

FEDERAL COURT OF APPEAL

BETWEEN:

AIR PASSENGER RIGHTS

Applicant

– and –

CANADIAN TRANSPORTATION AGENCY

Respondent

AFFIDAVIT OF DR. GÁBOR LUKÁCS
(Affirmed: May 12, 2021)

I, **DR. GÁBOR LUKÁCS**, of the City of Halifax in the Province of Nova Scotia,
AFFIRM THAT:

1. I am the President and a Director of the Applicant, Air Passenger Rights. As such, I have personal knowledge of the matters to which I depose, except as to those matters stated to be on information and belief, which I believe to be true.
2. On March 25, 2021, the House of Commons Standing Committee on Transport, Infrastructure and Communities [**TRAN**] passed the following motion:

That, pursuant to Standing Order 108(1)(a), an Order of the Committee do issue for correspondence between Transport Canada, including the Minister of Transport's office, and the Canadian Transportation Agency regarding cancelled plane tickets and that these documents be provided to the Committee Clerk within 30 days following the adoption of this motion.
3. A copy of an undated letter of Mr. Michael Keenan, Deputy Minister of Transport, sent to Mr. Mike MacPherson, clerk of the TRAN, on May 11, 2021, is attached and marked as **Exhibit "A"**.

4. A copy of a partially redacted correspondence between the Canadian Transportation Agency and Transport Canada, dated March 22-24, 2020, is attached and marked as **Exhibit “B”**.
5. A copy of the email of Mr. MacPherson, sent to members of the TRAN on May 11, 2021 at 16:44, is attached and marked as **Exhibit “C”**. Exhibits “A” and “B” were attachments to Exhibit “C”, which were all forwarded to me by the office of MP Xavier Barsalou-Duval, a member of the TRAN, on May 11, 2021 in the late evening.
6. I did not have access to Exhibits “A” and “B” before May 11, 2021.

AFFIRMED remotely by Dr. Gábor Lukács at the City of Halifax, Nova Scotia before me at the City of Coquitlam, British Columbia on May 12, 2021, in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*.

Commissioner for Taking Affidavits

Simon (Pak Hei) Lin, Barrister & Solicitor
LSO #: 76433W
4388 Still Creek Drive, Suite 237
Burnaby, BC V5C 6C6

Dr. Gábor Lukács

Halifax, NS

Tel:

lukacs@AirPassengerRights.ca

In accordance with *COVID-19 Notice No. 2* of the Supreme Court of British Columbia, the commissioner certifies that the remote commissioning process was necessary because it was impossible or unsafe, for medical reasons, for the deponent and the commissioner to be physically present together.

Signature of Commissioner for Taking Affidavits

This is **Exhibit “A”** to the Affidavit of Dr. Gábor Lukács
affirmed before me on May 12, 2021

Signature



Transport
Canada

Transports
Canada

Deputy Minister

Sous-ministre

Place de Ville
Ottawa ON K1A 0N5

Mr. MacPherson
Clerk of the Committee
Standing Committee on Transport, Infrastructure and Communities
Sixth Floor, 131 Queen Street
House of Commons
Ottawa ON K1A 0A6

Dear Mr. MacPherson:

I am writing in response to the following Standing Committee on Transport, Infrastructure and Communities motion for the Production of Papers:

That, pursuant to Standing Order 108(1)(a), an Order of the Committee do issue for correspondence between Transport Canada, including the Minister of Transport's office, and the Canadian Transportation Agency regarding cancelled plane tickets and that these documents be provided to the Committee Clerk within 30 days following the adoption of this motion.

It has come to my attention that a document previously released under an Access to Information request and pertinent to the motion was missed in the processing of this motion for the production of papers. Since the document had already been released publically, we obviously intended to include it in the production of papers for the Committee, but did not due to an administrative error. Given Transport Canada's strong commitment to openness and transparency, I regret this error on the part of the department.

Please find the additional documentation enclosed to respond to the motion requesting documents be delivered to the Clerk of the committee. Guided by the *Access to Information Act*, the records are partially redacted under the provisions in sections 19(1), and 21(1) of the *Access to Information Act*.

Sincerely,

Michael Keenan, Deputy Minister of Transport
Transport Canada
Enclosures

This is **Exhibit “B”** to the Affidavit of Dr. Gábor Lukács
affirmed before me on May 12, 2021

Signature

Millette, Vincent

From: Millette, Vincent
Sent: Monday, March 23, 2020 11:10 AM
To: Stacey, Colin
Subject: FW: CTA announcement tomorrow

Categories: ATIP Retrieval Notice A-2020-00167BB, ATIP Retrieval Notice / A-2020-00091

See response below from the Agency. It doesn't seem that the announcement would impact carriers that do not currently refund (AC) – perhaps just make them look bad.

From: Caitlin Hurcomb [mailto:Caitlin.Hurcomb@otc-cta.gc.ca]
Sent: Monday, March 23, 2020 11:04 AM
To: Millette, Vincent <vincent.millette@tc.gc.ca>
Subject: RE: CTA announcement tomorrow

Hi Vincent,

This statement indicates what the CTA views as appropriate given this situation – an approach that would ensure passengers aren't totally out of pocket while taking into account concerns from airlines. The statement indicates that the CTA would consider vouchers acceptable "refunds" for those airlines that do require reimbursement in their tariff.

