

Airline Passenger Compensation Rights on International Flights

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International airline passengers, under the Montreal Convention of 1999 ratified by the U.S. in 2003 (and which replaced the Warsaw Convention), now have legal rights that are in some ways superior to the rights of passengers on U.S. domestic flights. International air travel covered by this treaty includes any ticketed trip with stopping, departure or destination points in two or more countries. These rights include:

1) **Strict liability for bodily injury or death** incurred on board the aircraft or in the course of embarking or disembarking, **up to approximately \$160,000** in compensation. A passenger does not have to prove negligence or fault by the airline. However, damages may be reduced for contributory negligence or wrongful acts by the passenger.

For damages over \$160,000, an airline may use the defense that it was not negligent or did not engage in wrongful conduct, or the damages were solely due to negligence or wrongful acts of a third party.

2) **For lost or damaged or delayed baggage**, the airline liability is generally limited to **\$1,640 per passenger**, unless the passenger has handed the airline a special interest declaration and paid any supplementary fee.

3) **Airlines are liable for** damages caused by **delay** in the transporting **of passengers** or cargo **up to \$6,640**, unless the airline proves that it took all reasonable measures to prevent the damage caused by delay or that it was impossible for them to take such measures.

No airline is permitted by contract to assert lower liability limits for international air travel than those provided for in the Montreal Convention and any such contract terms

are void. In general, state common law tort or statutory actions are now preempted, as most courts now view the Montreal Convention as the exclusive remedy for claims arising out of international air transportation.

Time Limits

Legal actions on all claims must be brought within two (2) years of the incident. However, in addition, complaints to the airline for baggage damage claims must be made within 7 days, for cargo damage within 14 days of the date of receipt by the passenger. For baggage or cargo delay claims, the passenger must file a complaint with the airline within 21 days of receipt. Complaint to the airline must be made in writing and delivered or sent within the time limits or the claim is barred except in case of fraud by the airline.

Jurisdiction

Courts that have jurisdiction for passenger actions against airlines under the Montreal Convention include US federal district courts and other courts where the passenger has his/her primary and permanent residence, where the airline is domiciled (incorporated) or has its principal office, the final destination location of the flight, or where the airline has a place of business through which the ticket was purchased.

This short article is for informational purposes only and does not constitute legal advice. Anyone seeking legal advice should consult with an attorney of their choice. The text of the Montreal Convention is available on the internet at

<http://www.jus.uio.no/lm/air.carriage.unification.convention.montreal.1999/doc.html>

The US dollar amounts specified in this article are based on the conversion to US dollars from the Special Drawing Rights units used in the Convention as of February 22, 2008.

This conversion is posted daily on the International Monetary Fund web site.