

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

AIR PASSENGER RIGHTS

Applicant

- and -

THE ATTORNEY GENERAL OF CANADA

Respondent

**AFFIDAVIT OF DR. GÁBOR LUKÁCS**  
(Affirmed May 28, 2025)

I, **Dr. Gábor Lukács**, of the City of Halifax, in the Province of Nova Scotia, **AFFIRM:**

1. I am the founder, a director, and the president of the applicant, Air Passenger Rights [**APR**]. I have personal knowledge of the matters I address in this affidavit, except where I indicate otherwise or the context suggests that I have obtained the information from other sources, in which case I have stated the source of my information and I verily believe that information to be true.

**A. About the Applicant**

2. APR is a federal not-for-profit corporation incorporated on or about May 2019 to expand and continue the air passenger advocacy work that I had initiated in my personal capacity in 2008.

3. Since 2008, I have been volunteering my personal time as an air passenger rights advocate, using my knowledge and expertise on air travel, for the benefit of the travelling public. Since around 2012, my public interest advocacy work has been conducted under the banner “Air Passenger Rights”, which was later incorporated as the applicant not-for-

profit entity, as indicated above. APR has continued the public interest advocacy work that I was conducting prior to its incorporation.

4. Attached hereto as [Exhibit “A”](#) is a copy of APR’s articles of incorporation. The articles specify that the purposes of APR are:

1. To educate air passengers and the public at large as to their rights and the means for the enforcement of these rights, by researching and making available the results of such research on the matter of the law relating to air passenger rights on domestic and international flights.
2. To act as a liaison between other public interest or citizens’ groups engaged in public interest advocacy.
3. To assist in and promote the activity of public interest group representation throughout Canada and elsewhere.
4. To make representations to governing authorities on behalf of the public at large and on behalf of public interest groups with respect to matters of public concern and interest with respect to air passenger rights, and to teach public interest advocacy skills and techniques.

5. APR’s mandate is to engage in public interest advocacy and to provide resources and information for the travelling public. I would categorize APR’s activities under four pillars:

- a. *Enforcing Air Passenger Protections*: filing regulatory complaints with the Canadian Transportation Agency [**“Agency”**] to enforce the airlines’ obligations under the laws or the airlines’ tariffs, or initiating or intervening in judicial proceedings regarding airlines’ obligations to passengers.
- b. *Advocating for Stronger Passenger Protections*: participating in consultations and providing testimony to Parliamentary committees to assist Parliament in strengthening protections for air passengers.
- c. *Sharing Information on Passenger Rights*: offering a platform for passengers to obtain information and share their travel woes.

- d. *Assisting Passengers in Enforcing their Legal Rights*: assisting passengers *pro bono* by providing information and, for precedent setting matters, assisting passengers in court as permitted by the applicable rules.

Below, I will further describe some of the activities that myself and APR have undertaken in relation to each of these pillars.

6. APR is a small, grassroots organization. In addition to APR's directors, a small number of volunteers assist in managing APR's Facebook group (which I will describe further below). I actively lead or supervise all of APR's work. APR's volunteers and directors, including myself, do not receive remuneration other than reimbursement for reasonable expenses incurred in the performance of their duties.

7. APR also does not expect any remuneration for its public interest advocacy work. APR's only source of funding is small donations from a small number of passengers that appreciate its work or the work that I have performed through APR.

**B. Enforcing Existing Air Passenger Protections**

8. APR has continued work I commenced in my personal capacity to enforce the established legal rights of air passengers. I will provide four examples of this work below.

9. First, prior to APR's incorporation, I filed more than two dozen regulatory complaints with the Agency in my personal capacity. These complaints resulted in airlines having to amend their terms and conditions, websites, and/or signage to offer better protections to passengers. Attached hereto as [Exhibit "B"](#) is an excerpt of a 2021 brief prepared by APR which lists and includes links to these complaints.

10. Second, I have successfully challenged, in the public interest, the legality of the Agency's actions on a number of occasions. Some of these reported decisions are:

- a. *Lukács v. Canada (Transport, Infrastructure and Communities)*, [2015 FCA 140](#), relating to the open court principle in proceedings before the Agency;

- b. *Lukács v. Canada (Canadian Transportation Agency)*, [2016 FCA 269](#), relating to denied boarding compensation; and
- c. *Lukács v. Canada (Canadian Transportation Agency)*, [2016 FCA 220](#), relating to standing to bring a complaint about discrimination against large passengers without being personally affected.

11. Third, in recent years, courts have repeatedly recognized the value of my – and now APR’s – legal advocacy on air passenger rights. I provide the following examples:

- a. In *Lukács v. Canada (Transportation Agency)*, [2016 FCA 174](#), at para. [6](#), the Federal Court of Appeal recognized my genuine interest in air passenger rights and the legality of the Agency’s decisions and actions.
- b. In October 2017, I appeared before the Supreme Court of Canada in an appeal arising from the Agency’s refusal to consider my regulatory complaint against Delta Air Lines for discriminating against large passengers. The court’s decision is cited as *Delta Air Lines Inc. v. Lukács*, [2018 SCC 2](#).
- c. In *Lukács v. Canada (Transportation Agency)*, [2019 FC 1148](#), at paras. [46](#) and [50](#), this court recognized my reputation, continued interest, and expertise in advocating for passenger rights. The judicial review involved the Agency giving Air Transat “credit” against a regulatory penalty by paying the equivalent as compensation to passengers.
- d. In March 2020, the Federal Court of Appeal granted me leave to intervene in the International Air Transportation Association’s [**IATA**] and airlines’ appeal challenging the validity of Canada’s *Air Passenger Protection Regulations* [**APPR**]. In granting me leave to intervene, the Federal Court of Appeal found that “the proposed intervener would defend the interests of airline passengers in a way that the parties cannot”. Attached hereto as [Exhibit “C”](#) is a copy of the court’s order. I made written and oral

submissions in this appeal. The court's decision is cited as *International Air Transport Association v. Canadian Transportation Agency*, [2022 FCA 211](#).<sup>1</sup>

- e. In January 2024, the Supreme Court of Canada granted me leave to intervene in the IATA's appeal of the Federal Court of Appeal. I made written and oral submissions in this appeal. The court's decision is cited as *International Air Transport Association v. Canada (Transportation Agency)*, [2024 SCC 30](#). Rowe J, writing for a unanimous court, dismissed the appeal. His reasons incorporated my submissions on several points, as reflected at paras. [27](#), [34](#), and [98](#) of the decision.

### **C. Advocating for Stronger Passenger Rights**

12. I have also engaged in advocacy before federal lawmakers and the Agency to improve air passenger rights, both on behalf of APR and in my personal capacity. This advocacy has included giving evidence and making submissions before the House of Commons Standing Committee on Transport, Infrastructure and Communities ["**TRAN**"], the Standing Senate Committee on Transport and Communications ["**TRCM**"], and the House of Commons Standing Committee on Finance ["**FINA**"], as well as making submissions to the Agency, as a stakeholder participating in consultations. I will provide nine examples below.

13. First, in September 2017 and March 2018, I testified before TRAN and TRCM, respectively, regarding the *Transportation Modernization Act*, which created the legislative framework for the *APPR*.

14. Second, the Agency subsequently recognized me as a stakeholder in the consultation process leading to the development of the *APPR*. These consultations were distinct and separate from the 'town hall'-style meetings for the general public. Between

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<sup>1</sup> In this decision, the Federal Court of Appeal upheld all by one provision of the *APPR*. The subsection it struck down – 23(2) – was struck on the basis of the same drafting error in the *Transportation Modernization Bill* (Bill C-49) that I previously identified in my September 2017 submissions to a Parliamentary committee that was studying that bill, but which lawmakers did not correct before the bill became law. Parliament subsequently amended section 86.11(1)(c) of the *Canada Transportation Act* after the release of the court's decision to address this issue.

June 2018 and February 2019, I participated in two bilateral consultations and provided two briefs to the Agency regarding the proposed *APPR*.

15. Third, in December 2020, I testified before TRAN as part of its study on the impact of COVID-19 on the aviation sector. In February 2021, I followed up my testimony with a written brief to the committee. TRAN's report from this study, entitled *Emerging from the Crisis: A Study of the Impact of the COVID-19 Pandemic on the Air Transport Sector*, was released on June 16, 2021. The report contains three recommendations relating to submissions I had made to the committee concerning air passenger refunds.

16. Fourth, in November 2022 and January 2023, I appeared before TRAN, as president of APR, to speak about the rights of air passengers. APR submitted a brief to the committee relating to these appearances in December 2022.

17. Fifth, in May 2023, I appeared separately before both TRCM and FINA to speak about the rights of air passengers, and specifically about an omnibus budget bill that included changes to the *APPR* and the *Canada Transportation Act* ["**CTA**"]. Prior to my testimony, APR submitted a written brief to each of these committees.

18. Sixth, in February, May, and December 2024, I appeared before TRAN to address disability and accommodation issues in air travel, competition issues in the Canadian airline industry, and 'junk fees' in air travel, respectively.<sup>2</sup>

19. Seventh, in November 2024, I submitted a brief to the Agency, on behalf of APR, concerning the Agency's proposal on the proposed air travel complaint cost recovery fee.

20. Eighth, I have also filed several briefs to enhance accessibility for air passengers that require accommodation. For instance:

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<sup>2</sup> My remarks are available online at <https://airpassengerrights.ca/en/advocacy/accessible-transportation-for-persons-with-disabilities/accessible-transportation-for-persons-with-disabilities-address-to-the-house-of-commons-transport-committee>, <https://airpassengerrights.ca/en/advocacy/airline-competition/airline-competition-address-to-the-house-of-commons-transport-committee>, and <https://airpassengerrights.ca/en/advocacy/air-passenger-bill-of-rights/junk-fees-in-air-travel-address-to-the-house-of-commons-transport-committee>.

