



# Convention for the Unification of Certain Rules for International Carriage by Air (Montréal, 1999) MC 1999

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# Air Carrier Liability to Pax Baggage and Cargo

Air carrier's liability for the international carriage of PAX, BAGGAGE and CARGO is usually governed by [the Montreal Convention 1999 \(MC99\)](#)

- On some occasions, it can be governed by the [Warsaw Convention 1929](#) as amended.
- National laws govern domestic carriage – sometimes States decide to apply the MC99 to their domestic carriage.



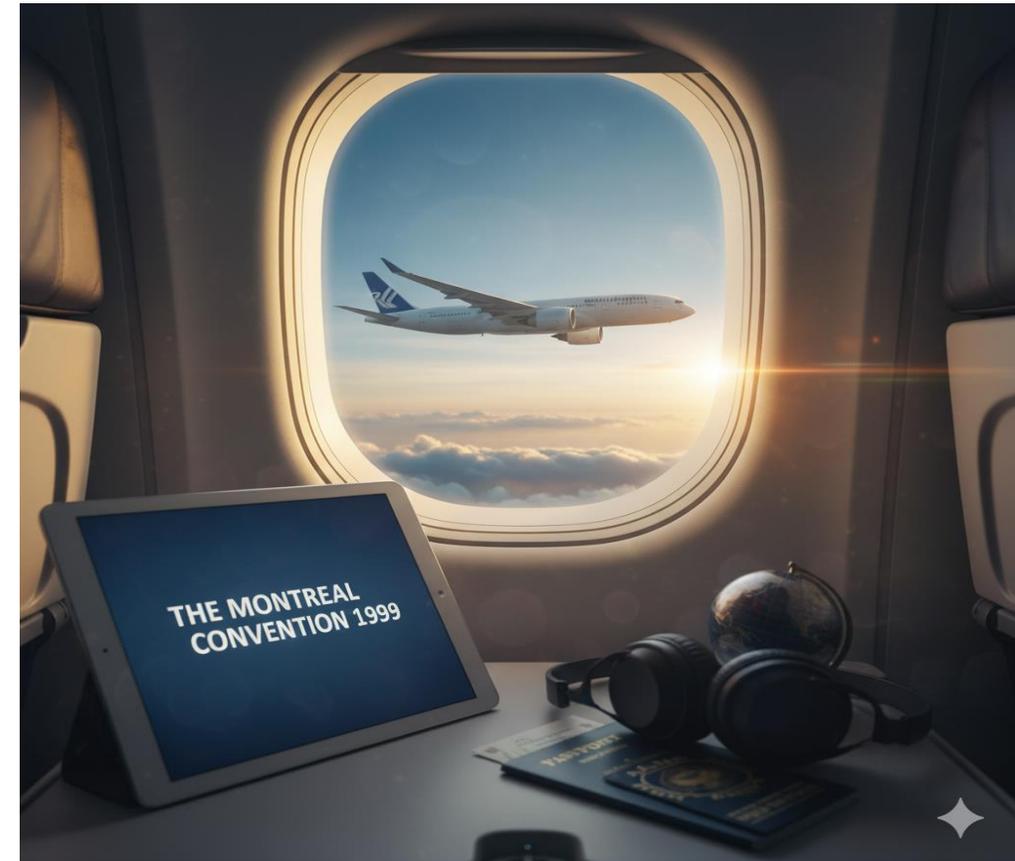
# Montreal Convention 1999: Applicability



## Article 1 (1)

This Convention applies to **all international carriage** **of** persons, baggage or cargo performed by aircraft operators for reward.

It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.



# Montreal Convention 1999: Applicability



## Article 1 (2)

For the purposes of this Convention, the expression **international carriage** means any carriage in which, **according to the agreement between the parties,**

- **the place of departure and the place of destination,** whether or not there be a break in the carriage or a transshipment, are situated
- either **within the territories of two States Parties,** or
- **within the territory of a single State Party if there is an agreed stopping place within the territory of another State,** even if that State is not a State Party.