The statement does not force other airlines – whose tariffs do not require reimbursement in force majeure situations – to provide passengers with vouchers or credits. It indicates what we view as a good practice that would help make passengers whole [REDACTED]

If a complaint were brought forward to the CTA, it would be assessed on its own merits, of course.

Happy to discuss further,
Cait

From: Millette, Vincent [mailto:vincent.millette@tc.gc.ca]
Sent: Monday, March 23, 2020 10:20 AM
To: Caitlin Hurcomb <Caitlin.Hurcomb@otc-cta.gc.ca>
Subject: RE: CTA announcement tomorrow

Would your approach force in any way carriers that do not have refunds specified in their tariff to start refunding or their current tariff still apply?

From: Caitlin Hurcomb [mailto:Caitlin.Hurcomb@otc-cta.gc.ca]
Sent: Monday, March 23, 2020 10:15 AM
To: Millette, Vincent <vincent.millette@tc.gc.ca>
Subject: RE: CTA announcement tomorrow

Hi Vincent,

I understand there is a plan to release a statement indicating that, generally speaking, for cancelled flights, an appropriate approach in the current context could be for airlines to provide affected passengers with vouchers

s.19(1)

s.21(1)(b)

or credits for future travel. This was discussed between the Chair, the DM and the [REDACTED] and Marcia spoke with your ADM over the weekend as well.

It has been noted, though, that some airlines may not wish to provide vouchers, if their tariffs do not have any reimbursement requirement for force majeure situations.

Let me know if you'd like to discuss further.

Cait

From: Millette, Vincent [<mailto:vincent.millette@tc.gc.ca>]
Sent: Monday, March 23, 2020 10:02 AM
To: Caitlin Hurcomb <Caitlin.Hurcomb@otc-cta.gc.ca>
Subject: RE: CTA announcement tomorrow

Hi Cait – I am on a Min/DM call and I'm sure the question will come up. Any insight you can provide quickly?

Thanks

From: Millette, Vincent
Sent: Sunday, March 22, 2020 2:22 PM
To: 'Caitlin Hurcomb' <Caitlin.Hurcomb@otc-cta.gc.ca>
Subject: CTA announcement tomorrow

Hi Cait - I was just on a conference call with Lawrence, our ADM, where he briefed us on an announcement the Agency would do tomorrow regarding the refund and voucher issue.

[REDACTED]

We are not entirely sure we understand this. Can you explain?

Feel free to call me if easier 343-996-9858

Thanks!

Sent from my BlackBerry 10 smartphone on the Rogers network.

This is **Exhibit “C”** to the Affidavit of Dr. Gábor Lukács
affirmed before me on May 12, 2021

Signature

De : ~Transport, Infrastructure and Communities/Transports, infrastructure et collectivités <TRAN@parl.gc.ca>

Envoyé : 11 mai 2021 16:44

À : Badawey, Vance - M.P. <Vance.Badawey@parl.gc.ca>; El-Khoury, Fayçal - Député <Faycal.El-Khoury@parl.gc.ca>; Jaczek, Helena - M.P. <Helena.Jaczek@parl.gc.ca>; Rogers, Churence - M.P. <Churence.Rogers@parl.gc.ca>; Kusie, Stephanie - M.P. <Stephanie.Kusie@parl.gc.ca>; Kram, Michael - M.P. <Michael.Kram@parl.gc.ca>; Soroka, Gerald - M.P. <Gerald.Soroka@parl.gc.ca>; Shipley, Doug - M.P. <Doug.Shipley@parl.gc.ca>; Bachrach, Taylor - M.P. <Taylor.Bachrach@parl.gc.ca>; Barsalou-Duval, Xavier - Député <Xavier.Barsalou-Duval@parl.gc.ca>; Iacono, Angelo - M.P. <Angelo.Iacono@parl.gc.ca>; Martinez Ferrada, Soraya - Députée <Soraya.MartinezFerrada@parl.gc.ca>

