreal Convention*, the regulations should clearly state that the compensation payable under the regulations is of a “standardised and immediate” nature, and is **in addition** and **not in place** of compensation that may be owed under the *Montreal Convention*.

The Canadian Transportation Agency’s longstanding and considered view has been that terms and conditions applicable to travel within Canada must conform to the principles of the *Montreal Convention*.¹⁴ APR agrees with this view, and believes that provisions of the regulations applicable to travel where the *Montreal Convention* does not apply, such as travel entirely within Canada, should nevertheless be consistent with the legal principles of the *Montreal Convention* to achieve uniformity and clarity.

¹² *Thibodeau v. Air Canada*, 2014 SCC 67 at paras. 36-38, 48, and 57.

¹³ *International Air Transport Association v. Department for Transport*, C-344/04 at para. 45 (emphasis added).

¹⁴ See, for example: [Decision No. 181-C-A-2007](#) at para. 36; [Decision No. 483-C-A-2010](#) at para. 32 (leave to appeal to FCA denied: 10-A-42); [Decision No. 251-C-A-2012](#) at para. 19; and [Decision No. 344-C-A-2013](#) at para. 23.

III. Baggage

APR is of the view that:

- The regulations to be made should incorporate the principles of the *Montreal Convention*, which provides a complete code with respect to airline liability for baggage in international carriage, and requires airlines to compensate passengers on the basis of full restitution. The same principles should be adopted for domestic carriage too.
- The baggage liability cap in domestic carriage should be CAD\$4,500 (approximately US\$3,500, as in the United States). Passengers should be permitted to declare an excess valuation.¹⁵ There should be no cap in the event of wilful misconduct.¹⁶
- In the event of baggage damage or loss (temporary or permanent), the airline should be required to refund any baggage fee collected—in addition to any other compensation paid.

A. Definitions

To ensure consistency with the *Montreal Convention*, the regulations should distinguish between baggage that is lost temporarily (delayed) and lost permanently.

Checked baggage should arrive with the passenger. **Temporary loss** occurs when the airline is unable to return the passenger their checked baggage upon the arrival of the passenger at their destination (including an agreed stop), but is able to deliver the baggage to the passenger within 21 days. **Permanent loss** occurs when: (i) the airline admits to have permanently lost the baggage; or, (ii) the baggage has not arrived at the expiration of 21 days after the date on which it ought to have arrived.¹⁷

B. Key principles

The following principles of the *Montreal Convention* should be incorporated into the regulations.

1. Airlines are strictly liable for checked baggage. In the event of damage or (temporary or permanent) loss of baggage, the airline is presumed to be liable. The airline can avoid liability only if and to the extent it shows that the damage or loss was caused by inherent defect or vice of the baggage. The burden of proof is on the airline.¹⁸

¹⁵ Decision No. 483-C-A-2010, paras. 24-25 (leave to appeal to the Federal Court of Appeal denied: 10-A-42).

¹⁶ *Montreal Convention*, Article 22(5).

¹⁷ *Montreal Convention*, Article 17(3).

¹⁸ *Montreal Convention*, Articles 17(2) and 19.

2. The airline’s liability for checked baggage is capped at an amount fixed by legislation, which is updated periodically based on a prescribed formula.¹⁹ This cap can be exceeded only if:
 - (a) the passenger has declared excess valuation;²⁰ or
 - (b) the passenger proves that the incident resulted from “an act or omission of the carrier, its servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result.”²¹

We propose that the liability cap for baggage in domestic carriage within Canada match the United States’ US\$3,500 amount.

3. Compensation must be paid in the form of cash, cheque, credit to a passenger’s credit card, or any other form acceptable to the passenger.²² Travel vouchers are mere goodwill gestures, and do not relieve the airline from paying compensation.
4. The period of liability starts when the baggage is handed over by the passenger to the airline or its agent, and lasts until the baggage is returned to the passenger.²³
5. Airlines cannot contract out or lower their liability by creative contractual drafting.²⁴
 - (a) Airlines cannot avoid liability for damage to wheels, straps, zippers, handles and other luggage parts by claiming that such damage is normal wear and tear.²⁵
 - (b) If the airline accepts checked baggage for transportation, it cannot absolve itself from liability for the loss of certain property which is not acceptable for transportation, but nevertheless is contained in the baggage with or without its knowledge.²⁶
 - (c) Airlines are liable for valuables and electronics contained in the checked baggage.²⁷
 - (d) Airlines cannot limit their liability in the event of a temporary loss of baggage to a certain amount per day (such as \$100/day).²⁸

¹⁹ *Montreal Convention*, Article 24.

²⁰ *Montreal Convention*, Article 22(2); and [Decision No. 483-C-A-2010](#), paras. 24-25 (leave to appeal to the Federal Court of Appeal denied: 10-A-42).

²¹ *Montreal Convention*, Article 22(5); *Connaught Laboratories Ltd. v. British Airways*, 2002 CanLII 4642 (ON SC), aff’d 2005 CanLII 16576 (ON CA); and [Decision No. 8-C-A-2018](#), paras. 24-29.

²² Decision No. LET-C-A-83-2011.