# Montreal Convention 1999: Applicability



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Article 1(2) Montreal Convention 1999 (similar provision in WCS):

Carriage between **two points within the territory of a single State Party** without an agreed stopping place within the territory of another State **is not international carriage** for the purposes of this Convention.

# Montreal Convention 1999: Applicability



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Article 1(2) Montreal Convention 1999 (similar provision in WCS):

- **Some countries apply the provisions of the Montreal Convention 1999 to domestic carriage:**
  - E.g., the European Regulation (EC) No 889/2002 amending Council Regulation (EC) No 2027/97 on air carrier liability in the event of accidents applies the Montreal Convention 1999 to carriage within a single EU State, i.e., from Rome to Milan.

# Montreal Convention 1999: Applicability



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## Article 1 (1)

This Convention applies to all international carriage of **persons, baggage or cargo** performed by aircraft operators **for reward**.

It applies equally to **gratuitous carriage** by aircraft performed by an **air transport undertaking**.



# Special Drawing Rights (SDRs)

A basket of currencies created by the International Monetary Fund (IMF) and used in transport law Conventions (air, road, sea, etc) to calculate the carriers' liability limits

Conversion of SDRs into national currencies is made by reference to the exchange rate at the date of judgment (Article 23 Montreal Convention 1999)

How much are **151,880 SDRs** worth today?



Special  
Rights  
(SDRs)

How much are  
151,880 SDRs  
worth today?

≈ 200,000 USD

Value fluctuates daily based a basket of  
currencies: USD, EUR, JPY, GBP, CNY

# Pax liability system - the Montreal Convention 1999



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Claim of pax **BELOW 151,880 SDRs (as of 28 December 2024)**

- Claimant is required to prove that they suffered **death or bodily injury** as a result of an **accident** that took place **on board the aircraft** or in the process of **(dis)embarkation** (Article 17.1).
- Even if the claimant satisfies Article 17.1, the carrier may still avoid liability if it proves that the death or bodily injury was caused by the pax's negligence (Article 20 – contributory negligence)



# Pax liability system – MC99

## Claim of pax **ABOVE 151,880 SDRs (as of 28 December 2024)**

- Claimant / Plaintiff is required to prove that they suffered **death or bodily injury** as a result of an **accident** that took place **on board the aircraft** or in the process of **(dis)embarkation** (Article 17.1).
- Even if the claimant satisfies Article 17.1, the carrier may still avoid liability if it proves that the death or bodily injury was caused by
  - the pax's negligence (Article 20 – contributory negligence);
  - the negligence of a third party (Article 21.2); or
  - was not caused by the negligence of the carrier, its servants (e.g., employees), or agents (e.g., subcontractors) (Article 21.2).



# Pax liability system – MC99

**Article 17(1) sets out three conditions for a carrier's liability in respect of a passenger:**

- (i) **death or bodily injury** of a passenger;

*Eastern Airlines Inc v Floyd* (1991) 499 US 530

*Morris v KLM Royal Dutch Airlines, King v Bristow Helicopters Ltd*  
[2002] UKHL 7, [2002] 2 AC 628

Case C-111/21 *BT v Laudamotion GmbH* ECLI:EU:C:2022:808

*Jane Doe v Etihad Airways PJSC* 870 F 3d 406 (6th Cir 2017)