Cc : Dicaire, Cynthia <Cynthia.Dicaire@parl.gc.ca>; Gosselin, Geneviève : LOP-BDP <Genevieve.Gosselin@parl.gc.ca>; Lafrenière, Alexandre : LOP-BDP <Alexandre.Lafreniere@parl.gc.ca>; Hammond, James (Bachrach, Taylor - MP) <james.hammond.828@parl.gc.ca>; Bachrach, Taylor - M.P. <Taylor.Bachrach@parl.gc.ca>; Bachrach, Taylor - Personal <Taylor.Bachrach.P9@parl.gc.ca>; Badawey, Vance - Assistant 1 <Vance.Badawey.A1@parl.gc.ca>; Badawey, Vance - Assistant 2 <Vance.Badawey.A2@parl.gc.ca>; Badawey, Vance - M.P. <Vance.Badawey@parl.gc.ca>; Badawey, Vance - Personal <Vance.Badawey.P9@parl.gc.ca>; Barsalou-Duval, Xavier - Assistant 1 <Xavier.Barsalou-Duval.A1@parl.gc.ca>; Barsalou-Duval, Xavier - Député <Xavier.Barsalou-Duval@parl.gc.ca>; Barsalou-Duval, Xavier - Personnel <Xavier.Barsalou-Duval.P9@parl.gc.ca>; El-Khoury, Fayçal - Député <Faycal.El-Khoury@parl.gc.ca>; El-Khoury, Fayçal - Personal <Faycal.El-Khoury.P9@parl.gc.ca>; El-Khoury, Fayçal - Assistant 1 <Faycal.El-Khoury.A1@parl.gc.ca>; Jaczek, Helena - M.P. <Helena.Jaczek@parl.gc.ca>; Jaczek, Helena - Personal <Helena.Jaczek.P9@parl.gc.ca>; Heinzlmeir, Murray (Kram, Michael - MP) <murray.heinzlmeir.659@parl.gc.ca>; Kram, Michael - Personal <Michael.Kram.P9@parl.gc.ca>; Kusie, Stephanie - Assistant 1 <Stephanie.Kusie.A1@parl.gc.ca>; Kusie, Stephanie - M.P. <Stephanie.Kusie@parl.gc.ca>; Kusie, Stephanie - Personal <Stephanie.Kusie.P9@parl.gc.ca>; Rogers, Churence - Assistant 2 <Churence.Rogers.A2@parl.gc.ca>; Rogers, Churence - M.P. <Churence.Rogers@parl.gc.ca>; Rogers, Churence - Personal <Churence.Rogers.P9@parl.gc.ca>; Shipley, Doug - M.P. <Doug.Shipley@parl.gc.ca>; Shipley, Doug - Personal <Doug.Shipley.P9@parl.gc.ca>; Soroka, Gerald - M.P. <Gerald.Soroka@parl.gc.ca>; Soroka, Gerald - Personal <Gerald.Soroka.P9@parl.gc.ca>; Drain, Nicholas (Soroka, Gerald - MP) <nicholas.drain.734@parl.gc.ca>; Slater, Marika <Marika.Slater@parl.gc.ca>; Breeze, Marisa (Shipley, Doug - MP) <marisa.breeze.405@parl.gc.ca>; Woodland, Jeffrey (Jaczek, Helena - MP) <jeffrey.woodland.454@parl.gc.ca>; Iacono, Angelo - Personal <Angelo.Iacono.P9@parl.gc.ca>; Martinez Ferrada, Soraya - Personnel <Soraya.MartinezFerrada.P9@parl.gc.ca>; Martinez Ferrada, Soraya - Députée <Soraya.MartinezFerrada@parl.gc.ca>; Iacono, Angelo - M.P. <Angelo.Iacono@parl.gc.ca>; Iacono, Angelo - Assistant 1 <Angelo.Iacono.A1@parl.gc.ca>; Iacono, Angelo - Assistant 2 <Angelo.Iacono.A2@parl.gc.ca>; Kandasamy, Victor (Martinez Ferrada, Soraya - Députée) <victor.kandasamy.328@parl.gc.ca>; ~Transport, Infrastructure and Communities/Transports, infrastructure et collectivités <TRAN@parl.gc.ca>

Objet : TRAN: Production of papers motion - Motion portant production de documents

To Members of the Committee,

Please find attached the Department of Transport's updated response to the [motion for the production of papers](#) adopted by the committee on Thursday, March 25, 2021.

That, pursuant to Standing Order 108(1)(a), an Order of the Committee do issue for correspondence between Transport Canada, including the Minister of Transport's office, and the Canadian Transportation Agency regarding cancelled plane tickets and that these documents be provided to the Committee Clerk within 30 days following the adoption of this motion.

Thank you,

Aux membres du Comité,

Veillez trouver ci-joint la réponse mis à jour du Ministère des Transports à la [motion portant de production de documents](#) adoptée par le comité le jeudi 25 mars 2021.

Que, conformément à l'article 108(1)a) du Règlement, un ordre du Comité soit émis demandant que les correspondances échangées entre Transport Canada, incluant le ministre des Transports et l'Office des Transport du Canada concernant l'annulation des billets d'avion et le droit des passagers aériens à un remboursement soient remises au greffier du Comité dans les trente jours (30) suivant l'adoption de la présente motion.

Cordialement,



Mike MacPherson

Committee Clerk / Greffier du comité

Standing Committee on Transport, Infrastructure and Communities / Comité permanent des transports, de l'infrastructure et des collectivités

House of Commons / Chambre des communes

131 Queen Street, Room 6-19 / [131, rue Queen](#), pièce 6-19

Ottawa, Ontario K1A 0A6


TRAN@parl.gc.ca


Tel/Tél. : 613-996-4663

[Follow us / Suivez-nous](#)



4 attachments

 **Letter to Clerk - Signed EN.PDF**
412K

 **Letter to Clerk - Signed FR.PDF**
427K

 **Document EN.PDF**
115K

 **Document FR.PDF**
106K