²³ [Decision No. 211-C-A-2004](#), para. 24; [Decision No. 371-C-A-2005](#), paras. 22-24; and [Decision No. 467-C-A-2012](#), paras. 86-88.

²⁴ *Montreal Convention*, Article 26.

²⁵ [Decision No. 208-C-A-2009](#) and [Decision No. 309-C-A-2010](#). See also: [Notice regarding damage to wheels, handles, and other components of checked baggage](#), United States Department of Transportation.

²⁶ [Decision No. 227-C-A-2008](#), para. 24; [Decision No. 208-C-A-2009](#), para. 25; [Decision No. 99-C-A-2011](#), paras. 46-47; and [Decision No. 467-C-A-2012](#), paras. 94-95.

²⁷ [Decision No. 477-C-A-2010](#) (leave to appeal to the FCA denied: 10-A-41); and [Decision No. 291-C-A-2011](#).

²⁸ [Decision No. 107-C-A-2007](#), para. 23; [Decision No. 353-C-A-2012](#), paras 11-13; [Decision No. 16-C-A-2013](#), paras. 151-

6. Inconvenience and loss of part of the purpose of the trip caused by the damage or (temporary or permanent) loss of baggage are also recoverable.²⁹

C. Proof of Loss

The Agency has recognized in a wealth of decisions that although the passenger must present proof to substantiate their loss, the requirements must be proportionate and not so onerous as to prevent passengers from recovering their damages.

With respect to baggage damage, we adopt as our own position the Agency's finding that **photographs** demonstrating damage to baggage constitute reasonable proof of damage, and a physical inspection of the damage by the airline is not necessary.³⁰

With respect to (temporary and permanent) loss of baggage, we adopt as our own position the Agency's finding that while receipts of purchase will generally support proof of loss, other methods, such as a sworn affidavit or the inherent reasonableness of the expenses claimed, could be adequate.³¹ The Agency correctly recognized in its jurisprudence that the *Montreal Convention* “**does not require proof of loss in the form of receipts of purchase**”³² and that “as receipts of purchase are often not retained,” requiring the production of receipts would subject claimants to an “**overly onerous or impossible obligation in order to obtain compensation.**”³³

158; [Decision No. 249-C-A-2013](#), para 22; and [Decision No. 61-C-A-2017](#), paras. 30-31.

²⁹ [Axel Walz v. ClickAir](#), European Court of Justice, Case C-63/09, para. 29.

³⁰ [Decision No. 467-C-A-2012](#), para. 109.

³¹ [Decision No. 84-C-A-2017](#), para. 37.

³² [Decision No. 244-C-A-2014](#), para. 23.

³³ [Decision No. 308-C-A-2010](#), para. 36.

IV. Denied Boarding

APR is of the view that:

- “Denied boarding” is not limited to overbooked flights, but also includes situations where the airline refuses to carry or otherwise prevents a passenger from boarding the flight on which the passenger holds a confirmed booking, even though they presented themselves for check-in and boarding on time and they have all necessary travel documents.
- “Denied boarding within the airline’s control but necessary for safety purposes” and “denied boarding that is outside the airline’s control” are fictitious notions. Airlines are responsible for having adequate crew and equipment, including for maintaining their fleet. Natural phenomena and security events can cause flight delay or cancellation, but they cannot cause denied boarding.
- No passenger should be involuntarily denied boarding before the airline calls for volunteers to give up their confirmed booking on a flight in exchange for benefits offered by the airline.
- Passengers who are involuntarily denied boarding should be compensated for their expenses and losses incurred (such as meals, ground transportation, accommodation, telecommunication expenses, and lost wages), **plus** a lump sum based on the delay it causes them at the destination:
 - 0-2 hours: CAD\$450;
 - 2-4 hours: CAD\$900; and
 - over 4 hours: CAD\$1,800.
- All compensation must be payable in cash; however, the passenger may choose to accept travel vouchers in lieu of compensation if the following conditions are met:³⁴
 - (R1) carrier must inform passengers of the amount of cash compensation that would be due, and that the passenger may decline travel vouchers, and receive cash or equivalent;
 - (R2) carrier must fully disclose all material restrictions before the passenger decides to give up the cash or equivalent payment in exchange for a travel voucher;
 - (R3) carrier must obtain the signed agreement of the passenger, confirming that the passenger was provided with the aforementioned information, prior to providing travel vouchers in lieu of compensation;
 - (R4) the amount of the travel voucher must be not less than 300% of the amount of cash compensation that would be due; and
 - (R5) passengers are entitled to exchange the travel vouchers to cash at the rate of \$1 in cash being equivalent to \$3 in travel vouchers within one (1) month.

³⁴ [Decision No. 227-C-A-2013](#), para. 37; [Decision No. 342-C-A-2013](#), paras. 47-50; and [Decision No. 31-C-A-2014](#), para. 80.

- In addition to monetary compensation, passengers who are denied boarding should be offered the choice between continuing or cancelling their trip.
 - If the passenger chooses to continue their trip, the airline must offer them the choice between:
 - * transportation to their destination at the **earliest available opportunity**, including **on flights of other airlines**, regardless of class of service; or
 - * transportation to their destination at a later date.
 - If the passenger chooses to cancel their trip, the airline must transport the passenger back to the first point of departure at the earliest opportunity **and** refund the passenger’s ticket.