ARTICLE 17(1) - CONDITION (i)  
BODILY INJURY

*The Human Cost*





# Pax liability system – MC99

**Article 17(1) sets out three conditions for a carrier's liability in respect of a passenger:**

(ii) caused by an **accident**

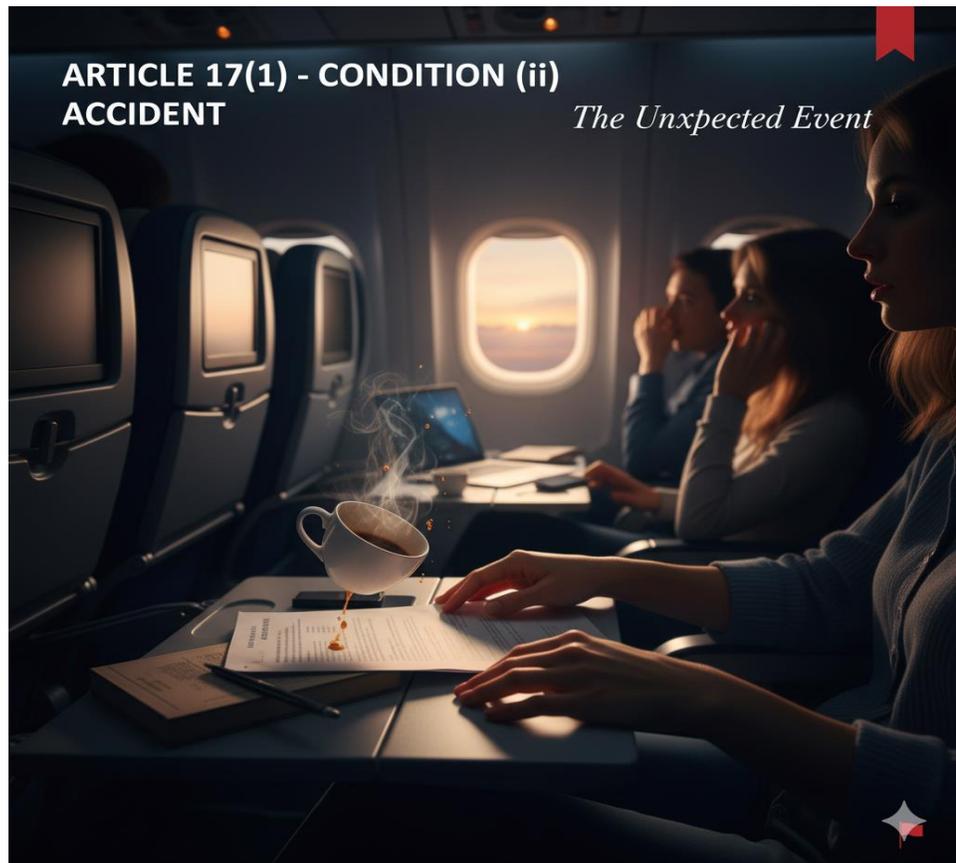
*Air France v Saks* (1985) 470 US 392

*In re Deep Vein Thrombosis and Air Travel Group Litigation* [2005] UKHL72

*Olympic Airways v Husain* (2004) 540 US 644

Case C-532/18 *GN v ZU (administrator in insolvency of Niki Luftfahrt GmbH)* ECLI:EU:2019:1127

Case C-589/20 *JR v Austrian Airlines AG* ECLI:EU:C:2022:422





# Pax liability system – MC99

**Article 17(1) sets out three conditions for a carrier's liability in respect of a passenger:**

(iii) which took place **on board the aircraft** or in the course of any of the operations of **embarking or disembarking**.

*Day v Trans World Airlines Inc* 528 F 2d 31 (2nd Cir 1975)

*Evangelinos v Trans World Airlines Inc* 550 F 3d 152 (3rd Cir 1976)

*Mather v easyJet Airline Co Ltd* [2023] CSIH 8, 2023 SC 171

**ARTICLE 17(1) - CONDITION (iii)  
EMBARKING/DISEABAKING**

*The Jurisdictional Frontier*





# Pax liability system – MC99

The Montreal Convention 1999 requires proof of the quantum of compensation due (proof of the claimed amount):

