

Submitted to the Canadian Transportation Agency (Form submission)

Subject: Consultation on proposed changes to strengthen the Air Passenger Protection Regulations

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Date: 2023-07-18

Hello,

I believe there is a sort of loophole / flaw in the APPR. When someone has taken an airline to small claims court, as opposed to waiting for adjudication the CTA, the judge often denies compensation because of Article 29 of the Montreal Convention of 1999 which says :

[...] any action for damages, however founded [...] can only be brought subject to the conditions [...] set out in this Convention without prejudice to the question as to [...] what are their respective rights. In any such action, punitive, exemplary or any other non-compensatory damages shall not be recoverable.

I shortened it for clarity but basically when people go to court and ask for damages this convention is applied and people are denied. Even with the APPR, I think they are denied because they seek "punitive compensation" or "damages", so in other words they want more money for distress and punishment instead of what was proven to be lost or reasonable expenses. And since the Montreal Convention says no. Even if the APPR permits a range up to 25k per section violated, because people go to court seeking "damages" they are denied. (only rarely and occasionally do some judges rule otherwise).

Some related court cases are as follows : Parent c. Air Canada 2022 QCCQ 11060; Bournias Petros c. Air Canada 2021 QCCQ 13604; Sternstein c. Air Canada 2021 QCCQ 11056 and more. I think the APPR should mention the Montreal Convention and be reworded to fit under its regulations.