A. Definitions

The requirement to pay denied boarding compensation is based on the principle that passengers who meet their obligations in terms of check-in time, boarding time, and travel documents should expect to be transported on the flight they paid for. While overbooking is a major source of incidents involving denied boarding, the case law demonstrates that it is not the only one, and airlines are keen to come up with creative explanations and terminologies to avoid paying denied boarding compensation.³⁵

APR believes that “denied boarding” and the obligation to compensate passengers should be defined so broadly as to undercut any attempt to circumvent the obligation to pay compensation, and to include (without limiting the generality of the definition):

- (1) overbooking;
- (2) transferring the passenger to a different flight without the passenger’s consent;³⁶
- (3) closing of check-in counters or boarding gates early, before the published cut-off times;³⁷
- (4) preventing passengers from checking in on time by failing to adequately staff check-in counters;³⁸
- (5) giving away the passenger’s seat based on the mistaken belief that the passenger would not make the connection;³⁹
- (6) airline (its agents or servants) erroneously believing the passenger lacks required travel documents; and
- (7) airline (its agents or servants) erroneously accusing the passenger of unruly conduct.

APR believes that the regulations to be made should combine the European Union’s definition of “denied boarding”⁴⁰ with the aforementioned list, indicating that the list is non-exhaustive.

³⁵ See, for example: *Lachance v. Air Canada*, 2014 NSSM 14.

³⁶ *Decision No. 95-C-A-2016*, paras. 19-21; and *Decision No. 71-C-A-2017*, paras. 51-52.

³⁷ *Decision No. 432-C-A-2013*, paras. 84-85.

³⁸ *Paine v Air Canada*, 2017 NSSM 7, para. 6.

³⁹ *Cachafeiro v. Iberia*, European Court of Justice, Case C-321/11, para. 36.

⁴⁰ *Regulation (EC) 261/2004*, Article 2(j).

B. Burden of proof

APR believes that Canada should follow the well-established international standard⁴¹ that airlines bear the burden of proving any fact that may relieve the airline from the obligation to pay compensation. First, airlines are businesses equipped with the capacity and facilities to investigate incidents and keep records—passengers are not. Second, through their ongoing relationship with airports, airlines are in a much better position to access and gather evidence (such as CCTV footage, technical reports, etc.).

C. Boarding priorities

APR believes that if the airline expects a flight to be overbooked, it must call for volunteers to give up their confirmed booking on a flight in exchange for benefits offered by the airline. The airline should not involuntarily deny passengers boarding unless there is an insufficient number of volunteers. In the event that some passengers must be involuntarily denied boarding, the airline must give priority to the following groups of passengers over all other passengers regardless of class of service, and ensure that members of these groups are able to board:

- (1) passengers under the age of 18 travelling without an accompanying adult;⁴²
- (2) passengers with disabilities; and
- (3) passengers travelling with children under the age of 14.

D. Amount, time, and form of payment

Passengers who are involuntarily denied boarding (or affected by a flight delay or cancellation) must be compensated for two types of damages:⁴³

- (1) inconvenience, which is common to all passengers who are denied boarding and is determined by how much the passenger's arrival at their destination was delayed; and
- (2) damages that are specific to the passenger's circumstances, such as meals, ground transportation, accommodation, telecommunication expenses, lost wages, and alternative transportation (if not provided by the airline).

Amount of payment. *APR* believes that inconvenience should be compensated by a lump sum payment in cash determined only by the length of the delay incurred by the passenger at their final destination. Following the European Union's regime, the **length of delay** should be defined as the difference between

⁴¹ *Montreal Convention*, Articles 18(2), 19, and 20; and *Regulation (EC) 261/2004*, Article 5(3).

⁴² Unaccompanied youth are particularly vulnerable, and may not be able to obtain hotel accommodation on their own even if the airline is able and willing to pay for it. See, for example: [Air Canada leaves teen 'trapped' alone overnight at Toronto's Pearson airport](#), CBC News (May 10, 2017).

⁴³ *Decision No. 268-C-A-2007*, para. 40; and *Decision No. 227-C-A-2013*, paras. 19, 21, 26, 28, 34, and 36.

the actual arrival time and the scheduled arrival time, and the **actual arrival time** is the time when at least one of the doors of the aircraft is opened and passengers are permitted to leave the aircraft.⁴⁴ If the passenger’s itinerary consists of several directly connecting flights (i.e., without a scheduled stopover), then the “final destination” is the destination of the last flight.⁴⁵ *APR* proposes the following compensation amounts:

Length of Delay	Cash Compensation
0-2 hours	CAD\$450
2-4 hours	CAD\$900
over 4 hours	CAD\$1,800

These amounts are similar to the maximum denied boarding compensation amounts in the United States (US\$1,350 or US\$675, depending on the length of the delay), but the proposed schedule creates more incentive for airlines to arrange for alternative transportation for affected passengers.

Time of payment. *APR* believes that the lump sum payment for inconvenience should be paid **immediately** at the airport or by cheque sent within 24 hours of the incident,⁴⁶ while compensation for damages specific to the passenger should be paid **within 30 days** of the receipt of the claim.