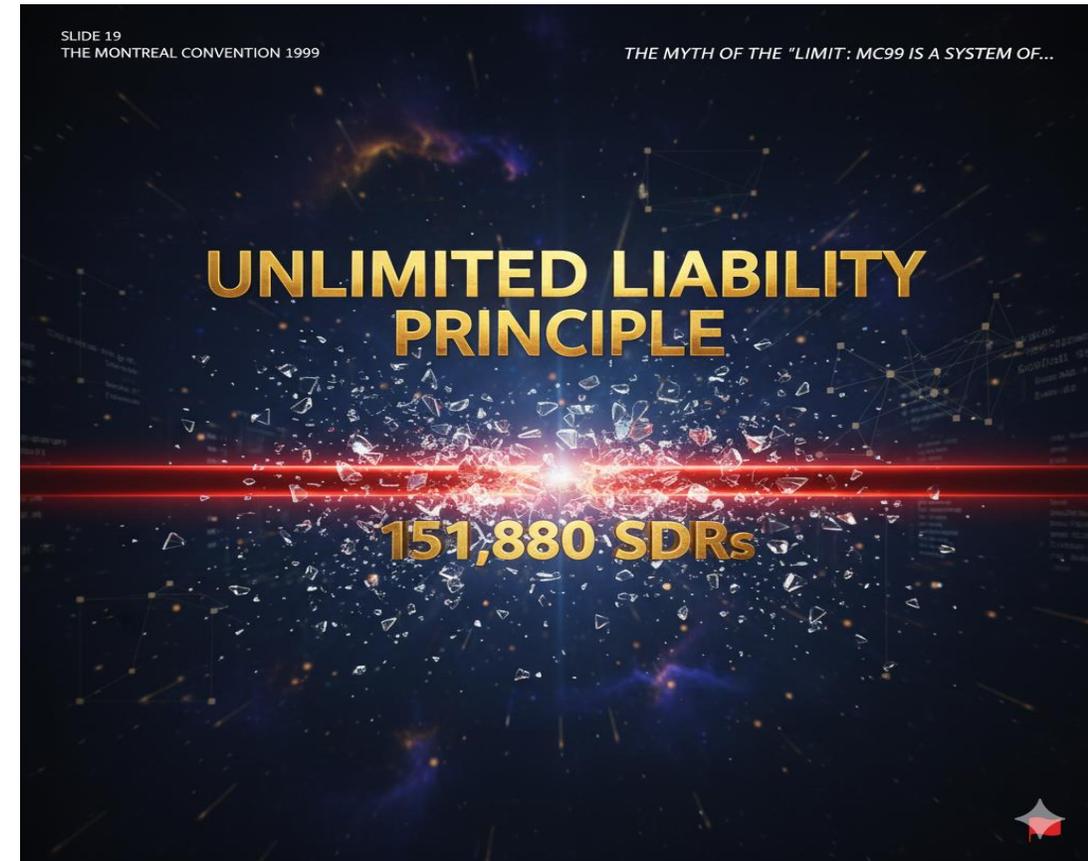
- In simple terms, this means that the claimant is **required to prove the extent** of their damages, injuries, etc, or, in cases of death, their lifetime earnings expectations;
- The Convention does not provide for the payment of **151,880 SDRs** as a lump sum, i.e., without proof of actual damages suffered.



# Pax liability system – MC99

The figure of **151,880 SDRs** is **not a limit of liability**, but it provides a **threshold** for determining the relevant defences of the carrier.

The liability of carriers for death or bodily injury of passengers is **unlimited in principle** but subject to the claimant **proving the quantum of their loss**.





# Baggage liability system – MC99

The carrier is liable for the **Loss, Damage, or Destruction (LDD)** of **checked baggage**

If the event that caused the LDD took place **on board the aircraft** or while **the baggage was in the charge of the carrier**

(Article 17.2)

The carrier is not liable for the LDD of checked baggage if the damage resulted from the **inherent defect, quality or vice** of the baggage (Article 17.2)



# Baggage liability system – MC99

The carrier is liable for the **Loss, damage or destruction (LDD)** of **carry-on baggage and personal items**

- If the event that caused the LDD resulted from the **fault of the carrier** or its servants/agents (Article 17.2)
- The passenger is required to **prove the fault** of the carrier when claiming for the damage or loss of carry-ons.



# Baggage liability system – MC99

The liability of the carrier for the LDD of checked and carry-on baggage is **limited up to** :

- **1,519 SDRs (as of 28 December 2024)** per passenger – not per baggage (Article 22.2)
- Payment is subject to claimants proving the value of the items lost or the value of the damaged baggage, it is not a lump sum payment.



