

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2025 CHRT 72

Date: July 23, 2025

File No(s): T2736/11221

Between:

June Francis

Complainant

- and -

Canadian Human Rights Commission

Commission

- and –

Air Canada

Respondent

and

British Columbia Civil Liberties Association

Interested person

Ruling

Member: Athanasios Hadjis

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I. OVERVIEW

[1] This is a ruling on a motion for interested person status.

[2] The Complainant, Dr. June Francis, filed a complaint against the Respondent, Air Canada. She claims that she was treated in an abusive, dismissive, and humiliating manner by Air Canada staff at the check-in counter in Vancouver International Airport and that she was then confronted by a supervisor and a security agent. She alleges that her colour, race, sex, national and ethnic origin, and disability were factors in the treatment.

[3] The British Columbia Civil Liberties Association (BCCLA) has asked the Tribunal to be recognized as an interested person in respect of the inquiry into the complaint.

II. DECISION

[4] The BCCLA is recognized as an interested person, with limits on the extent of its participation.

III. ISSUES

[5] The issues are the following:

1. Should the BCCLA be recognized as an interest person?
2. If yes, what is the extent of its participation in the inquiry?

IV. ANALYSIS

[6] Rule 27 of the *Canadian Human Rights Tribunal Rules of Procedure, 2021*, SOR/2021-137, (the “Rules”) sets out the procedure that a person seeking to be recognized as an interested person must follow. Rule 27(2) states that the notice of motion must specify the assistance the person wishes to provide to the inquiry and the extent to which the person wishes to participate in the inquiry. If the Tribunal grants the motion, it must specify the extent to which the interested person is permitted to participate (Rule 27(3)).

[7] The Complainant and the Canadian Human Rights Commission (the “Commission”) consent to the BCCLA’s request for interested person status on the terms proposed in its request. Air Canada opposes it.

[8] The BCCLA’s motion was supported by an affidavit from Veronica Martisius, a member of the BCCLA’s litigation staff.

[9] In *K.L. v. Canada Post Corporation*, 2025 CHRT 28 [*K.L.*], the Tribunal recently had the opportunity to review and elaborate upon the criteria to be considered when addressing a motion for intervention. The Tribunal framed the test around three considerations:

1. The usefulness of the proposed interested person’s participation to the Tribunal’s decision-making, including whether they will add to the existing parties’ positions.
2. Whether the proposed interested person has a genuine interest in the case.
3. A consideration of the interests of justice.

A. The BCCLA’s intervention would be useful to the Tribunal’s decision-making

[10] I find that the BCCLA’s intervention will be useful to the Tribunal because it will assist the Tribunal in determining the constitutional issues and, while there is some risk of overlap with the parties’ positions, its experience and perspective on the *Canadian Charter of Rights and Freedoms* (the “Charter”) issues is likely to add to their arguments.

[11] Ms. Martisius explained that the BCCLA was founded in 1963. Its objectives include the promotion, defence, sustainment, and extension of civil liberties and human rights throughout British Columbia and Canada.

[12] The BCCLA has several thousand supporters from across Canada. To carry out much of its work, the BCCLA employs 16 staff. It has a unique status in this country as a grassroots citizens’ organization with the resources of a full-time staff devoted exclusively to civil liberties and human rights. The BCCLA is also supported by volunteers comprised of

academics, professionals, and lay persons with experience and interest in the fields of civil liberties and human rights.

[13] The BCCLA achieves its objectives by preparing and presenting submissions to authorities, aiding individuals experiencing violations of their civil liberties and human rights, engaging in public education, and taking legal action in its own right or as an intervener in legal proceedings at all instances including the Supreme Court of Canada.

[14] The Complainant has raised as an issue whether and to what extent the exclusivity principle under Article 29 of the *Montreal Convention* applies to limit the Tribunal's remedial power to award damages under the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6, (CHRA) with respect to complaints of discrimination brought against an air carrier. In particular, the Complainant has filed a Notice of Constitutional Question regarding the application of the Charter to the *Carriage by Air Act*, R.S.C., 1985, c. C-26, and the *Montreal Convention*.

[15] The BCCLA states in its motion that it intends to limit its proposed intervention to arguments relating to the question of whether the *Carriage by Air Act* and the *Montreal Convention* can operate to deny the Tribunal the ability to award damages under s. 53 of the CHRA and the constitutional questions raised by the Complainant's Notice of Constitutional Question.

[16] However, Ms. Martisius also asserts in her affidavit that the BCCLA's submissions will highlight the impact of the *Canadian Aviation Regulations*, SOR/96-433, to which Air Canada referred in its Amended Statement of Particulars, as conferring a legal mandate and discretion to air carriers to take reasonable measures to avoid unruly behaviour. The BCCLA intends to submit that these are "quasi-policing powers granted to air carriers", which bear upon air passengers' Charter-protected rights and civil liberties.

[17] As noted in *K.L.* at para 49, a proposed interested person must show that they will provide submissions, insights, and perspectives that will further the Tribunal's determination of the issues raised by the parties and not add new issues.