Form of payment. *APR* believes that the regulations should incorporate the well-established international standard and the Agency’s own jurisprudence that all compensation must be paid in cash or equivalent (such as cheque, credit to passenger’s credit card); however, passengers may choose to accept travel vouchers in lieu of compensation if the aforementioned five conditions (R1)-(R5) are met.⁴⁷

E. Standard of passenger treatment

In addition to monetary compensation, passengers who are denied boarding should be offered the choice between continuing or cancelling their trip.

- If the passenger chooses to continue their trip, the airline must offer them the choice between:
 - transportation to their destination at the **earliest available opportunity**, including **on flights of other airlines**, regardless of class of service; or
 - transportation to their destination at a later date.
- If the passenger chooses to cancel their trip, the airline must transport the passenger back to the first point of departure at the earliest opportunity **and** refund the passenger, **within 7 days**:

⁴⁴ *Germanwings v. Heming*, European Court of Justice, C-452/13, para. 25.

⁴⁵ *Air France v. Folkerts*, European Court of Justice, C-11/11, paras. 32-37.

⁴⁶ *Regulation (EC) 261/2004*, Article 4(3).

⁴⁷ *Decision No. 227-C-A-2013*, para. 37; *Decision No. 342-C-A-2013*, paras. 47-50; and *Decision No. 31-C-A-2014*, para. 80.

- part or parts of the trip not made; and
- part or parts of the trip already made if the flight is no longer serving any purpose in relation to the passenger’s original travel plan.⁴⁸

Rebooking on flights of other airlines. In 2012, the Agency issued five decisions concerning the reasonableness of international and domestic tariff provisions of some carriers about overbooking and cancellation of flights. In these decisions, the Agency confirmed that airlines have a “concomitant obligation” to mitigate the damage which has been or may be suffered by a passenger as a result of delay in transportation, and thus carriers must also consider flights of other airlines, including those with whom they have no interline agreement, for the purpose of rerouting passengers.⁴⁹

APR believes that this obligation, confirmed by the Agency in 2012, is vital for Canadian travellers, and must be included in the regulations to be made.

Assistance: Meal, ground transportation, hotel accommodation, and telecommunications. In *APR*’s experience, provisions of this nature are important, but are difficult to clearly define, and even more difficult to enforce. On the one hand, food prices vary from airport to airport, and the differences may be substantial. On the other hand, in the absence of a clearly defined amount that a meal voucher must cover, airlines tend to provide CAD\$5-10 vouchers that are inadequate for a reasonable meal in most airports. Hotel accommodation poses a similar challenge: in some cases, passengers were offered accommodation that is 60-90 minutes from the airport, and commuting to and from the airport significantly cut into their sleeping time—thus defeating the purpose of the obligation.

APR believes that in addition to the aforementioned assistance, passengers should also be offered the option to incur reasonable expenses for meals, ground transportation, hotel accommodation, and telecommunication on their own, and then submit their expenses to the airline for **full** reimbursement.

⁴⁸ [Decision No. LET-C-A-78-2011](#), paras. 94-97; [Decision No. LET-C-A-79-2011](#), paras. 89-93; [Decision No. LET-C-A-80-2011](#), paras. 102-105; and [Decision No. LET-C-A-129-2011](#), para. 202.

⁴⁹ [Notice to Industry: Initiative to level the playing field among air carriers and increase rights and remedies for passengers delayed because of overbooking and cancellation of flights](#), Canadian Transportation Agency.

V. Flight Delay and Cancellation

APR is of the view that:

- Flight delay and cancellation should be defined broadly, to avoid airlines circumventing the obligations set out in the regulations by creatively speaking of a “schedule change.”
- In order to avoid conflicts with provisions of the *Montreal Convention*, the phrase “required for safety purposes, including in situations of mechanical malfunctions” must be interpreted narrowly, and much in the same way as “extraordinary circumstances” in *Regulation (EC) 261/2004*.
- Passengers whose flight is delayed or cancelled for reasons within the airline’s control should be treated the same way as passengers who have been involuntarily denied boarding; however, the amount of compensation should be determined based on the change in the passenger’s travel (departing earlier or arriving later than booked) that the delay or cancellation has caused:
 - 0-2 hours: CAD\$0;
 - 2-4 hours: CAD\$900; and
 - over 4 hours: CAD\$1,800.
- In the event of flight delay or cancellation outside the airline’s control, the passenger should be offered a choice between a refund of the unused portion of their ticket and transportation to their destination at the earliest available opportunity.

A. Definitions

The regulations should not distinguish between flight delay and cancellation, because the consequences are the same for the passengers, and such a distinction tends to lead to complex and futile legal debates. *APR* is concerned that in the absence of a broad definition, airlines may circumvent the obligations set out in the regulations by creatively labeling a flight delay or cancellation as a “schedule change.” *APR* believes that such an outcome would defeat the purpose of the regulations, and would thus be unreasonable.