# Baggage liability system – MC99

## How can a passenger claim more than 1,519 SDRs ?

Make a special declaration of interest to the carrier (Article 22.2)

## How can one make such a declaration?

Prove that the LDD resulted from an act or omission of the carrier, its servants or agents, done with **intent to cause damage** or **recklessly and with knowledge** that damage would probably result (Article 22.5).



# Reviewing the limits of MC99

Every five years, ICAO reviews the Convention's liability limits and has the power to increase them in line with inflation.

The limits have increased in December 2009, December 2019 and **December 2024**



# Stipulation on Limits – MC99

## Article 25 — Stipulation on Limits

A carrier may stipulate that the contract of carriage shall be subject to higher limits of liability than those provided for in this Convention or to no limits of liability whatsoever.

The carriers are at **liberty to offer higher limits** to their customers, but not lower than those prescribed in the Convention.

See also Articles 26 and 27



## Article 28 MC99 – advance payments

In the case of aircraft accidents resulting in **death or injury of passengers**, the carrier shall, **if required by its national law**, make **advance payments** without delay to a natural person or **persons who are entitled** to claim compensation to meet the **immediate economic needs** of such persons. Such advance payments **shall not constitute a recognition of liability** and may be **offset against any amounts subsequently paid as damages** by the carrier.

**Article 28 is an enabling provision. It requires national laws to be enacted for airlines to make advance payments.**



## Article 29 MC99 – Principle of exclusivity

In the carriage of passengers, baggage and cargo, **any action for damages**, however founded, whether under this Convention or in contract or tort or otherwise, can only be brought **subject to the conditions and such limits** of liability as are set out in this Convention **without prejudice** to the question as to who are the persons who have the right to bring suit and what are their respective rights.

**This is one of the most fundamental principles of the Convention, but Courts do not always respect it.**





# Article 33 MC99 – Jurisdiction

A claim under the Montreal Convention 1999 can be filled against the carrier in one of the following jurisdictions at the option of the claimant:

- country of carrier's domicile;
- country of carrier's principal place of business;
- country where the carrier has a place of business through which the contract has been made;
- country of destination; or
- (only for death or bodily injury claims) country of the pax's principal and permanent residence, provided that the carrier directly or indirectly operates pax services to it and conducts business of carriage of pax by air (directly or indirectly) in this country.

## ARTICLE 33: JURSDICTION - THE 5TH BASIS



# Article 35 MC99 – Limitation of Actions



## Article 35: Limitation of Actions

The right to damages shall be extinguished if an action **is not brought within a period of two years**, reckoned from the date of arrival at the destination, from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

The method of calculating that period shall be determined by the law of the court seized of the case.

In baggage and cargo claims, claimants must consider the impact of **Article 31(2)**.

### Article 35: Limitation of Actions



**The right to damages SHALL BE EXTINGUISHED if an action is not brought within this period.**



Time for baggage & cargo claims:  
Consider the impact of Article 26(2).

# THE CALL TO ACTION



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**Ratification is the First Step... But Only the Beginning of the Story.**

The Montreal Convention 1999 (MC99) provides a necessary framework for uniformity.

However, its success hinges on its **uniform interpretation and application** across jurisdictions.

This requires proactive and sustained **education** for key stakeholders.

**Educating courts and regulators** is essential to ensure that the letter and the spirit of the Convention are respected in every national setting.

Uniformity prevents forum shopping and ensures **fair and predictable outcomes** for both passengers and carriers.

ANY QUESTIONS?



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# The Montreal Convention 1999 - A Case Study

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**Dar Es Salaam, 4-6 November 2025**



## Which Legal Regime is Applicable?

1. DAR (Dar es Salaam, Tanzania) to LHR (London, UK) return
2. CDG (Paris, France) to NAS (Nassau, Bahamas) via LAX (Los Angeles, USA) and JFK (New York, USA)
3. JFK (New York, USA) to MIA (Miami, USA)
4. JFK (New York, USA) to DEN (Denver, USA) via YUL (Montreal, Canada)
5. BKK (Bangkok, Thailand) to ROB (Monrovia, Liberia)