- a. In October 2018, I filed a brief with the House of Commons Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities about the *Act to ensure a barrier-free Canada* (Bill C-81).
- b. In April 2019, I submitted a brief to the Agency about the draft *Accessible Transportation for Persons with Disabilities Regulations* that were pre-published in Canada Gazette Part I.
- c. In April 2019, I submitted a brief to the Standing Senate Committee on Social Affairs, Science, and Technology with respect to the *Act to ensure a barrier-free Canada* (Bill C-81).
- d. In February 2020, I submitted a brief to the Agency about phase 2 of the *Accessible Transportation for Persons with Disabilities Regulations*.

21. Ninth, and most recently, in February 2025, I submitted a brief to the Agency, on behalf of APR, concerning its proposal to add section 85.09(1) of the CTA to the *Canadian Transportation Agency Designated Provisions Regulations* [***DPR***]. I will explain the significance of this submission in greater detail below.

22. My advocacy for improving air passenger rights for the public has been commended. For instance, on February 22, 2025, I was awarded the King Charles III Coronation Medal for my advocacy and work with APR.

#### **D. Sharing Information on Air Passenger Rights**

23. APR promotes the rights of air passengers by referring passengers mistreated by airlines to legal information and resources, including through the press, social media, and our website.

24. APR's website is located at [AirPassengerRights.ca](https://AirPassengerRights.ca). It contains numerous resources and practical guides for members of the public, including on topics such as

denied boarding, delayed or lost baggage, and flight delays and cancellations. APR posts information about its public advocacy and press coverage on this website.

25. APR also maintains a Facebook group, entitled “Air Passenger Rights (Canada)”, located at <https://www.facebook.com/groups/441903102682254>. As of May 25, 2025, our Facebook group had 249,498 members. The APR Facebook group is a platform for members to share their concerns regarding air travel and passenger rights, and to discuss their issues and concerns with other passengers. The APR Facebook group is a public group. While only members can post in the group, anyone can see the posts.

#### **E. Assisting Passengers in Enforcing their Legal Rights**

26. APR also provides, through the efforts of myself and other volunteers, *pro bono* assistance and guidance to passengers in their disputes with airlines to the extent that we are permitted to by law (in that we are not licensed by a law society and cannot provide legal services).

27. To be clear, APR does not represent or assist individual passengers in court, but it does engage in advocacy in support of air passengers more broadly. APR’s mandate focuses on educating the public about air passenger rights and the means for enforcement of those rights and by researching and making available the results of such research on law relating to air passenger rights for both domestic and international flights.

28. In appropriate cases, APR will take legal action for the benefit of passengers as a class, which the court has accepted. For example, in *Air Passenger Rights v. WestJet Airlines Ltd.*, [2025 BCSC 155](#), APR secured an interlocutory injunction prohibiting WestJet from publishing or communicating misleading information which appeared to set upper limits for compensation for air passengers who experienced delays or travel disruptions. This injunctive order served to advance the legal rights of all passengers to appropriate compensation.

29. I have also personally assisted a number of passengers in some legal proceedings. For example:



- a. In *Lachance v. Air Canada*, [2014 NSSM 14](#), I assisted a passenger who had been ‘bumped’ from their flight in obtaining a judgment requiring Air Canada to compensate them.
- b. Since 2015, I have been assisting Nayla Farah and Amal Haddad, who were harassed and discriminated against by airline crew due to their vision disabilities and reliance on service animals. In October 2018, the Canadian Human Rights Commission referred this case to the Canadian Human Rights Tribunal for an inquiry. This proceeding is ongoing.
- c. In *Paine v. Air Canada*, [2018 NSSC 215](#), I was granted permission to represent passengers in an appeal before the Supreme Court of Nova Scotia in a case relating to denied boarding compensation.
- d. In *Geddes v. Air Canada*, [2021 NSSM 27](#), I acted as agent for a passenger seeking standardized compensation under the *APPR*. I continued to assist the passenger on appeal to the Supreme Court of Nova Scotia, and the reasons for judgment are cited as 2022 NSSC 49.

**F. The Agency Tries to Prevent APR from Sharing Its Decisions**

30. From time to time APR and its online followers share decisions from courts and other bodies, such as the ones I have referred to above, to the APR Facebook group. This is done to provide insights and information to the public about developments in the law on air passenger rights.

31. In or about July 2024, an air passenger published a copy of an air passenger complaint decision to APR’s Facebook group.

32. On July 9, 2024, APR received an email from Dany Ross, A/Director General, Dispute Resolution Branch, of the Agency. The email complained that a decision of the Agency relating to an air passenger complaint had been published to the APR website. The email stated:

It was brought to our attention that a recently issued confidential air travel complaint decision was posted in its entirety on your Air Passenger Rights (APR) Facebook group page. The decision was posted in the group by one of the passengers involved in the decision, who has since removed the post at our request.

As per the Canada Transportation Act (the Act), the Canadian Transportation Agency publishes on its website information relating to the outcome of air travel complaints. Decisions issued by an Agency complaint Resolution Officer are otherwise confidential, unless all involved parties agree to the contrary.

We would appreciate your collaboration in preventing future public sharing of confidential information.

33. I replied to Mr. Ross on behalf of APR the same day and expressed my objection to the Agency's position, as expressed in his email. I wrote:

Subsection 2(b) of the Canadian Charter of Rights and Freedoms protects freedom of expression, which entails the open-court principle and guarantees public access to legally binding decisions and evidence that is used in proceedings leading to such decisions (*Lukacs v. Canada*, 2015 FCA 140).

I find it most troubling and unacceptable in a free and democratic society that the Government of Canada and/or its employees would pressure a person to remove a social media post relating to a legally binding decision affecting their rights.

I concur with Professor Paul Daly, who wrote in reference to s. 85.09(1) of the Canada Transportation Act that:

It is difficult to see how this clause would survive constitutional challenge based on the open justice principle grounded in s. 2(b) of the Charter of Rights and Freedoms. (No Charter statement has been published yet for Bill C-47).

SOURCE: <https://www.administrativelawmatters.com/blog/2023/05/18/judicial-oversight-and-open-justice-in-administrative-proceedings/>

Attached hereto as **Exhibit "D"** is a copy my email exchange with Mr. Ross, dated July 9, 2024.

#### **G. The Agency Refuses to Disclose Decisions and Orders**

34. As part of its work, APR is necessarily interested in the decision-making process and outcomes of the matters before Complaint Resolution Officers [**"CROs"**] who adjudicate disputes between passengers and airlines.

35. On July 16, 2024, I wrote to the Agency on behalf of APR to request copies of various decisions, orders, and the documents relied on by the CRO to make their decision, in relation to 5 air passenger complaints. My letter stated:

We are writing to request, pursuant to the open-court principle protected by s. 2(b) of the *Canadian Charter of Rights and Freedoms* and recognized in *Lukács v. Canada*, [2015 FCA 140](#), that you be so kind to provide us with copies of the Conflict Resolution Officer's decision and/or order, including the complete reasons and all documents relied upon by the Conflict Resolution Officer, in relation to Decision Nos. 350270-CO-2024, 378575-CO-2024, 375879-CO-2024, 376906-CO-2024, and 375218-CO-2024.

Attached hereto as [Exhibit "E"](#) is a copy of my letter to the Agency, which I transmitted by email to Mr. Ross and Patrice Bellerose, Director, Registrar and Secretariat Services, as well as to the Agency secretariat's general email inbox.

36. On August 9, 2024, I received a reply from the Agency's secretariat by email. The response denied my request for access to the documents on the basis of subsection 85.09(1) of the *Canada Transportation Act*. The email I received stated:

This is in response to your letter dated July 16, 2024, requesting copies of certain Complaint Resolution Officer decisions and associated documents. Pursuant to subsection 85.09(1) of the *Canada Transportation Act*, all matters related to the process of dealing with an air travel complaint shall be kept confidential, unless the complainant and carrier otherwise agree. Following receipt of your request, the Agency contacted the parties in Air Travel Complaint Decisions ATC-350270-CO-2024, ATC-378575-CO-2024, ATC-375879-CO-2024, ATC-376906-CO-2024 and ATC-375218-CO-2024 to verify whether they would consent to the release of the information requested. None of the parties provided consent. Therefore the Agency is unable to provide the requested documents.

Attached hereto as [Exhibit "F"](#) is a copy of the Agency's email, dated August 9, 2024.

#### **H. The Agency Proposes Fines for Breaches of Section 85.09(1) of the Act**

37. On January 29, 2025, the Agency issued a proposal to amend the *Canada Transportation Agency Designated Provisions Regulations* ["**DPR**"] to add section 85.09(1) to the *DPR* as one of the sections of the regulations that may be enforced by way of administrative monetary penalties ["**AMPs**"]. Attached hereto as [Exhibit "G"](#) is the Agency's request for feedback on the proposal, as well as the proposed amendments to the *DPR*, both retrieved from the Agency's website.

38. On February 28, 2025, APR provided feedback on the Agency's proposal. In its submission, APR commented at length on its concerns about the move to levy AMPs on persons who share information about air passenger complaints. Attached hereto as [Exhibit "H"](#) is a copy of APR's letter to the Agency, dated February 28, 2025.