Passengers book air tickets based on the advertised departure and arrival times, which must suit their purpose of travel, and the number of stops, which affects the odds of passenger and baggage delay. A lawyer may take an early morning non-stop flight to attend a court hearing in another city; a businessperson may take an evening flight because they have meetings throughout the day, and they cannot travel earlier. If the airline unilaterally changes the arrival time of the lawyer’s flight to 6 pm, or the departure time of the businessperson’s flight to 10 am, neither of them will be able to use their tickets. Unless the airline in question is compelled to arrange for reasonable and comparable alternative transportation for the lawyer and the businessperson, they will both be out of pocket many hundreds if not thousands of dollars.

Notifying passengers many weeks or even months before their flight about the flight delay or cancellation (often dubbed a “schedule change” by the airlines) is not, in and on its own, an adequate solution for passengers, who purchased tickets many months before their travel and planned their travel based on the itinerary shown on the ticket, booked a non-refundable car rental, hotel, or other activities at the destination. Providing a mere refund to passengers in such cases is not an adequate remedy either, because ticket prices are time-sensitive: the refunded price of a ticket purchased 6 months before departure most likely does not cover the cost of a new ticket on another airline one month before departure.

Allowing airlines to cancel or significantly alter the departure or arrival times of flights on which seats have already been sold also undermines competition, and encourages **bait and switch** tactics: For example, it would allow Airline A to advertise a more favourable schedule than Airline B, causing passengers to prefer Airline A to B, but then one month before the season, Airline A could cancel its flights and rebook passengers on less favourable itineraries—ones that passengers would have never booked given the offer available from Airline B. *APR* believes that such anti-competitive behaviour should be discouraged.

Therefore, *APR* believes that **flight delay and/or cancellation** should be defined as a situation where the passenger’s itinerary is altered without the passenger’s consent, **any time after the ticket has been purchased**, in a way to cause the passenger to depart earlier or arrive later than the times shown on their original booking. Such a definition prevents airlines from avoiding paying compensation by moving an evening flight to the morning while nominally leaving the flight number unchanged.

APR is concerned that the exception to the obligation to pay compensation set out in s. 86.11(1)(b)(ii) may be abused by airlines, which may claim that virtually every delay or cancellation is due to safety reasons. Such an outcome would also defeat the purpose of the regulations, and would thus be unreasonable.

APR therefore believes that the phrase “required for safety purposes, including in situations of mechanical malfunctions” must be defined narrowly, by incorporating the jurisprudence developed by the European Court of Justice⁵⁰ with respect to the phrase “extraordinary circumstances” in Article 5(3) of *Regulation (EC) 261/2004*. In *APR*’s view, only such a narrow interpretation can avoid conflict between the regulations to be made and provisions of the *Montreal Convention* incorporated in the *Carriage by Air Act*.

While *APR* is aware of an unofficial document used by the UK Civil Aviation Authority (CAA) to decide whether a flight delay or cancellation was due to “extraordinary circumstances,” said document appears to be outdated in that items 14 (exhaustion of de-icing fluid) and 28 (strikes) do not qualify as “extraordinary circumstances.”⁵¹

As noted earlier, the burden of proof to demonstrate the presence of extraordinary circumstances to relieve the airline from the obligation to pay compensation should be on the airline.

⁵⁰ *Wallentin-Hermann v. Alitalia*, European Court of Justice, Case C-549/07, paras. 26-27.

⁵¹ *Krüseman v. TUIfly GmbH*, European Court of Justice, Case C-195/17.

B. Within the airline's control

APR believes that when a flight delay or cancellation is within the airline's control, the same principles should apply as in the case of involuntary denied boarding; however, instead of considering merely the delay at the destination, the lump sum compensation should be based on the **change in the passenger's travel**, to be defined as the **sum** of the advancement in the passenger's departure time (if any) and the delay in the passenger's actual time of arrival at their final destination. Bearing in mind that short delays are inevitable and to encourage airlines to rebook passengers as close to the times shown on the original booking as possible, *APR* proposes the following compensation amounts:

Change in the passenger's travel	Cash Compensation
0-2 hours	CAD\$0
2-4 hours	CAD\$900
over 4 hours	CAD\$1,800

APR believes that the standard of passenger treatment should be the same in all cases that are within the airline's control, and identical to the standard in the case of denied boarding, described earlier.

C. Outside the airline's control

APR believes that in the event of flight delay or cancellation outside the airline's control, the passenger should be offered a choice between:

- refund **within 7 days** of the unused portion of their ticket, in the form of the original payment;⁵² and
- transportation to the passenger's destination at the earliest available opportunity.

⁵² [Decision No. 344-C-A-2013](#), para. 88; and [Decision No. 31-C-A-2014](#), paras. 33, 36, and 85.

VI. Tarmac Delays over 3 Hours

APR is of the view that:

- No passenger should be confined against their will to an aircraft on the tarmac for more than **90 minutes**.
- After 90 minutes of delay on the tarmac, passengers should be offered the option to disembark.

Unfortunately, paragraph 86.11(1)(f) of the *Canada Transportation Act*, passed by the Liberal government, limits the Agency's powers with respect to the making of regulations to tarmac delays of “**over 3 hours**.” Consequently, the aforementioned objective cannot be achieved by regulations alone, and the Agency must also use its broad adjudicative powers under ss. 67.2(1) and 86(1)(h) of the *Canada Transportation Act* and s. 113 of the *Air Transportation Regulations* to fulfill its consumer protection mandate.

