

Canadian Case on State Immunity

In *Kazemi (Estate of) v. Islamic Republic of Iran*, 2011 QCCS 196 (available [here](#)) the estate of Zahra Kazemi and her son, Stephan Kazemi, sued Iran and certain state officials in Quebec, alleging that in 2003 Ms. Kazemi was tortured and assassinated in Iran. The defendants argued that the claim could not succeed due to state immunity.

Much of the court's analysis involves the provisions of the *State Immunity Act*, R.S.C. 1985, c. S-18. The court has to consider whether this statute is a complete code on the issue of state immunity or whether it is open to courts to create exceptions to the statutory immunity beyond those listed in the statute. The court also has to address whether aspects of the statute are constitutional.

The court ends up concluding that the estate has no claim because the wrongs done to her occurred in Iran and so are covered by the immunity under the statute. However, the court allows the claim by Stephan Kazemi, a claim for his own losses arising from hearing the reports of what was done to his mother, to continue since his losses were suffered in Quebec, not Iran, and so the immunity does not cover them (see section 6 of the statute).

The decision is lengthy (220 paragraphs), and yet it does not mention the recent decision of the Supreme Court of Canada on state immunity: *Kuwait Airways Corporation v. Republic of Iraq* from October 2010.