39. This letter comments on the impact of section 85.09(1) on the expressive rights of APR:

In our view, the proposal to add subsection 85.09(1) of the Canada Transportation Act to the *Canadian Transportation Agency Designated Provisions Regulations*, purporting to authorize such fines, is unconstitutional and unlawful because:

- i. regulating the media's and/or the public's speech and expression is *ultra vires* the Canadian Transportation Agency, whose mandate is confined to the economic regulation of various modes of transportation, including transportation of passengers by air; and
- ii. it infringes upon rights protected by s. 2(b) of the *Charter* in a manner that is unjustifiable in a free and democratic society.

...

In practical terms, subsection 85.09(1) of the *Act* is a gag order that purports to preclude passengers from publicly discussing and criticizing the complaint resolution officer's legally binding decision in their own case.

...

Indeed, subsection 85.09(1) of the *Act* creates a significant imbalance in information and knowledge about the Agency's interpretation of the law between airlines and passengers. Airlines, which are the respondents to thousands of complaint, have a treasure trove of decisions by complaint resolution officers; passengers, however, are expected to not share and exchange that information among themselves.

...

Subsection 85.09(1) of the *Act* impacts consumer protection organizations like our APR in multiple ways. First, the Agency expects us to be complicit in curtailing passengers' expression about their own complaints in our "Air Passenger Rights (Canada)" Facebook group.

...

Subsection 85.09(1) of the *Act* also purports to preclude us from exercising our rights under the constitutionally protected open court principle and obtaining copies of such legally binding decisions and/or the documents on the basis of which these decisions were made.

40. The letter also expands on the profound consequences that levying AMPs for violations of section 85.09(1) of the *CTA* would have on APR, our volunteers, and the air passengers who provide information to our online community or seek its support. APR's letter states:

Making subsection 85.09(1) of the *Act* a designated provision and adding it to the *DPR* as the Agency proposes to do would have profound societal consequences in general, and for passengers, consumer protection organizations, and the media in particular.

*First*, to our knowledge, it is unprecedented in Canada that government agents would be authorized to fine any individual or organization for allegedly breaching some confidentiality obligations. The power to sanction such infractions should be reserved to the independent judiciary.

*Second*, passengers like Tim Rodger, who post on social media about the complaint resolution officer's legally binding decision in their case, would not only receive a stern phone call from the Agency, but would also be facing the prospect of being issued a notice of violation and having to pay an Administrative Monetary Penalty (fine). Even the mere prospect of a fine would have a profound chilling effect on passengers' freedom of expression.

*Third*, organizations like our APR, that provide a platform for passengers to exchange information, could be the target of notices of violation and Administrative Monetary Penalties if we do not cave in to demands to remove posts, such as the one we received from Mr. Dany Ross on July 9, 2024.

*Lastly*, journalists and media outlets who report on the outcome of passenger complaints decided by the Agency's complaint resolution officers would be at risk of being served with a notice of violation and being required to pay an AMP.

#### **I. Impacts on APR's Freedom of Expression**

41. I am very concerned that section 85.09(1) of the *CTA* prevents APR from being able to engage in expressive activities which are the core of its public interest mandate. This provision does so by prohibiting APR, the members of our organization, our volunteers, and the travelling public who engage with us from commenting or sharing resources and insights about air passenger complaint proceedings or decisions.

42. This strikes at the heart of our ability to share information on air passenger rights and to assist passengers in enforcing their legal rights. It also makes it more difficult for APR to advocate to strengthen air passenger rights because it makes it virtually impossible to obtain information about what is being argued before CROs, or how CROs

are deciding cases. This hampers our ability to advocate for improvements to the relevant rules and to fulfill our “watchdog” function for the public.

43. As an advocate for air passenger rights, APR also frequently raises concerns in the media and in other forums when there are developments in air passenger rights or when high-profile air travel disputes attract media attention. To the extent that APR’s commentary relates to the adjudication of air passenger complaints by CROs or the representations made by the parties in the complaint proceedings, it appears that section 85.09(1) prohibits us from providing any meaningful or informed commentary about any specific proceedings.

44. The recent developments I have outlined regarding the proposed amendments to the *DPR*, which enable the Agency to fine those who comment on “confidential” documents and decisions before the CRO, have deepened my concern. I am concerned that this proposal is targeted at organizations like APR, in particular, which provides resources and an online forum to assist the public with air passenger complaints. I feel that this is especially unfair given that airlines – which are the respondents to every air passenger complaint – will have at their disposal databases of thousands of proceedings and CRO decisions.

**J. APR’s Interests in this Application**

45. APR has both its own genuine interest in the constitutionality of section 85.09(1) but its concerns also reflect a broader public interest. Consequently, we are uniquely positioned to raise these freedom of expression issues with section 85.09(1) of the *CTA*.

46. APR’s freedom of expression is directly impacted by this section’s effective prohibition on our ability to receive or disseminate information relating to air passenger complaint proceedings. Our unique interest is in providing useful and informative resources to the public about this adjudicative tribunal (an interest individual air passenger complainants to the Agency would not have) and about advocating for improvements to air passenger rights based in part on these complaint proceedings. We cannot perform these functions without access to the complaint proceeding files.

47. In my view, it is not an answer to this dilemma to indicate that APR (or any other person) can access “confidential” information from the complaint proceeding by obtaining the consent of the parties. There is obviously no incentive for the parties – and particularly the airline respondent – to ever provide that consent. It is also probable that consent will be even more commonly withheld in cases involving more egregious airline conduct. Consequently, it is my view that this process does not provide meaningful access to the decisions and orders of CROs, or the documents relied on to make those decisions and orders.

48. APR is also standing in the shoes of air passengers who have made (or may make) complaints to the Agency. This includes both air passengers who may have a complaint to make and are looking for resources to effectively determine whether their complaint has merit, and those looking to share information about their complaint with others for various personal reasons, but – like Nancy Pierce, as she deposes in her affidavit – are intimidated about doing so in light of the “confidentiality” provisions they are subject to. Given the economics of the relatively small claim amounts that are brought before the CRO, it is not realistic that any individual complainant will launch a constitutional challenge of section 85.09(1) in relation to their own air passenger complaint.

49. I affirm this affidavit for use in this proceeding and for no other or improper purpose.

AFFIRMED remotely by Dr. Gábor Lukács, stated as being located in the City of Halifax, in the Province of Nova Scotia, before me in the Town of Fort Frances, in the District of Rainy River, on the 28th day of May, 2025, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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Commissioner for Taking Affidavits

Douglas W. Judson  
Barrister & Solicitor (LSO No. 70019H)  
Phone: 807-861-3684 | Fax: 807-789-1661  
Email: doug@judsonhowie.ca



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**DR. GÁBOR LUKÁCS**

This is

**Exhibit “A”**

to the Affidavit of Dr. Gábor Lukács,  
affirmed May 28, 2025



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COMMISSIONER FOR TAKING AFFIDAVITS

Douglas W. Judson  
Barrister & Solicitor (LSO No. 70019H)  
Phone: 807-861-3684 | Email: [doug@judsonhowie.ca](mailto:doug@judsonhowie.ca)

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## Certificate of Incorporation

*Canada Not-for-profit Corporations Act*

## Certificat de constitution

*Loi canadienne sur les organisations à but non  
lucratif*

### Air Passenger Rights

Corporate name / Dénomination de l'organisation

1143064-5

Corporation number / Numéro de  
l'organisation

I HEREBY CERTIFY that the above-named corporation, the articles of incorporation of which are attached, is incorporated under the *Canada Not-for-profit Corporations Act*.

JE CERTIFIE que l'organisation susmentionnée, dont les statuts constitutifs sont joints, est constituée en vertu de la *Loi canadienne sur les organisations à but non lucratif*.

Raymond Edwards

Director / Directeur

2019-05-26

Date of Incorporation (YYYY-MM-DD)  
Date de constitution (AAAA-MM-JJ)



**Form 4001**  
**Articles of Incorporation**  
*Canada Not-for-profit Corporations*  
**Act (NFP Act)**

**Formulaire 4001**  
**Statuts constitutifs**  
*Loi canadienne sur les*  
*organisations à but non lucratif*  
**(Loi BNL)**

1	Corporate name Dénomination de l'organisation <b>Air Passenger Rights</b>
2	The province or territory in Canada where the registered office is situated La province ou le territoire au Canada où est maintenu le siège <b>NS</b>
3	Minimum and maximum number of directors Nombres minimal et maximal d'administrateurs <b>Min. 3      Max. 9</b>
4	Statement of the purpose of the corporation Déclaration d'intention de l'organisation <b>See attached schedule / Voir l'annexe ci-jointe</b>
5	Restrictions on the activities that the corporation may carry on, if any Limites imposées aux activités de l'organisation, le cas échéant <b>See attached schedule / Voir l'annexe ci-jointe</b>
6	The classes, or regional or other groups, of members that the corporation is authorized to establish Les catégories, groupes régionaux ou autres groupes de membres que l'organisation est autorisée à établir <b>See attached schedule / Voir l'annexe ci-jointe</b>
7	Statement regarding the distribution of property remaining on liquidation Déclaration relative à la répartition du reliquat des biens lors de la liquidation <b>See attached schedule / Voir l'annexe ci-jointe</b>
8	Additional provisions, if any Dispositions supplémentaires, le cas échéant <b>See attached schedule / Voir l'annexe ci-jointe</b>
9	<b>Declaration:</b> I hereby certify that I am an incorporator of the corporation. <b>Déclaration :</b> J'atteste que je suis un fondateur de l'organisation.

Name(s) - Nom(s)

Original Signed by - Original signé par

Gabor Lukacs

Gabor Lukacs

Gabor Lukacs

A person who makes, or assists in making, a false or misleading statement is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months or to both (subsection 262(2) of the NFP Act).