APR believes that under the fundamentally flawed framework of Bill C-49,⁵³ the best the Agency can do in terms of regulations relating to tarmac delays over 3 hours is imposing a complete prohibition. *APR* proposes the following specific provisions:

- (1) No person directly or indirectly in control of an aircraft with passengers on board, including but not limited to a carrier or a licensee, shall permit the aircraft to remain on the tarmac for more than three hours.
- (2) Within three hours of its door being closed, an aircraft with passengers on board must either take off or return to a position that permits passengers to disembark.
- (3) Within three hours of landing at an airport, an aircraft with passengers on board must either take off or taxi to a position that permits passengers to disembark.

These proposed provisions recognize the need to distinguish between flights that have not taken off yet and flights that have already landed at an airport (either at their final destination or at a diversion). For departing flights, the time the doors are closed should be the starting point for the calculation of the delay, while for arriving flights it is the time the flight landed that should be used as the starting point.

APR believes that passengers should be provided, **at all times**, with adequate water and food, functioning lavatories, medical attention, proper ventilation, and heating or cooling required for ensuring that the temperatures on board are kept between 20 C and 25 C.

⁵³ “That is doubling the time airlines can stay on the tarmac, and it can cause severe problems for persons with disabilities,” said Mr. Terrance Green, Transportation Committee Co-Chair, Council of Canadians with Disabilities. [Proceedings of the Standing Senate Committee on Transport and Communications, Issue No. 32 - Evidence - March 20, 2018.](#)

VII. Seating of Children under the Age of 14 Years

APR is of the view that:

- Children under 14 should be seated adjacent to an accompanying adult, that is, in the same row **and** without any other passenger sitting between the child and the accompanying adult.
- At the time of the booking, the airline should assign the child and an accompanying adult seats meeting the above requirements, and inform the passengers about their right to such seating.
- Failure of the airline to assign seats meeting the above requirements should be deemed an act of denied boarding falling in the scope of paragraph 86.11(1)(b)(i) of the *Act*.

Children are vulnerable passengers in need of special care and protection. Seating children next to an accompanying adult is vital for extending such protection to children on board an aircraft. In the event of an emergency, such as loss of cabin pressure or the evacuation of the aircraft, children need the assistance of an accompanying adult with the oxygen mask or the orderly evacuation. Furthermore, seating children next to an accompanying adult mitigates the risk of sexual harassment (e.g., unwanted touching) of children by strangers seated next to them.

APR notes that the Canadian Transportation Agency's past efforts to address this issue have been thwarted by lack of enforcement. In 2014, the Agency ruled that all major Canadian airlines must have a supplementary seating policy to make reasonable efforts to ensure that children on board are seated, free of charge, next to an accompanying adult.⁵⁴

While all airlines have obediently changed their Tariffs to reflect this decision of the Agency, some of the airlines did not implement the substance of the decision at all. For example, agents at Air Canada's call centre repeatedly told parents that they would have to pay CAD\$40 per passenger in order to ensure that their children were seated next to them. *APR* has received similar complaints with respect to Air Transat.

Only after public outcry and attention from the mainstream and social media,⁵⁵ Air Canada actually changed its practice. *APR* found no record of Air Canada facing any consequences, such as a notice of violation or an Administrative Monetary Penalty, for its failure to comply with the substance of the Agency's ruling for more than a year.

APR therefore believes that deeming failure to comply with these obligations an act of denied boarding entitling passengers to monetary compensation is necessary to ensure compliance.

⁵⁴ *Krygier v. WestJet et al.*, Decision No. 459-C-A-2014.

⁵⁵ [Air Canada backs down on \\$40 fee to seat child with parent](#), CBC News (April 29, 2016).

VIII. Scope and Applicability when Multiple Airlines are Involved

APR is of the view that:

- The regulations to be made should apply uniformly to all carriers and all licence holders operating flights within, to, and from Canada.
- The regulations must conform to the provisions of the *Montreal Convention*, which impose:
 - mutual liability on the marketing (contracting) carrier and the operating (actual) carriers for each others’ acts and omissions, and a right to bring an action against either or both of them;⁵⁶ and
 - joint and several liability on the first and last carrier with respect to baggage.⁵⁷

The tendency of airlines to point fingers at each other and insist that passengers file a claim with another carrier (such as the last carrier, in the case of baggage) creates a significant barrier for passengers to receive compensation owed to them under the law.

Chapter V and Article 36 of the *Montreal Convention* were created to eliminate this barrier by ensuring that passengers can choose to claim compensation from any of the carriers involved in the contract of carriage. Once the passenger has been compensated, the carriers involved can sort out liability and indemnification among themselves,⁵⁸ but that is not the passenger’s concern. These provisions recognize the passengers’ right to recover damages from the carrier that they find the most convenient to recover from, and that agreements among carriers do not affect the rights of passengers. These are consumer-protection provisions also vital to prevent large airlines from “offloading” liability to weak, financially unstable ones, which may become insolvent and thus leave passengers without a recourse.