# Which Legal Regime is Applicable?

## DAR (Dar es Salaam, Tanzania) to LHR (London, UK) return

Return ticket to Tanzania with a stay in the UK

- Country of departure: Tanzania
- Country of destination: Tanzania

### Test of applicability:

Which is the latest Convention that Tanzania has ratified? MC99 Check the Status of Individual States

No need to verify the status of conventions in the UK because it is an agreed stopping place



# Which Legal Regime is Applicable?

## CDG (Paris, France) to NAS (Nassau, Bahamas) via LAX (Los Angeles, USA) and JFK (New York, USA)

One-way ticket from France to the Bahamas via Los Angeles and New York

- Country of departure: France
- Country of destination: The Bahamas

### Test of applicability: the highest common denominator:

Which is the latest Convention that BOTH France and the Bahamas have ratified? WC29/HP55/GC61 Check the [Status of Individual States](#)

Except if it is an EU (or UK) carrier ... in which event the answer is as per Example 1



## Which Legal Regime is Applicable?

### **JFK (New York, USA) to MIA (Miami, USA)**

- Domestic carriage, the Convention is not applicable – national law applies;

### **JFK (New York, USA) to DEN (Denver, USA) via YUL (Montreal, Canada)**

- international carriage as there is an agreed stopping place in Canada:
  - The Montreal Convention 1999 applies



# Which Legal Regime is Applicable?

## **BKK (Bangkok, Thailand) to ROB (Monrovia, Liberia)**

- Thailand has only ratified the MC99
- Liberia has only ratified the original WC29
- Can we apply any of the Conventions?



# Montreal Convention 1999

- Art 17(1):
- The carrier is liable for damage sustained in case of death or **bodily injury** of a passenger upon condition only that **the accident which caused** the death or injury took place on board the aircraft or in the course of any of the operations of embarking or disembarking.



## Montreal Convention 1999 – Accident

- Hearing loss due to depressurisation
- Deep vein Thrombosis
- Slips and falls in the cabin
- Hot drink spills
- Passenger falling on a mobile stairway during disembarkation
- Passenger-to-passenger assaults
- And many others - any situations come to your mind?



# Montreal Convention 1999 – Accident

- **Two judicial views on what an accident means:**

- *Air France v. Saks* (1985) US 470 US 392

VS

- *GN v ZU (Niki Luftfahrt GmbH)* ECLI:EU:C: 2019:1127

- *JR v. Austrian Airlines AG* ECLI:EU:C: 2022:422



# Montreal Convention 1999 – Bodily Injury

- **Physical injury**
- **PTSD or other ‘mental’ injury**
  - Consequent upon physical injury
  - With a proven physical correlate
  - Coincident with physical injury
  - Unaccompanied



## Montreal Convention 1999 – Accident

- **Three judicial views on what bodily injury means:**

- *Eastern Airlines Inc. v. Floyd* (1999) 499 US 530
- *Morris v. KLM Royal Dutch Airlines, King v. Bristow Helicopters Ltd* [2002] UKHL 7

VS

- *Doe v. Etihad Airways PJSC* 870 F.3d 406 (2nd Cir, 2004)

VS

- *BT v. Laudamotion GmbH* ECLI:EU:C:2022:808



## Case study

A passenger on a flight from YUL (Montreal, Canada) to SIN (Singapore) via DBX (Dubai, UAE) was injured on board the DBX to SIN segment (both segments performed by Emirates Airlines). During the first flight, the passenger was injured when a heavy piece of carry-on luggage fell from an overhead bin that had been properly closed but popped open due to severe, unexpected turbulence. The luggage struck the passenger's shoulder, resulting in a rotator cuff tear and whiplash-type neck injury. The passenger is 48 years old, holds dual Greek and UK nationality, and has lived in Montreal with their family for the last 15 years. They left Greece at 20 to study in the USA, then found a job in Montreal, where they have lived ever since. They purchased the ticket via [www.expedia.ca](http://www.expedia.ca).

- Conditions of liability, including fault/ Artificial limits of liability or not/ Available jurisdiction(s)/ Time limit for claims



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