La personne qui fait une déclaration fausse ou trompeuse, ou qui aide une personne à faire une telle déclaration, commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende maximale de 5 000 \$ et un emprisonnement maximal de six mois ou l'une de ces peines (paragraphe 262(2) de la Loi BNL).

You are providing information required by the NFP Act. Note that both the NFP Act and the *Privacy Act* allow this information to be disclosed to the public. It will be stored in personal information bank number IC/PPU-049.

Vous fournissez des renseignements exigés par la Loi BNL. Il est à noter que la Loi BNL et la *Loi sur les renseignements personnels* permettent que de tels renseignements soient divulgués au public. Ils seront stockés dans la banque de renseignements personnels numéro IC/PPU-049.

**Schedule / Annexe**  
**Purpose Of Corporation / Déclaration d'intention de l'organisation**

1. To educate air passengers and the public at large as to their rights and the means for the enforcement of these rights, by researching and making available the results of such research on the matter of the law relating to air passenger rights on domestic and international flights.
2. To act as a liaison between other public interest or citizens' groups engaged in public interest advocacy.
3. To assist in and promote the activity of public interest group representation throughout Canada and elsewhere.
4. To make representations to governing authorities on behalf of the public at large and on behalf of public interest groups with respect to matters of public concern and interest with respect to air passenger rights, and to teach public interest advocacy skills and techniques.

## **Schedule / Annexe**

### **Restrictions On Activities / Limites imposées aux activités de l'organisation**

The Corporation shall have all the powers permissible by the Canada Not-for-profit Corporations Act, save as limited by the by-laws of the Corporation.

Nothing in the above purposes, however, shall be construed or interpreted as in any way empowering the Corporation to undertake functions normally carried out by barristers and solicitors.

**Schedule / Annexe**  
**Classes of Members / Catégories de membres**

There shall be two classes of members: Ordinary Members and voting General Members. The criteria for admission to both classes shall be governed by the by-laws of the Corporation.

## **Schedule / Annexe**

### **Distribution of Property on Liquidation / Répartition du reliquat des biens lors de la liquidation**

Upon liquidation, the property of the Corporation shall be disposed of by being donated to an eligible donee, as defined in the Income Tax Act (Canada).

**Schedule / Annexe**  
**Additional Provisions / Dispositions supplémentaires**

a) Any amendment or repeal of the Corporation's By-Laws shall require confirmation by a Special Resolution of two-thirds of the General Membership prior to taking effect.

b) The Corporation shall be carried on without the purpose of gain for its Members, and any profits or other accretions shall be used in furtherance of its purposes.

c) Directors shall serve without remuneration, and no Director shall directly or indirectly receive any profit from his or her position as such, provided that Directors may be reimbursed for reasonable expenses incurred in the performance of their duties.



<b>Form 4002</b> <b>Initial Registered Office Address and First Board of Directors</b> <i>Canada Not-for-profit Corporations Act (NFP Act)</i>	<b>Formulaire 4002</b> <b>Adresse initiale du siège et premier conseil d'administration</b> <i>Loi canadienne sur les organisations à but non lucratif (Loi BNL)</i>
--------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<b>1</b>	<div>Corporate name Dénomination de l'organisation</div> <div>Air Passenger Rights</div>						
<b>2</b>	<div>Complete address of the registered office Adresse complète du siège</div> <div>6507 Roslyn Road Halifax NS B3L 2M8</div>						
<b>3</b>	<div>Additional address Autre adresse</div>						
<b>4</b>	<div>Directors of the corporation Administrateurs de l'organisation</div> <table border="0" style="width: 100%;"><tr><td style="width: 30%;">Gabor Lukacs</td><td>6507 Roslyn Road, Halifax NS B3L 2M8, Canada</td></tr><tr><td>Simon Pak Hei Lin</td><td>4388 Still Creek Drive, Burnaby BC V5C 6C6, Canada</td></tr><tr><td>Judit Mihala</td><td>3420 Mary Claire Lane, Southaven MS 38672, United States</td></tr></table>	Gabor Lukacs	6507 Roslyn Road, Halifax NS B3L 2M8, Canada	Simon Pak Hei Lin	4388 Still Creek Drive, Burnaby BC V5C 6C6, Canada	Judit Mihala	3420 Mary Claire Lane, Southaven MS 38672, United States
Gabor Lukacs	6507 Roslyn Road, Halifax NS B3L 2M8, Canada						
Simon Pak Hei Lin	4388 Still Creek Drive, Burnaby BC V5C 6C6, Canada						
Judit Mihala	3420 Mary Claire Lane, Southaven MS 38672, United States						
<b>5</b>	<div>Declaration: I hereby certify that I am an incorporator of the new corporation or that I am a director or an authorized officer of the corporation continuing into or amalgamating under the NFP Act. Déclaration : J'atteste que je suis un fondateur de la nouvelle organisation ou que je suis un administrateur ou un dirigeant autorisé de l'organisation se prorogeant ou se fusionnant en vertu de la Loi BNL.</div>						

Original signed by / Original signé par  
Gabor Lukacs

\_\_\_\_\_  
Gabor Lukacs  
647-724-1727

A person who makes, or assists in making, a false or misleading statement is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months or to both (subsection 262(2) of the NFP Act).

La personne qui fait une déclaration fausse ou trompeuse, ou qui aide une personne à faire une telle déclaration, commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende maximale de 5 000 \$ et un emprisonnement maximal de six mois ou l'une de ces peines (paragraphe 262(2) de la Loi BNL).

You are providing information required by the NFP Act. Note that both the NFP Act and the *Privacy Act* allow this information to be disclosed to the public. It will be stored in personal information bank number IC/PPU-049.

Vous fournissez des renseignements exigés par la Loi BNL. Il est à noter que la Loi BNL et la *Loi sur les renseignements personnels* permettent que de tels renseignements soient divulgués au public. Ils seront stockés dans la banque de renseignements personnels numéro IC/PPU-049.



This is

**Exhibit “B”**

to the Affidavit of Dr. Gábor Lukács,  
affirmed May 28, 2025



---

COMMISSIONER FOR TAKING AFFIDAVITS

Douglas W. Judson  
Barrister & Solicitor (LSO No. 70019H)  
Phone: 807-861-3684 | Email: [doug@judsonhowie.ca](mailto:doug@judsonhowie.ca)

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## 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.

This is

**Exhibit “C”**

to the Affidavit of Dr. Gábor Lukács,  
affirmed May 28, 2025



---

COMMISSIONER FOR TAKING AFFIDAVITS

Douglas W. Judson  
Barrister & Solicitor (LSO No. 70019H)  
Phone: 807-861-3684 | Email: [doug@judsonhowie.ca](mailto:doug@judsonhowie.ca)

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Federal Court of Appeal



Cour d'appel fédérale

Date: 20200303

Docket: A-311-19

Ottawa, Ontario, March 3, 2020

Present: NEAR J.A.

BETWEEN:

INTERNATIONAL AIR TRANSPORT ASSOCIATION,  
 AIR TRANSPORTATION ASSOCIATION OF AMERICA DBA  
 AIRLINES FOR AMERICA, DEUTSCHE LUFTHANSA AG,  
 SOCIÉTÉ AIR FRANCE, S.A., BRITISH AIRWAYS PLC,  
 AIR CHINA LIMITED, ALL NIPPON AIRWAYS CO., LTD.,  
 CATHAY PACIFIC AIRWAYS LIMITED,  
 SWISS INTERNATIONAL AIRLINES LTD.,  
 QATAR AIRWAYS GROUP Q.C.S.C., AIR CANADA,  
 PORTER AIRLINES INC., AMERICAN AIRLINES INC.,  
 UNITED AIRLINES INC., DELTA AIR LINES INC.,  
 ALASKA AIRLINES INC., HAWAIIAN AIRLINES, INC. and  
 JETBLUE AIRWAYS CORPORATION

Appellants

and

CANADIAN TRANSPORTATION AGENCY and  
 THE ATTORNEY GENERAL OF CANADA

Respondents

and

DR. GÁBOR LUKÁCS

Intervener

**ORDER**

**WHEREAS** Dr. Gábor Lukács moves for an order permitting him to intervene in this appeal;

**AND WHEREAS** the Court has read the proposed intervenor's motion record, the appellants' responding motion record in response to the motion to intervene, correspondence from the respondent Canadian Transportation Agency, and the proposed intervenor's reply;

**AND WHEREAS** the appellants oppose the proposed intervenor's motion, and the respondents take no position;

**AND WHEREAS** the Court has considered the factors relevant to granting leave to intervene under rule 109 of the *Federal Courts Rules*, SOR/98-106;

**AND WHEREAS** the Court is of the view that the case engages the public interest, that the proposed intervenor would defend the interests of airline passengers in a way that the parties cannot, that the interests of justice favour allowing the proposed intervention in the appeal, and that the proposed intervention would be of assistance to the Court in deciding the appeal;

**AND WHEREAS** the Court is nevertheless of the view that the proposed intervention in the motion for a stay is not in the interests of justice, and would not be of assistance to the Court;

**THIS COURT ORDERS** that:

1. Dr. Lukács's motion to intervene in this appeal is granted in part. Dr. Lukács may intervene in the appeal subject to the terms described below. Dr. Lukács may not intervene in the motion for a stay.