APR believes that the regulations to be made must reflect these legal principles for several reasons. First, they significantly simplify the adjudication of claims of passengers against carriers and save valuable judicial resources by sparing decision-makers from having to hear evidence relating to the apportioning of liability among the carriers. Second, the regulations made under the *Canada Transportation Act* cannot lawfully override the *Montreal Convention*, which is part of the *Carriage by Air Act*, and as such has the force of law in Canada.

⁵⁶ *Montreal Convention*, Chapter V.

⁵⁷ *Montreal Convention*, Article 36(3); see also [Decision No. 420-C-A-2014](#), para. 21.

⁵⁸ *Montreal Convention*, Articles 37 and 48.

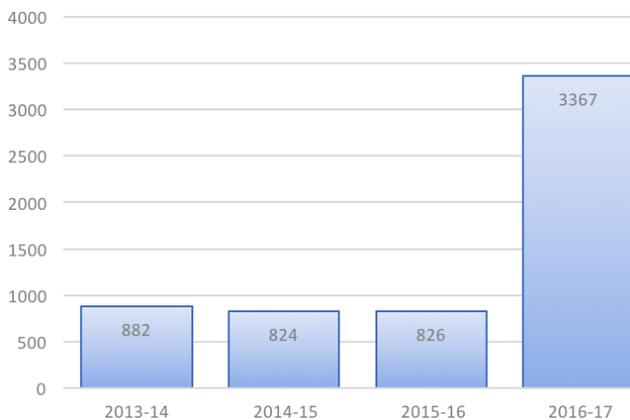
IX. Enforcement

APR is profoundly concerned that the regulations to be made will remain dead letter due to the lack of enforcement by the Canadian Transportation Agency. APR is of the view that:

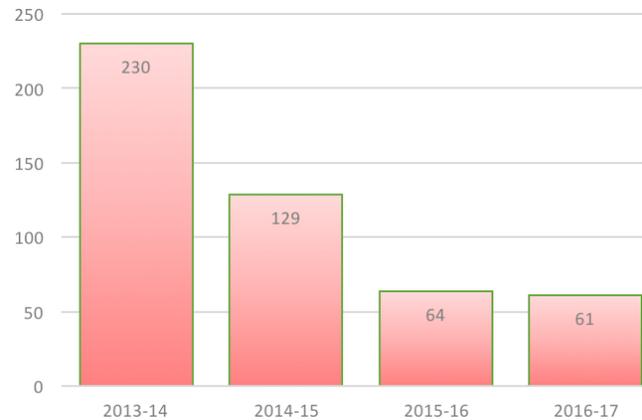
- Airlines should have a positive duty to pay compensation, without a demand from the passenger.
- All regulations made under s. 86.11 of the *Canada Transportation Act* should be designated as ones the contravention of which carries an administrative monetary penalty of up to \$25,000.
- The Canadian Transportation Agency must adopt a zero tolerance policy with respect to contraventions of the regulations, and direct its enforcement officers to issue an administrative monetary penalty in each and every case that an airline fails to comply with the regulations.
- The Canadian Transportation Agency must cease and desist its unlawful practice of issuing “formal warnings” instead of Administrative Monetary Penalties.

A. The Canadian Transportation Agency’s Dismal Record

Implementation of the existing consumer-protection laws, regulations, and regulatory decisions has been thwarted by lack of enforcement and financial consequences for airlines that breach the rights of passengers. This anomaly is readily visible in the published statistics of the Agency: since 2013, the number of **complaints** received by the Agency has **quadrupled**, while **enforcement** actions have seen a near **four-fold decrease**:⁵⁹



Complaints Against Airlines



Enforcement Actions by the Agency

Our understanding is that the number of complaints against airlines in 2017-2018 was even higher, exceeding 5,500. APR believes that the substantial decline in the enforcement actions may have contributed to the soaring number of complaints.

⁵⁹ [Agency’s Statistics 2016-17](#), Canadian Transportation Agency’s website (September 3, 2017).

B. Specific Areas of Lack of Enforcement

The Canadian Transportation Agency may designate provisions of the *Canada Transportation Act* and regulations made under the *Act* as a provision that may be enforced by way of Administrative Monetary Penalties of up to \$25,000.⁶⁰ The Schedule to the *Canadian Transportation Agency Designated Provisions Regulations* lists all such “designated” provisions and the maximum penalty that a designated enforcement officer of the Canadian Transportation Agency may impose for contravention of the provisions.⁶¹

Unlawfully issuing “formal warnings” instead of Administrative Monetary Penalties

Since 2013, designated enforcement officers of the Canadian Transportation Agency have issued 195 “formal warnings” instead of notices of violation and Administrative Monetary Penalties **without any statutory authorization to do so**. When legislature intends to authorize a person to issue warnings, it does so explicitly in the enabling legislation.⁶² The *Canada Transportation Act* **does not authorize** designated enforcement officers to issue “formal warnings,” but only to issue notices of violation with AMPs.⁶³

Failure to apply the terms and conditions in the tariff (AMP: \$10,000/violation)