[18] Although Air Canada did refer to the *Canadian Aviation Regulations* in its Amended Statement of Particulars, the only constitutional issue that the parties have raised relates to the availability of a remedial order for damages under s. 53 of the CHRA. The matter of “quasi-policing powers” is not an issue that was raised by the Complainant in her pleadings, as she acknowledged in her response to the BCCLA’s motion, noting that she did not plan on making submissions on the *Canadian Aviation Regulations* and that she did not address them in her Reply Statement of Particulars. Nor did the Commission for that matter.

[19] Although the relationship between air carriers’ “quasi-policing” powers under the *Canadian Aviation Regulations* and the Charter would be a new issue, the BCCLA points out that the purpose of its submissions in this respect is to highlight the necessity for the CHRA’s protections and remedies as a “check” against the exercise of these powers by air carriers. To that extent, I find that the BCCLA’s submissions could be useful to the Tribunal’s decision-making regarding the constitutional question.

[20] Overall, given the BCCLA’s experience in Charter-related matters, I accept that the BCCLA’s submissions on the constitutional issue that is before the Tribunal may be helpful. There is some risk of duplication with the Complainant’s and Commission’s submissions but, given the limitations I will set below to the BCCLA’s intervention, I am prepared to accept the risk.

[21] To reiterate, the scope of the BCCLA’s submissions must be limited to the constitutional question that the Complainant has framed and not serve as a challenge to other regulatory instruments, which the parties have not raised in their pleadings.

B. The BCCLA has a genuine interest in this case

[22] As noted in *K.L.* at para 44, the purpose of this factor is to assure the Tribunal that the proposed interested person has the necessary knowledge, skills, and resources, which it will dedicate to the matter before the Tribunal.

[23] The BCCLA has a broad public interest in this proceeding. Ms. Martisius points out in her affidavit that the BCCLA “has a long history of intervening before courts, making

submissions to governments and administrative bodies, and publishing position papers on issues relating to racial discrimination and human rights”.

[24] It is clear that any alleged curtailment of human rights and civil liberties is of key interest to the BCCLA as an advocacy group for the protection and enhancement of human rights. Moreover, the BCCLA has the requisite experience, knowledge, skills, and resources and will dedicate them to this matter.

[25] Despite Air Canada’s assertion that the BCCLA has no experience in air law matters, the constitutional questions that have been raised constitute a broader issue that falls within the scope of BCCLA’s expertise and interest.

C. The BCCLA’s intervention is in the interests of justice

[26] Granting the BCCLA interested person status is in the interests of justice. The constitutional issues on which the BCCLA wishes to intervene transcend the interests of the parties in this case. It is the sort of “public, important and complex” aspect of a case on which an intervention is appropriate (*K.L.* at para 57).

[27] Although its motion was brought in the month before the start of the hearing, given the limited intervention that it is seeking, it will have no impact on the hearing process. The BCCLA will be able to attend the hearing, and it will only be actively involved months from now, when final submissions will be made. To the extent the BCCLA’s participation risks causing delays, those can be addressed by setting terms around its participation.

D. The extent of the BCCLA’s participation in the inquiry

[28] The BCCLA’s proposed terms of intervention are largely consistent with the Tribunal’s responsibility to conduct proceedings as expeditiously and as informally as the rules of natural justice and the Rules allow (s. 48.9(1) of the CHRA; *K.L.* at para 78).

[29] The BCCLA intends to limit its written submissions to 20 pages and oral argument to 30 minutes, which is reasonable. Further, the BCCLA indicates that its arguments shall be limited to the question of whether the *Montreal Convention* operates to deny the Tribunal the

ability to grant remedies and the constitutional questions raised by the Complainant's Notice of Constitutional Question.

[30] The BCCLA will not be adducing any new evidence. It will take the record as is.

[31] The BCCLA has asked to participate in case management conference calls (CMCC), but I do not think this is warranted given the limited extent of its intervention.

V. ORDER

[32] For these reasons, the BCCLA is recognized as an interested person in this case, subject to the terms set out in the order below

[33] I order that the BCCLA is granted limited interested person status in this case on the following terms:

1. The BCCLA may present written (up to 20 pages) and oral (up to 30 minutes) final submissions at the hearing. The BCCLA's arguments shall be limited to the question of whether the Montreal Convention operates to deny the Tribunal the ability to grant remedies under s. 53 of the CHRA and the constitutional questions raised by the Complainant's Notice of Constitutional Question.
2. The BCCLA's representatives may attend the hearing but are not allowed to lead evidence or examine/cross-examine witnesses.
3. The BCCLA will not participate in any CMCCs.

Athanasios Hadjis
Tribunal Member

Ottawa, Ontario
July 23, 2025

Canadian Human Rights Tribunal

Parties of Record

File No : T2736/11221

Style of Cause: June Francis v. Air Canada

Ruling of the Tribunal Dated: July 23, 2025

Motion dealt with in writing without appearance of parties

Written representations by:

Sujit Choudhry and Mani Kakkar, for the Complainant

Clay Hunter, for the Respondent

Caroline Carrasco, for the Commission

Lindsay A. Waddell and Evelyn Tsao, for the Interested person