2. The style of cause shall be amended by including Dr. Lukács as an intervener as appears in this Order, and shall be used on all further documents in this appeal.
3. Dr. Lukács's intervention in the appeal shall be subject to the following terms:
  - i. Dr. Lukács may serve and file a memorandum of fact and law of no more than twenty (20) pages with respect to the appeal within twenty (20) days of the service of the Respondents' memoranda;
  - ii. Dr. Lukács shall have the right to make oral submissions at the hearing of the appeal for no more than twenty (20) minutes; and
  - iii. Dr. Lukács may not seek costs, nor shall costs be awarded against him.

"D. G. Near"

---

J.A.

This is

**Exhibit “D”**

to the Affidavit of Dr. Gábor Lukács,  
affirmed May 28, 2025



---

COMMISSIONER FOR TAKING AFFIDAVITS

Douglas W. Judson  
Barrister & Solicitor (LSO No. 70019H)  
Phone: 807-861-3684 | Email: [doug@judsonhowie.ca](mailto:doug@judsonhowie.ca)

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Date: Tue, 9 Jul 2024 17:15:40 +0200 (CEST)  
From: Gabor Lukacs <lukacs@AirPassengerRights.ca>  
To: Dany Ross <Dany.Ross@otc-cta.gc.ca>  
Cc: France.Peugeot@otc-cta.gc.ca, Valerie.Lagace@otc-cta.gc.ca  
Subject: Re: Confidentiality Breach - Air Travel Complaint Decision

[ The following text is in the "iso-8859-1" character set. ]  
[ Your display is set for the "ISO-8859-2" character set. ]  
[ Some special characters may be displayed incorrectly. ]

Dear Mr. Ross,

Subsection 2(b) of the Canadian Charter of Rights and Freedoms protects freedom of expression, which entails the open-court principle and guarantees public access to legally binding decisions and evidence that is used in proceedings leading to such decisions (Lukacs v. Canada, 2015 FCA 140).

I find it most troubling and unacceptable in a free and democratic society that the Government of Canada and/or its employees would pressure a person to remove a social media post relating to a legally binding decision affecting their rights.

I concur with Professor Paul Daly, who wrote in reference to s. 85.09(1) of the Canada Transportation Act that:

It is difficult to see how this clause would survive constitutional challenge based on the open justice principle grounded in s. 2(b) of the Charter of Rights and Freedoms. (No Charter statement has been published yet for Bill C-47).

SOURCE: <https://www.administrativelawmatters.com/blog/2023/05/18/judicial-oversight-and-open-justice-in-administrative-proceedings/>

The Canadian Transportation Agency must respect the Charter-protected rights of passengers, and should cease and desist interfering with their freedom of expression and social media posts.

Yours very truly,  
Dr. Gabor Lukacs

On Tue, 9 Jul 2024, Dany Ross wrote:

>  
> Good morning,  
>  
>  
>  
> It was brought to our attention that a recently issued confidential air  
> travel complaint decision was posted in its entirety on your Air Passenger  
> Rights (APR) Facebook group page. The decision was posted in the group by  
> one of the passengers involved in the decision, who has since removed the  
> post at our request.  
>  
>  
>  
> As per the Canada Transportation Act (the Act), the Canadian Transportation  
> Agency publishes on its website information relating to the outcome of air



> travel complaints. Decisions issued by an Agency complaint Resolution  
> Officer are otherwise confidential, unless all involved parties agree to the  
> contrary.  
>  
>  
>  
> We would appreciate your collaboration in preventing future public sharing  
> of confidential information.  
>  
>  
>  
> Thank you for your collaboration.  
>  
>  
>  
> Dany  
>  
>  
>  
> Dany Ross  
>  
> (il/he/him/his)  
>  
>  
>  
> A/Directeur général, Direction générale du règlement des différends  
>  
> Office des transports du Canada  
>  
> Dany.Ross@otc-cta.gc.ca  
>  
> Tél. : 613-240-4282  
>  
> Suivez-nous : otc-cta.gc.ca / X (Twitter) / YouTube  
>  
>  
>  
> A/Director General, Dispute Resolution Branch  
>  
> Canadian Transportation Agency  
>  
> Dany.Ross@otc-cta.gc.ca  
>  
> Tel.: 613-240-4282  
>  
> Follow us: otc-cta.gc.ca / X (Twitter) / YouTube  
>  
>  
>  
>  
>

This is

**Exhibit “E”**

to the Affidavit of Dr. Gábor Lukács,  
affirmed May 28, 2025



---

COMMISSIONER FOR TAKING AFFIDAVITS

Douglas W. Judson  
Barrister & Solicitor (LSO No. 70019H)  
Phone: 807-861-3684 | Email: [doug@judsonhowie.ca](mailto:doug@judsonhowie.ca)

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6507 Roslyn Road  
Halifax, NS B3L 2M8

lukacs@AirPassengerRights.ca



July 16, 2024

**VIA EMAIL: Patrice.Bellerose@otc-cta.gc.ca**

Patrice Bellerose – Director, Registrar and Secretariat Services  
Canadian Transportation Agency

**VIA EMAIL: Dany.Ross@otc-cta.gc.ca**

Dany Ross – A/Director General, Dispute Resolution Branch  
Canadian Transportation Agency

**VIA EMAIL: Secretariat.Secretariat@otc-cta.gc.ca**

Secretariat  
Canadian Transportation Agency

Dear Madam or Sir:

**Re: Request Pursuant to s. 2(b) of the *Charter* for Adjudicative Records**

We are writing to request, pursuant to the open-court principle protected by s. 2(b) of the *Canadian Charter of Rights and Freedoms* and recognized in *Lukács v. Canada*, [2015 FCA 140](#), that you be so kind to provide us with copies of the Conflict Resolution Officer's decision and/or order, including the complete reasons and all documents relied upon by the Conflict Resolution Officer, in relation to Decision Nos. 350270-CO-2024, 378575-CO-2024, 375879-CO-2024, 376906-CO-2024, and 375218-CO-2024.

We look forward to hearing from you by no later than **August 7, 2024**.

Yours very truly,

Dr. Gábor Lukács  
President

Cc: France Pégeot, Chair & CEO, Canadian Transportation Agency  
(France.Pegeot@otc-cta.gc.ca)

Ms. Valérie Lagacé, Senior General Counsel & Secretary, Canadian Transportation Agency  
(Valerie.Lagace@otc-cta.gc.ca)

This is

**Exhibit “F”**

to the Affidavit of Dr. Gábor Lukács,  
affirmed May 28, 2025



---

COMMISSIONER FOR TAKING AFFIDAVITS

Douglas W. Judson  
Barrister & Solicitor (LSO No. 70019H)  
Phone: 807-861-3684 | Email: [doug@judsonhowie.ca](mailto:doug@judsonhowie.ca)

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---

## RE: Request Pursuant to s. 2(b) of the Charter for Adjudicative Records

---

secretariat <Secretariat.Secretariat@otc-cta.gc.ca>

Fri, Aug 9, 2024 at 8:14 PM

To: Gabor Lukacs <lukacs@airpassengerrights.ca>, Dany Ross <Dany.Ross@otc-cta.gc.ca>

Cc: France Pégeot <France.Pegeot@otc-cta.gc.ca>, Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>

Hello,

This is in response to your letter dated July 16, 2024, requesting copies of certain Complaint Resolution Officer decisions and associated documents. Pursuant to subsection 85.09(1) of the Canada Transportation Act, all matters related to the process of dealing with an air travel complaint shall be kept confidential, unless the complainant and carrier otherwise agree. Following receipt of your request, the Agency contacted the parties in Air Travel Complaint Decisions ATC-350270-CO-2024, ATC-378575-CO-2024, ATC-375879-CO-2024, ATC-376906-CO-2024 and ATC-375218-CO-2024 to verify whether they would consent to the release of the information requested. None of the parties provided consent. Therefore the Agency is unable to provide the requested documents.

Thank you.

### Secrétariat

Direction générale des services juridiques et du Secrétariat

Office des transports du Canada

[secretariat@otc-cta.gc.ca](mailto:secretariat@otc-cta.gc.ca)

Tél. : 819-997-7047 / Télécopieur : 819-953-5253 / ATS : 1-800-669-5575

### Secretariat

Legal and Secretariat Services Branch

Canadian Transportation Agency

[secretariat@otc-cta.gc.ca](mailto:secretariat@otc-cta.gc.ca)

Tel: 819-997-7047 / Facsimile: 819-953-5253 / TTY: 1-800-669-5575

-----Original Message-----

From: Gabor Lukacs <lukacs@AirPassengerRights.ca>

Sent: July 15, 2024 6:30 PM

To: Patrice Bellerose <[Patrice.Bellerose@otc-cta.gc.ca](mailto:Patrice.Bellerose@otc-cta.gc.ca)>; Dany Ross <[Dany.Ross@otc-cta.gc.ca](mailto:Dany.Ross@otc-cta.gc.ca)>; secretariat <[Secretariat.Secretariat@otc-cta.gc.ca](mailto:Secretariat.Secretariat@otc-cta.gc.ca)>

Cc: France Pégeot <[France.Pegeot@otc-cta.gc.ca](mailto:France.Pegeot@otc-cta.gc.ca)>; Valérie Lagacé <[Valerie.Lagace@otc-cta.gc.ca](mailto:Valerie.Lagace@otc-cta.gc.ca)>

Subject: Request Pursuant to s. 2(b) of the Charter for Adjudicative Records

Dear Madam or Sir,

Kindly please refer to the attached letter.

