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## Legal Brief\*

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### DO PICTOGRAMS HAVE THE FORCE OF LAW?

**When a person disobeys a pictogram (a drawing) that indicates that persons have to hold the handrail of an escalator at a metro station, the person does not, in all cases, commit an offence under a by-law.**

A woman was arrested by a police officer employed by the city for refusing to hold the handrail of an escalator at a metro station. Near the escalator, there was a sign stating [TRANSLATION] "Hold the handrail", with a pictogram showing a person holding the handrail. The police officer, who was of the opinion that this was an obligation under a by-law, asked her several times to hold the handrail, but the latter refused to comply, considering that she was not obliged to obey the police officer's order. When the woman arrived at the bottom of the escalator, she refused to follow the police officer and provide him with ID. The officer then placed her under arrest and searched her bag. He gave her one statement of offence for disobeying the pictogram and a second statement of offence for obstructing the work of a police officer.

In Municipal Court, the woman was acquitted of the two offences alleged against her. She nevertheless decided to institute civil liability proceedings, believing that she had suffered harm due to her illegal arrest. The court had to consider whether the police officer's behaviour constituted a fault and whether the woman's arrest had been illegal. The Supreme Court concluded that the officer's conduct constituted a fault and that the arrest had been illegal. It thus reversed the decision of the Court of Appeal, which itself had confirmed the decision of the trial judge.

There was no legal obligation to hold the handrail and the police officer was therefore not justified in ordering the woman to identify herself, in searching her bag or in arresting her on the basis of a non-existent offence.

Pictograms that describe rules of law and that citizens must obey are those that communicate a prohibition through explicit visual elements, such as the amount of the fine likely to be imposed, the illustration of a red circle with a red diagonal bar or those showing a picture of a gavel, for example. The accompanying messages, such as the use of the term "CAUTION", can also be used to indicate that the statement is precautionary advice to users rather than an obligation that must be respected.

Thus, in the present case, since no symbol suggested that holding the handrail was mandatory, the pictogram in question constituted only a simple recommendation based on the safety of users. Moreover, the background colour on which the pictogram appeared, namely yellow, suggested that it was a warning, given that prohibitions are generally represented by the colour red and there was no red on the pictogram.

In conclusion, the police officer's order was therefore illegal, since his behaviour was not based on any valid legal justification and no provincial law or municipal by-law allowed him to deprive the woman, as he did, of her freedoms recognized by law.

#### References

[Kosoian v. Société de transport de Montréal, 2019 SCC 59, Supreme Court of Canada \(S.C. Can.\), November 29, 2019](#), Justices Richard Wagner (Chief Justice), Rosalie Silberman Abella, Michael J. Moldaver, Andromache Karakatsanis, Clément Gascon, Suzanne Côté, Russell S. Brown, Malcolm Rowe and Sheilah L. Martin

Text prepared by  
M<sup>e</sup> Stéphanie Raymond  
of the Lac-Mégantic legal  
aid office

#### Contact Us

Commission des  
services juridiques  
Communications Department  
2 Complexe Desjardins  
East Tower  
Suite 1404  
P.O. Box 123  
Succursale Desjardins  
Montreal, Québec  
H5B 1B3

Telephone: (514) 873-3562

Fax: (514) 864-2351

[www.csj.qc.ca](http://www.csj.qc.ca)

\* The information set out in this document is not a legal interpretation.

The masculine is used to designate persons solely in order to simplify the text.