

# WIN FOR INTERNATIONAL AIR TRAVELLERS

## SUPREME COURT OF CANADA RULES ON COMPENSATION

**October 4, 2024** -- The Supreme Court of Canada (SCC) has ruled international passengers flying to and from Canada have the right to access compensation under Canada's Air Passenger Protection Regulations. The SCC has ruled that compensation under the Regulations is available in addition to the individual claim structure available under the Montreal Convention, an international treaty covering international air travel compensation. The International Air Transport Association and several airlines had argued the only avenue of compensation was that under the Montreal Convention. The SCC disagreed and said the two compensation systems can exist in parallel.

This is a major victory for Canadian consumers, according to the Council of Canadians with Disabilities, the National Pensioners Federation, and the Public Interest Advocacy Centre. The coalition intervened in the case, which was brought by a group of airline associations and Canadian and international carriers against the Canadian Transportation Agency and the Attorney General of Canada.

They argued before the Supreme Court that the standardized remedies in the Air Passenger Protection Regulations do not fall within the scope of the individualized damages in the Montreal Convention. The Court instead found that the two regimes do not conflict and can coexist, playing complementary roles in protecting consumer interests.

The coalition spoke out in support of all Canadian travellers, including many travellers who are not only inconvenienced by disruptions such as delays of lost baggage but also are often harder hit due to disability, economic insecurity, or similar situations. The Canadian regulations offer set compensation amounts which can be accessed through filing a simple claim with the airline. This set of regulations provides standardized and timely compensation for the immediate, serious and stressful impact of flight disruptions on all consumers.

In maintaining the right of consumers to seek standardized compensation under the federal Regulation, the SCC's ruling does not take away the ability of consumers to seek individualized remedies under the Montreal Convention, for example to cover expenses such as specialized equipment if lost or damaged. While being able to seek higher amounts to cover expenses, this type of claim is a more complex and lengthier process with evidentiary requirements.

Having both avenues of compensation accessible to Canadians is a win as passengers can be more fairly compensated for true personal loss in a flight disruption.

While this decision is good news for Canadian consumers, more work still needs to be done to improve transparency in the decision-making process at the Canada Transportation Agency, to address backlogs in accessing compensation under the Regulations, and to review the levels of compensation available to consumers.

This coalition was represented by Katrine Dilay and Chris Klassen of the Public Interest Law Centre (Legal Aid Manitoba) and Professor Marina Pavlovic.

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