Best wishes,

Dr. Gabor Lukacs

--

Dr. Gabor Lukacs, President (Founder and Coordinator)

Air Passenger Rights

Tel : (647) 724 1727

Web : <https://can01.safelinks.protection.outlook.com/?url=http%3A%2F%2Ffairpassengerrights.ca%2F&data=05%7C02%7CPatrice.Bellerose%40otc-cta.gc.ca%7Cef5143ffce0c4b8306c808dca51dbaa6%7Ca45033974ad44bc3965007493e66aab0%7C0%7C0%7C638566794461788200%7CUnknown%7CTWFPbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQljojV2luMzliLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=RGBRwDr0Bj9YuTRWWIJ5eYBhzwoNJPgj8CqCH454eTk%3D&reserved=0>

Twitter : @AirPassRightsCA

This is

**Exhibit “G”**

to the Affidavit of Dr. Gábor Lukács,  
affirmed May 28, 2025



---

COMMISSIONER FOR TAKING AFFIDAVITS

Douglas W. Judson  
Barrister & Solicitor (LSO No. 70019H)  
Phone: 807-861-3684 | Email: [doug@judsonhowie.ca](mailto:doug@judsonhowie.ca)

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# Advance notice of CTA's proposed amendments to the Canadian Transportation Agency Designated Provisions Regulations

The Canadian Transportation Agency (CTA) is [proposing amendments](#) to the [Canadian Transportation Agency Designated Provisions Regulations](#) (DPR).

## Background

To fulfill its mandate, the CTA uses various enforcement tools to promote and ensure compliance with the obligations set out in the [Canada Transportation Act](#) (the Act) and its associated regulations. One of these tools is the use of administrative monetary penalties (AMP). The regulatory requirements in the Act and regulations that can be subject to an AMP must first be identified or designated in a legislative instrument, like the Act itself or, in this case, the DPR. The DPR consists of a list of sections of the Act or the regulations that may be enforced by way of AMPs. This list must be updated when the Act or the regulations are amended, to ensure that the CTA has or continues to have effective tools to ensure that regulated entities comply with the law. The DPR do not create new regulatory requirements or obligations; these requirements already exist in the Act, regulations and orders.

The DPR have been in force since 2006 and have been amended several times. However, following passage of the [Budget Implementation Act, 2023, No. 1](#), by Parliament in June 2023, which amended the Act, the CTA has identified certain provisions that need to be added, modified or deleted from the list of designated provisions in the DPR to reflect these amendments. In addition, the CTA has identified other provisions of the Act not yet designated that, in its view, should be designated.

## How to participate

Please note that the feedback period closed on February 28, 2025.

## Want to know more?

The CTA [Compliance and Enforcement](#) policy provides information on how the Agency organizes itself and delivers critical compliance and enforcement activities.


## Related content



- [Proposed amendments to the \*Canadian Transportation Agency Designated Provisions Regulations\*](#)
- [\*Canadian Transportation Agency Designated Provisions Regulations\*](#)
- [\*Canada Transportation Act\*](#)
- [\*Budget Implementation Act, 2023\*](#)

## Milestones

Date	Status
Wednesday, January 29, 2025	Opened
Friday, February 28, 2025	Closed

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**Date modified:**

2025-03-05



[Home](#) → [Consultations](#)

# Proposed amendments to the Canadian Transportation Agency Designated Provisions Regulations

---

## What is being amended?

There are 22 provisions of the *Canada Transportation Act* (Act) to be designated under the *Canadian Transportation Agency Designated Provisions Regulations* (DPR). The DPR consists of a list of sections of the Act or the regulations that may be enforced by way of administrative monetary penalties (AMP). These amendments will update the list to ensure the Canadian Transportation Agency can use AMPs to address non-compliance with certain legislative requirements. The DPR themselves do not create new regulatory requirements or obligations; these requirements already exist in the Act, regulations or orders.

## Provisions to be designated under the DPR

### 1. Items relating to air transportation

Subject	Provision, requirement or condition
Licence for domestic air service	Section 65
Licence for non-scheduled international air service	Subsection 84(2)
Air carrier obligations	Subsections 85.01(1) and (2)
Air travel complaints resolution process	Subsection 85.05(2) Subsection 85.07(1) Subsection 85.07(3) Subsection 85.09(1)
Air complaints cost recovery	Subsection 85.16(2)

## 2. Items relating to rail transportation

Subject	Provision, requirement or condition
Rail lines and crossings	Subsection 99(2) Subsection 101(2) Subsection 101(3) Section 102 Section 103
Interswitching in Prairie Provinces	Subsection 127(2.1) Subsection 127(5)
Transferring and Discontinuing the Operation of Railway Lines	Subsection 146(1.1)
Arbitration: Rail Shippers and Carriers	Paragraph 165(6)(a)

## 3. Items relating to Agency decisions, orders and processes

Subject	Provision, requirement or condition
Powers of the Agency	Subsection 25.1(3) Section 26 Subsection 36.1(4) Subsection 36.1(7)
General Enforcement	Subsection 178.1(6)

## Proposed removal of the following items from the DPR

Provision, requirement or condition	Reason for removal
<b>Canada Transportation Act</b> <b>Section 67.1 (includes paragraphs a, b, and c)</b>	Pursuant to the <i>Budget Implementation Act, 2023, No.1</i> , Section 67.1 of the <i>Canada Transportation Act</i> was repealed, with a coming into force date of September 30, 2023

Provision, requirement or condition	Reason for removal
<b><i>Personnel Training for the Assistance of Persons with Disabilities Regulations</i></b> <b>Sections 4-9, 11</b>	Contravention of these provisions are now designated as violations directly by virtue of subsection 177(3) of <i>Canada Transportation Act</i>

Related content

- [Advance notice of CTA's proposed amendments to the \*Canadian Transportation Agency Designated Provisions Regulations\*](#)
- [Canadian Transportation Agency Designated Provisions Regulations](#)
- [Canada Transportation Act](#)
- [Budget Implementation Act, 2023, No. 1](#)

Milestones

Date

Wednesday, January 29, 2025

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Date modified:  
2025-01-29

This is

**Exhibit “H”**

to the Affidavit of Dr. Gábor Lukács,  
affirmed May 28, 2025



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COMMISSIONER FOR TAKING AFFIDAVITS

Douglas W. Judson  
Barrister & Solicitor (LSO No. 70019H)  
Phone: 807-861-3684 | Email: [doug@judsonhowie.ca](mailto:doug@judsonhowie.ca)

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Halifax, NS

lukacs@AirPassengerRights.ca



February 28, 2025

**VIA ONLINE SUBMISSION**

Canadian Transportation Agency  
15 Eddy Street  
Gatineau, Quebec K1A 0N9

Dear Madam or Sir:

**Re: Proposal to add s. 85.09(1) of the *Canada Transportation Act* to the *Canadian Transportation Agency Designated Provisions Regulations***

I am writing on behalf of *Air Passenger Rights* [APR], Canada's independent federal nonprofit organization that works to make the travelling public aware of its rights and capable of enforcing them. Our mission is to turn helpless passengers into empowered travelers through education, advocacy, investigation, and litigation. We have sixteen years of experience in this area.<sup>1</sup>

We are profoundly concerned about the proposal to allow government agents to fine any individual, organization, or even a reporter or a media outlet who speaks out about what transpired in the handling of air travel complaints by the Canadian Transportation Agency.

In our view, the proposal to add [subsection 85.09\(1\)](#) of the *Canada Transportation Act* to the [Canadian Transportation Agency Designated Provisions Regulations](#), purporting to authorize such fines, is unconstitutional and unlawful because:

- i. regulating the media's and/or the public's speech and expression is *ultra vires* the Canadian Transportation Agency, whose mandate is confined to the economic regulation of various modes of transportation, including transportation of passengers by air; and
- ii. it infringes upon rights protected by s. 2(b) of the *Charter* in a manner that is unjustifiable in a free and democratic society.

We urge the Agency to reconsider this proposal, and not designate [subsection 85.09\(1\)](#) as a provision that may be enforced by way of an Administrative Monetary Penalty (AMP).

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<sup>1</sup> See the Appendix on page 9 for details about APR's expertise and work.

## **The Administrative Monetary Penalties regime under the *Canada Transportation Act***

[Section 174](#) of the *Canada Transportation Act* [**Act**] makes the violation of any provision of the *Act* or a regulation or order made under the *Act* a summary conviction offence that is punishable by a fine of up to \$5,000 in the case of an individual, and up to \$25,000 in the case of a corporation. Such an offence would typically be prosecuted in provincial courts, and the burden of proof for a conviction would be the criminal one: “beyond a reasonable doubt.”

The regime of Administrative Monetary Penalties, set out in [sections 176.1-181.1](#) of the *Act*, provides an alternative method for enforcing—without having to resort to the criminal law system—provisions of the *Act* and the regulations made under it.

Under [subsection 177\(1\)](#) of the *Act*, the Canadian Transportation Agency [**Agency**] may designate any provision of the *Act*, or any regulation, order or direction made pursuant to the *Act*, the requirements of any such provision, or any condition of a licence issued under the *Act* as a provision, requirement, or condition the contravention of which may be punished by a notice of violation and an Administrative Monetary Penalty [**AMP**] of up to \$5,000 in the case of an individual, and up to \$25,000 in the case of a corporation.

Once a provision has been “designated” under [section 177\(1\)](#) of the *Act*, a Designated Enforcement Officer of the Agency who believes that a person contravened that provision may issue that person a notice of violation pursuant to [section 180](#), and require that person to pay an AMP up to the maximum prescribed by the Agency.

Pursuant to [section 179](#) of the *Act*, a contravention can be treated either as a violation under the AMP system or as an (summary conviction) offence, but not both. Issuing a notice of violation for an act or omission precludes treating the same act or omission as an offence.