[Subsection 110\(4\)](#) of the *Air Transportation Regulations* requires an international licence holder to apply the terms and conditions set out in its tariff. Subsection 110(4) is a “designated provision,” the contravention of which carries an Administrative Monetary Penalty of up to \$10,000. In a large number of cases, no notice of violation nor an Administrative Monetary Penalty was issued, notwithstanding the Canadian Transportation Agency’s finding that the airline contravened subsection 110(4).⁶⁴

Making publicly a false or misleading statement about services (AMP: \$25,000/violation)

[Subsection 18\(b\)](#) of the *Air Transportation Regulations* prohibits carriers from making a false or misleading statement about their services. Subsection 18(b) is a “designated provision,” the contravention of which carries an Administrative Monetary Penalty of up to \$25,000. While airlines were found by the Canadian Transportation Agency to have contravened this provision,⁶⁵ nevertheless, there is no record of a notice of violation or an Administrative Monetary Penalty **ever** being issued for such a violation.

⁶⁰ *Canada Transportation Act*, s. 177.

⁶¹ *Ibid.*, s. 180.

⁶² See, for example, *Agriculture and Agri-Food Administrative Monetary Penalties Act*, SC 1995, c. 40.

⁶³ *Canada Transportation Act*, s. 180.

⁶⁴ [Decision No. 239-C-A-2013](#) at para. 78; [Decision No. 284-C-A-2013](#) at para. 17; [Decision No. 55-C-A-2014](#) at para. 42; [Decision No. 244-C-A-2014](#) at para. 22; [Decision No. 330-C-A-2015](#) at para. 20; [Decision No. 209-C-A-2015](#) at para. 23; [Decision No. 373-C-A-2016](#) at para. 30; [Decision No. 95-C-A-2016](#) at para. 24; [Decision No. 111-C-A-2016](#) at para. 17; [Decision No. 193-C-A-2016](#) at para. 16; [Decision No. 17-C-A-2017](#) at para. 16; [Decision No. 27-C-A-2017](#) at para. 23; [Decision No. 61-C-A-2017](#) at para. 34; [Decision No. 63-C-A-2017](#) at para. 4; [Decision No. 69-C-A-2017](#) at para. 36; [Decision No. 73-C-A-2017](#) at para. 30; [Decision No. 15-C-A-2018](#) at para. 25; [Decision No. 8-C-A-2018](#) at para. 29; [Decision No. 18-C-A-2018](#) at para. 28; [Decision No. 24-C-A-2018](#) at para. 22; [Decision No. 33-C-A-2018](#) at para. 23; [Decision No. 36-C-A-2018](#) at para. 33; [Decision No. 43-C-A-2018](#) at para. 24; and [Decision No. 44-C-A-2018](#) at para. 34.

⁶⁵ See, for example, [Decision No. 335-C-A-2012](#) at para. 12, and [Decision No. 105-C-A-2017](#) at paras. 48-49.

Appendix

A. Final Decisions Arising from Dr. Lukács's Successful Complaints (Highlights)

1. *Lukács v. Air Canada*, Decision No. 208-C-A-2009;
2. *Lukács v. WestJet*, Decision No. 313-C-A-2010;
3. *Lukács v. WestJet*, Decision No. 477-C-A-2010
(leave to appeal denied, Federal Court of Appeal File No.: 10-A-41);
4. *Lukács v. WestJet*, Decision No. 483-C-A-2010
(leave to appeal denied, Federal Court of Appeal File No.: 10-A-42);
5. *Lukács v. Air Canada*, Decision No. 291-C-A-2011;
6. *Lukács v. WestJet*, Decision No. 418-C-A-2011;
7. *Lukács v. United Airlines*, Decision No. 182-C-A-2012;
8. *Lukács v. Air Canada*, Decision No. 250-C-A-2012;
9. *Lukács v. Air Canada*, Decision No. 251-C-A-2012;
10. *Lukács v. Air Transat*, Decision No. 248-C-A-2012;
11. *Lukács v. WestJet*, Decision No. 249-C-A-2012;
12. *Lukács v. WestJet*, Decision No. 252-C-A-2012;
13. *Lukács v. United Airlines*, Decision No. 467-C-A-2012;
14. *Lukács v. Porter Airlines*, Decision No. 16-C-A-2013;
15. *Lukács v. Air Canada*, Decision No. 204-C-A-2013;
16. *Lukács v. WestJet*, Decision No. 227-C-A-2013;
17. *Lukács v. Sunwing Airlines*, Decision No. 249-C-A-2013;
18. *Lukács v. Sunwing Airlines*, Decision No. 313-C-A-2013;
19. *Lukács v. Air Transat*, Decision No. 327-C-A-2013;
20. *Lukács v. Air Canada*, Decision No. 342-C-A-2013;
21. *Lukács v. Porter Airlines*, Decision No. 344-C-A-2013;
22. *Lukács v. British Airways*, Decision No. 10-C-A-2014;
23. *Lukács v. Porter Airlines*, Decision No. 31-C-A-2014;
24. *Lukács v. Porter Airlines*, Decision No. 249-C-A-2014;
25. *Lukács v. WestJet*, Decision No. 420-C-A-2014; and
26. *Lukács v. British Airways*, Decision No. 49-C-A-2016.