

Halifax, NS

lukacs@AirPassengerRights.ca



February 26, 2015

**VIA EMAIL**

Judicial Administrator  
Federal Court of Appeal  
Ottawa, ON K1A 0H9

Dear Madam or Sir:

**Re: Dr. Gábor Lukács v. Canadian Transportation Agency  
Federal Court of Appeal File No.: A-218-14  
Impact of the intervention of the Attorney General of Canada / abuse of process  
Request for directions**

I am writing concerning the letter of today on behalf of the Attorney General of Canada, indicating his intention to intervene in the application and to file materials by March 6, 2015. As noted by Noël, J.A. (as he was then) in *Mugesera v. Canada (Minister of Citizenship and Immigration)*:

4 [...] a proposed intervener has a duty to make its application at the earliest possible opportunity in order to minimize the disruption of the proceedings in which it seeks to participate.

The Attorney General of Canada was served with the Notice of Constitutional Question **more than three (3) months ago**, specifically, on **November 21, 2014** (document no. 45 in the docket), but provided no explanation for seeking to intervene only 19 days before the hearing of the application.

I am profoundly concerned that this undue delay will deprive me of a reasonable opportunity to respond to the filings of the Attorney General of Canada, or alternatively, it may substantially delay the hearing of the application.

While section 57 of the *Federal Courts Act* provides the right to the Attorney General of Canada to intervene, it is submitted that this right, as any other procedural right, must be exercised in good faith and with due diligence. This right, however, is not absolute, and remains subject to this Honourable Court's inherent jurisdiction to control its proceedings and to prevent abuse of its procedures.

In the present case, it is submitted that the undue delay of the Attorney General of Canada in communicating to this Honourable Court his intention to intervene amounts to an abuse of process, and will result in substantial prejudice to me unless this Court intervenes.

I am therefore respectfully requesting that this Honourable Court balance the right of the Attorney General of Canada under section 57 against my right to be heard, and direct that:

1. the Attorney General of Canada may not adduce evidence;
2. the Attorney General of Canada's submissions shall be limited to **5 pages**;
3. the Attorney General of Canada shall serve and file his submissions by **March 2, 2015**; and
4. the Applicant may file a supplementary memorandum of fact and law, responding to the Attorney General's submissions, by **March 13, 2015**.

Sincerely yours,

Dr. Gábor Lukács  
Applicant

Cc: Mr. Allan Matte, counsel for the Canadian Transportation Agency  
Ms. Jennifer Seligy, counsel for the Privacy Commissioner of Canada  
Ms. Melissa Chan, counsel, Justice Canada