A person who has been served with a notice of violation must either pay the amount of the penalty specified in the notice or file a request for review with the Transportation Appeal Tribunal of Canada (*Act*, [s. 180.1](#)). In the case of some violations, there is also an option of requesting to enter into a compliance agreement with the Agency. Payment of the AMP ensures that no further proceedings would be taken against the person under the *Act* (*Act*, [s. 180.2](#)).

*Canadian Transportation Agency Designated Provisions Regulations* [**DPR**] is a table (Schedule) whose first column is the list of provisions, requirements, and conditions designated under [subsection 177\(1\)](#) of the *Act*, and its second and third columns are the maximum AMP that can be issued for a corporation and an individual, respectively, for the violation of each designated provision.

## **The Agency’s proposed amendment to the *DPR***

The Agency proposes, among others, to add [subsection 85.09\(1\)](#) of the *Act* to the *DPR*, thereby designating it as a provision for the contravention of which an AMP may be issued. In what follows, we unpack [subsection 85.09\(1\)](#) and the ramifications of it being included in the *DRP*.

## The impact of subsection 85.09(1) of the *Act*

Subsection 85.09(1) of the *Act* is part of the amendments to the *Act* set out in the *Budget Implementation Act, 2023, No. 1* that introduced a new air travel complaints process whereby Agency staff act as “complaint resolution officers” in passengers’ complaints against airlines (*Act*, s. 85.02).

A complaint resolution officer is required to first mediate a complaint (*Act*, s. 85.05). If no agreement is reached as a resolution of mediation, then the complaint resolution officer must issue a legally binding decision (*Act*, s. 85.06).

Subsection 85.09(1) of the *Act* provides that:

**85.09 (1)** All matters related to the process of dealing with a complaint shall be kept confidential, unless the complainant and the carrier otherwise agree, and information provided by the complainant or the carrier to the complaint resolution officer for the purpose of the complaint resolution officer dealing with the complaint shall not be used for any other purpose without the consent of the one who provided it.

In practical terms, subsection 85.09(1) of the *Act* is a gag order that purports to preclude passengers from publicly discussing and criticizing the complaint resolution officer’s legally binding decision in their own case. For example, as reported by CBC’s Go Public:

Tim Rodger also knows what it feels like to have his social media monitored after the Canadian Transportation Authority (CTA) took exception to a post he made on that same Air Passenger Rights Facebook page.

After a trip to Belize last December, Rodger’s bag came off an Ottawa luggage carousel badly damaged. When WestJet wouldn’t pay full replacement costs, he filed a complaint with the CTA and won.

He posted the regulator’s decision to the Facebook group, and got a phone call from the CTA shortly after, telling him the decision was confidential. Rodger took the post down, but says he doesn’t think the confidentiality makes sense.

If previous decisions had been made public, he says, “I maybe could have resolved this sooner if I’d found case law showing the exact same thing.”<sup>2</sup>

Indeed, subsection 85.09(1) of the *Act* creates a significant imbalance in information and knowledge about the Agency’s interpretation of the law between airlines and passengers. Airlines, which are the respondents to thousands of complaint, have a treasure trove of decisions by complaint resolution officers; passengers, however, are expected to not share and exchange that information among themselves.

<sup>2</sup> “WestJet tried to silence couple fighting for compensation after airline cancelled their flight,” CBC Go Public (Nov. 25, 2024).



[Subsection 85.09\(1\)](#) of the *Act* impacts consumer protection organizations like our APR in multiple ways. *First*, the Agency expects us to be complicit in curtailing passengers' expression about their own complaints in our "Air Passenger Rights (Canada)" Facebook group. For example, on July 9, 2024, Mr. Dany Ross, Acting Director General, Dispute Resolution Branch of the Agency, wrote us that:

It was brought to our attention that a recently issued confidential air travel complaint decision was posted in its entirety on your Air Passenger Rights (APR) Facebook group page. The decision was posted in the group by one of the passengers involved in the decision, who has since removed the post at our request.

As per the *Canada Transportation Act* (the *Act*), the Canadian Transportation Agency publishes on its website information relating to the outcome of air travel complaints. Decisions issued by an Agency complaint Resolution Officer are otherwise confidential, unless all involved parties agree to the contrary.

We would appreciate your collaboration in preventing future public sharing of confidential information.

[Subsection 85.09\(1\)](#) of the *Act* also purports to preclude us from exercising our rights under the constitutionally protected open court principle and obtaining copies of such legally binding decisions and/or the documents on the basis of which these decisions were made. For example, on August 9, 2024, the Secretariat, Legal and Secretariat Services Branch of the Agency wrote us that:

This is in response to your letter dated July 16, 2024, requesting copies of certain Complaint Resolution Officer decisions and associated documents. Pursuant to subsection 85.09(1) of the Canada Transportation Act, all matters related to the process of dealing with an air travel complaint shall be kept confidential, unless the complainant and carrier otherwise agree. Following receipt of your request, the Agency contacted the parties in Air Travel Complaint Decisions ATC-350270-CO-2024, ATC-378575-CO-2024, ATC-375879-CO-2024, ATC-376906-CO-2024 and ATC-375218-CO-2024 to verify whether they would consent to the release of the information requested. None of the parties provided consent. Therefore the Agency is unable to provide the requested documents. [Emphasis added.]

### **Making subsection 85.09(1) of the *Act* a designated provision has profound ramifications**

Making [subsection 85.09\(1\)](#) of the *Act* a designated provision and adding it to the [DPR](#) as the Agency proposes to do would have profound societal consequences in general, and for passengers, consumer protection organizations, and the media in particular.

*First*, to our knowledge, it is unprecedented in Canada that government agents would be authorized to fine any individual or organization for allegedly breaching some confidentiality obligations. The power to sanction such infractions should be reserved to the independent judiciary.

*Second*, passengers like Tim Rodger, who post on social media about the complaint resolution officer's legally binding decision in their case,<sup>3</sup> would not only receive a stern phone call from the Agency, but would also be facing the prospect of being issued a notice of violation and having to pay an Administrative Monetary Penalty (fine). Even the mere prospect of a fine would have a profound chilling effect on passengers' freedom of expression.

*Third*, organizations like our APR, that provide a platform for passengers to exchange information, could be the target of notices of violation and Administrative Monetary Penalties if we do not cave in to demands to remove posts, such as the one we received from Mr. Dany Ross on July 9, 2024.

*Lastly*, journalists and media outlets who report on the outcome of passenger complaints decided by the Agency's complaint resolution officers would be at risk of being served with a notice of violation and being required to pay an AMP.

### **Making subsection 85.09(1) of the *Act* a designated provision is unlawful and unconstitutional**

Making [subsection 85.09\(1\)](#) of the *Act* a designated provision insofar as the media and the public are concerned is *ultra vires* the Agency and is contrary to the *Charter*.

*First*, the Agency is a quasi-judicial tribunal and an economic regulator with a mandate to deal with transportation matters under Parliament's legislative authority, including aviation. The Agency performs two functions:

- (1) The Agency applies rules that establish responsibilities of transportation service providers and rights of users and that level the playing field among competitors. As part of its regulatory function, the Agency makes determinations as to the issuance of licences and permits; and
- (2) The Agency adjudicates commercial and consumer transportation-related disputes and accessibility issues.

Parliament did not confer nor did it intend to confer any powers on the Agency to regulate the media's and/or the public's speech and expression about any matter, including but not limited to complaints adjudicated in a legally binding manner by the Agency's complaint resolution officers. The Agency's powers to enforce, through AMPs, the *Act* and the regulations made thereunder arises as part of the Agency's function as an economic regulator, not as a quasi-judicial tribunal.<sup>4</sup>

<sup>3</sup> ["WestJet tried to silence couple fighting for compensation after airline cancelled their flight,"](#) CBC Go Public (Nov. 25, 2024).

<sup>4</sup> *IATA v. Canada (Transportation Agency)*, 2024 SCC 30 at para. 6.

Consequently, it is *ultra vires* the Agency to enforce and/or make regulations that purport to allow the Agency to enforce [subsection 85.09\(1\)](#) by way of AMPs against any person other than those associated with a regulated entity (e.g., transportation service providers and/or their agents), such as passengers, members of the public, consumer protection organizations, journalists, and the media.

In short, public expressions of the latter group are none of the Agency's business, and the Agency cannot lawfully appoint itself to police such public expressions.

*Second*, and perhaps more importantly, [subsection 85.09\(1\)](#) of the *Act* is unconstitutional in that it infringes on the open court principle and freedom of expression guaranteed by s. 2(b) of the *Charter*, and the infringement is unjustifiable in a free and democratic society.

The century-old open court principle provides that legal proceedings are presumptively open to the public. Citizens and the media have the right to access court proceedings and the same evidence that the court relied on. The open court principle is a hallmark of a democratic society, which permits the public to discuss and put forward opinions and criticisms of legal practices and proceedings. The open court principle is inextricably tied to freedom of expression and the press guaranteed by section 2(b) of the *Charter*.<sup>5</sup>

Curtailment of public access to legal proceedings can only be justified where there is the need to protect social values of superordinate importance, such as if disclosure would subvert the ends of justice or unduly impair its proper administration, or to protect a vulnerable party from revictimization.<sup>6</sup> Generic privacy concerns, which do not rise to the level of posing a threat to a person's dignity or physical safety, are insufficient to displace the presumption of openness in legal proceedings.<sup>7</sup>

The open court principle was held to apply to tribunals engaged in adjudication of disputes between parties in an adversarial setting in the context of immigration, labour relations, automobile injuries, whistleblower protection, and human rights.<sup>8</sup> Ontario's *Freedom of Information and Protection of Privacy Act* was found to infringe on s. 2(b) of the *Charter* and declared to have no force or effect to the extent it prevented public disclosure of adjudicative records of tribunals that adjudicate disputes in an adversarial setting.<sup>9</sup>

<sup>5</sup> *Canadian Broadcasting Corp. v. New Brunswick (AG)*, [1996] 3 SCR 480 at paras. 21-23; and *Named Person v. Vancouver Sun*, 2007 SCC 43 at paras. 31-34.

<sup>6</sup> *Toronto Star Newspapers Ltd. v. Ontario*, 2005 SCC 41 at paras. 4-5; *A.B. v. Bragg Communications Inc.*, 2012 SCC 46 at paras. 14 and 27; *Sherman Estate v. Donovan*, 2021 SCC 25 at para. 30.

<sup>7</sup> *Sherman Estate v. Donovan*, 2021 SCC 25 at para. 85.

<sup>8</sup> *Southam Inc. v. Canada (MEI)*, [1987] 3 FC 329; *Tipple v. Deputy Head (Department of Public Works and Government Services)*, 2009 PSLRB 110; *Germain v. Automobile Injury Appeal Commission*, 2009 SKQB 106 at para. 104; *El-Helou v. Courts Administration Service*, 2012 CanLII 30713 (CA PSDPT) at paras. 59-60; *Woodgate v. RCMP*, 2022 CHRT 27 at para. 12.

<sup>9</sup> *Toronto Star v. AG Ontario*, 2018 ONSC 2586.

The Agency is required to follow the open court principle. Documents filed with the Agency in the course of adjudication of consumer disputes between passengers and airlines, such as submissions and evidence, are placed on the public record, unless the Agency makes a confidentiality order on the basis of the same strict legal test used by the courts. In 2015, the Federal Court of Appeal held that it was “impermissible” for the Agency to refuse to provide such documents to members of the public in the absence of a confidentiality order, on the mere basis of generic privacy concerns.<sup>10</sup>

[Subsection 85.09\(1\)](#) of the *Act* creates a presumption of secrecy and covertness for the new process of adjudication of consumer disputes between passengers and airlines, contrary to s. 2(b) of the *Charter*, by making all information provided by passengers and the airlines for adjudication confidential unless the party providing the information agrees otherwise.

The practical effect of [s. 85.09\(1\)](#) of the *Act* is a Star Chamber-like process, where the public and the media have no access to the evidence used by the decision maker to determine whether the airline owes compensation to the passenger, and even the reasons for the decision will remain secret. Instead, only bald bottom-line conclusions will be published pursuant to [s. 85.014](#). This, in turn, shields from public scrutiny both the Agency’s conduct in adjudicating disputes and the airlines’ treatment of passengers. As Professor Paul Daly so aptly summarized:

This is a breach of the open justice principle, with the effect that proceedings before the Agency will be conducted in secret. Perhaps the rationale here is that the complaints resolution officers (82.01(1)) engage in mediation (85.01) which is best conducted in private. But the confidentiality clause sweeps beyond the mediation stage to encompass the entirety of air passenger proceedings before the Agency, including those that are quasi-judicial in nature. It is difficult to see how this clause would survive constitutional challenge based on the open justice principle grounded in s. 2(b) of the *Charter of Rights and Freedoms*.

[...]

Taken together, these provisions would create mechanisms for binding mediation and adjudication that would operate largely in secret. Decision-making would be done in the shadows, on the basis of past decisions and guidelines that have only seen the light of day to the extent the Agency chooses.<sup>11</sup>

[Subsection 85.09\(1\)](#) offends s. 2(b) of the *Charter*. While parties are at liberty to participate in mediation in private, binding adjudication of their disputes by a tribunal remains subject to the open court principle.

<sup>10</sup> *Lukács v. Canada (Transport, Infrastructure and Communities)*, 2015 FCA 140 at para. 80.

<sup>11</sup> Daly, Paul. *Judicial Oversight and Open Justice in Administrative Proceedings*, Administrative Law Matters (May 18, 2023).

## Conclusion

[Subsection 85.09\(1\)](#) of the *Act* **should not be designated** as a provision that may be enforced by way of an Administrative Monetary Penalty.

Sincerely yours,

Dr. Gábor Lukács  
President

## Appendix: About *Air Passenger Rights*

*Air Passenger Rights* [APR] is Canada's independent federal nonprofit organization of volunteers, devoted to empowering travellers through education, advocacy, investigation, and litigation. APR has a track record of successfully predicting shortcomings and loopholes in legislation relating to air passenger rights.

- In 2017, APR appeared before the House of Commons Standing Committee on Transport, Infrastructure and Communities [TRAN] and submitted [a brief](#), cautioning that the *Transportation Modernization Act* (Bill C-49) was inadequate.
- In 2018, APR appeared before the Standing Senate Committee on Transport and Communications and submitted [a brief](#), cautioning again that the *Transportation Modernization Act* was inadequate.
- In 2019, APR published a 52-page report entitled “[Deficiencies of the Proposed Air Passenger Protection Regulations](#)” about how airlines would exploit the *Air Passenger Protection Regulations*'s shortcomings and loopholes.
- In 2020, APR appeared before the TRAN and in 2021 submitted a brief entitled “[Withheld Passenger Refunds: A Failure by Design](#)” on the refunding of flights cancelled by airlines.
- In November 2022, APR appeared before the TRAN and in December 2022, mere days before the 2022 holiday season air travel meltdown, APR submitted a 29-page brief entitled “[From the Ground Up: Revamping Canada's Air Passenger Protection Regime](#)” setting out detailed recommendations for legislative amendments, including higher administrative monetary penalties for airlines that violate passengers' rights.
- In 2023, following the 2022 holiday season air travel meltdown, APR appeared before the TRAN again as part of the study of the *Air Passenger Protection Regulations*.
- In 2025, APR obtained an injunction prohibiting Canada's second-largest airline from misleading passengers about their entitlement to reimbursement for meals and accommodation in the event of certain flight disruptions: *APR v. WestJet Airlines Ltd.*, [2025 BCSC 155](#).

APR's key predictions about the shortcomings and loopholes created by the *Transportation Modernization Act* and the *Air Passenger Protection Regulations* have been validated in the five years that have passed since the regulations came into force. APR's success in predicting shortcomings and loopholes in consumer protection legislation in the air travel sector is grounded in three factors:

- **Experience based.** APR's predictions and submissions are based on the expertise and experience accumulated through assisting passengers daily in enforcing their rights.
- **Independent.** APR takes no government or business funding.
- **No business interest.** APR has no business interest in the aviation sector.

APR's presence on social media includes the [Air Passenger Rights \(Canada\)](#) Facebook group with over 240,000 members, and the [@AirPassRightsCA](#) X/Twitter feed with over 21,200 followers.

APR was founded and is led 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 (President)**

Dr. Lukács holds a PhD in mathematics from York University (2003), and taught financial mathematics at Dalhousie University.

Since 2008, Dr. Lukács has filed more than two dozen successful complaints with the Canadian Transportation Agency [CTA], 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. 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. In November 2023, the Public Interest Advocacy Centre (PIAC) awarded Dr. Lukács the Harry Gow Award for Transportation and Competition to Connect Communities.

Dr. Lukács's advocacy in the public interest and his expertise and experience in the area of passenger rights have been recognized by the transportation bar,<sup>12</sup> the academic community,<sup>13</sup> and the judiciary.<sup>14</sup> Dr. Lukács has appeared before courts across Canada, including the Federal Court of Appeal and the Supreme Court of Canada,<sup>15</sup> in respect of air passenger rights. He successfully challenged the CTA's lack of transparency and the reasonableness of the Agency's decisions. In 2020, the Federal Court of Appeal allowed Dr. Lukács to intervene in the airlines' challenge to the *Air Passenger Protection Regulations*, noting that he "would defend the interests of airline passengers in a way that the parties cannot."<sup>16</sup> In 2024, the Supreme Court of Canada allowed Dr. Lukács to intervene and present written and oral arguments in the airlines' challenge to the *Air Passenger Protection Regulations*, in which the high court most decisively sided with consumers.<sup>17</sup>

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<sup>12</sup> Carlos Martins: Aviation Practice Area Review (September 2013), WHO'SWHOLEGAL.

<sup>13</sup> Air Passenger Rights Advocate Dr. Gabor Lukacs lectures at the IASL, Institute for Air and Space Law, October 2018; and [Second Annual Business Ethics Conference: Ethics in the Aviation Industry](#), McGill University, November 2024.

<sup>14</sup> *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](#).

<sup>15</sup> *Delta Air Lines Inc. v. Lukács*, [2018 SCC 2](#).

<sup>16</sup> Order of the Federal Court of Appeal (Near, J.A.), dated March 3, 2020 in File No. A-311-19; see also *International Air Transport Association v. Canadian Transportation Agency*, [2022 FCA 211 at para. 8](#).

<sup>17</sup> *International Air Transport Association v. Canada (Transportation Agency)*, [2024 SCC 30](#).



**Final CTA 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.



AIR PASSENGER RIGHTS      v.      THE ATTORNEY GENERAL OF CANADA  
*Applicant*                                  *Respondent*

Court File No. CV-25-\_\_\_\_\_-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

## Proceeding Commenced at Ottawa

## AFFIDAVIT OF DR. GÁBOR LUKÁCS

**Judson Howie LLP**  
600 Reid Avenue  
Fort Frances, ON P9A 2P3

**Douglas W. Judson** [LSO No. 70019H]  
Phone: 807-861-3684  
Email: [doug@judsonhowie.ca](mailto:doug@judsonhowie.ca)

### Lawyers for the Applicant