

FEDERAL COURT

B E T W E E N:

ATTORNEY GENERAL OF CANADA

APPLICANT

and

FIRST NATIONS CHILD & FAMILY CARING SOCIETY OF
CANADA, ASSEMBLY OF FIRST NATIONS, CANADIAN
HUMAN RIGHTS COMMISSION, CHIEFS OF ONTARIO,
NISHNAWBE ASKI NATION and AMNESTY INTERNATIONAL
CANADA

RESPONDENT

**MOTION RECORD OF THE MOVING PARTY, FIRST NATIONS AND
CHILD & FAMILY CARING SOCIETY OF CANADA**
(Motion to strike for prematurity)

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TAB 1

Court File No. T-3594-25

FEDERAL COURT

B E T W E E N:

ATTORNEY GENERAL OF CANADA

APPLICANT

and

FIRST NATIONS CHILD & FAMILY CARING SOCIETY OF
CANADA, ASSEMBLY OF FIRST NATIONS, CANADIAN
HUMAN RIGHTS COMMISSION, CHIEFS OF ONTARIO,
NISHNAWBE ASKI NATION and AMNESTY INTERNATIONAL
CANADA

RESPONDENTS

**NOTICE OF MOTION
(Motion to strike for prematurity)**

TAKE NOTICE THAT the Respondent will make a Motion to the Court at a date, time, and place to be fixed by the Judicial Administrator, for an Order striking the Applicant's Notice of Application for Judicial Review as premature.

THE MOTION IS FOR

- (a) An Order strikingg or dismissing the within Application for Judicial Review on the ground of prematurity;
- (b) In the alternative, an Order staying the within Application pending the completion of the ongoing long-term reform process underlying the Application;
- (c) The costs of this motion; and,
- (d) Such further and other relief as to this Honourable Court may seem just.

THE GROUNDS FOR THE MOTION ARE

Overview

- (a) This motion is for a dismissal of the within application for judicial review on the grounds of prematurity. The within application seeks judicial review of an interlocutory decision by the Canadian Human Rights Tribunal (“CHRT”), made in the context of an on-going proceeding, of which the CHRT remains seized. Far from a final disposition of the rights of the parties, the impugned decision is but a procedural step in the dialogic process adopted by the CHRT in order to fashion an appropriate remedy in accordance with its mandate.
- (b) There are no exceptional circumstances to justify departure from the near absolute principle disallowing interlocutory judicial review of administrative decisions. On the contrary, the work of the CHRT remains unfinished: the record continues to develop, and additional long-term reform proceedings are forthcoming. It remains open to the Applicant to raise any objections directly with the CHRT, or to bring a judicial review application after the conclusion of the CHRT process.

The Impugned Decision

- (c) In January 2016, the CHRT released its decision in *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 2 (the “Merits Decision”), which found that Canada discriminated against First Nations Children and families, inter alia, in the provision of services through the First Nations Children and Family Services Program (“FNCFS”), and ordered Canada to cease its discriminatory conduct. The CHRT retained jurisdiction over long-term reform.
- (d) In the following years, the CHRT released a number of remedial decisions, addressing items such as immediate relief and compensation.
- (e) On August 20, 2025, after having received submissions from the parties, the CHRT released 2025 CHRT 80 (the “Decision”).

- (f) In the Decision, the CHRT stated that, nearly ten years after the Merits Decision, long-term remedial measures to eradicate discrimination within FNCFS had not been ordered or determined, and acknowledged that, while the “ideal solution” would be an agreement by the parties on the appropriate FNCFS remedial orders, the statutory mandate of the CHRT, as well as the interests of First Nations Children, required swiftness in imposing the requisite remedial order, whether or not such an agreement could be reached.
- (g) Thus, the CHRT expressly excluded from the Decision broader aspects of the proceeding, focusing instead on obtaining the necessary information that would permit its future orders of FNCFS long-term remedies to be practical, effective, and attuned to the perspectives of those they are to affect.
- (h) With that in mind, the CHRT considered submissions it had sought from the parties concerning how rapidly to proceed towards the reform of the FNCSC, and, invoking the dialogic approach it has adopted to the fashioning of remedies, as well as its broad powers under the *Canadian Human Rights Act*, RSC 1985, c H-6, it made necessary orders to ensure the orderly and timely finalisation of long-term FNCFS remedial measures.
- (i) Accordingly, the CHRT:
 - (i) Determined that the consideration by the CHRT of a potential motion to end the jurisdiction of the CHRT over long-term reform of the FNCFS in Ontario, pursuant to a “New Ontario Final Agreement Settlement,” would proceed concurrently but separately from its consideration of FNCFS national reform plans outside Ontario, without either being contingent on the other;
 - (ii) Ordered the AFN and the Caring Society, in the four months following the Decision, to conduct broad consultations, in English and French, with First Nations outside Ontario, experts, and other interested parties; consultations to be conducted in accordance with non-

exhaustive parameters specified by the CHRT, and having for their object the development of a comprehensive national long-term FNCFS reform plan based on the evidence, to be filed with the CHRT along with supporting evidence and materials;

- (iii) Ordered the Attorney General of Canada (“Canada”) to inform the CHRT, by August 29, 2025, whether it wished either to meet with the National Children’s Chiefs Commission (“NCCC”) to discuss long-term national FNCFS reform outside Ontario, or to reconsider meeting with the Assembly of First Nations (“AFN”) and the Caring Society to the same purpose.
- (iv) Ordered that, in the event Canada chose to engage in the national long-term FNCFS reform discussions with the Caring Society and the AFN, to conduct them in accordance with the same non-exhaustive parameters specified by the CHRT in relation to the consultations it had ordered the Caring Society and the AFN to undertake, and that, if possible, a National FNCFS reform plan be submitted to the CHRT on consent of Canada, the Caring Society and the AFN, along with evidence and supporting materials;
- (v) Ordered that, in the event Canada refused to engage in national long-term FNCFS discussions with the Caring Society and the AFN, or if the discussions did not result in agreement on a national long-term reform plan, to file within four months its own evidence-based FNCFS national reform plan, along with supporting materials and evidence;
- (vi) Ordered the Caring Society, AFN and Canada to provide the CHRT with monthly progress updates;
- (vii) Retained jurisdiction over the orders made in the Decision and all previous orders, except the CHRT’s compensation orders, and indicated that it would reassess its retention of jurisdiction as the

evolution of the case might require, or once a complete national long-term FNCFS reform plan or agreement had been submitted to the CHRT;

- (viii) Directed that, regardless of whether one FNCFS long-term reform plan was filed on consent, or whether two competing plans were filed, the parties would have an opportunity to respond to these plans.
- (ix) Directed that a case management conference (“CMC”) would be held following the release of the Decision, to discuss the implementation of these orders, to provide clarifications or answer questions, if necessary, and to address the mechanism for filing reply evidence to the reform plans, and cross-examinations, if need be.
- (j) On August 29, 2025, Canada sent a letter to the CHRT, informing the CHRT that it had met on two occasions with a representative of the NCCC, and seeking clarifications and answers to questions about the Decision and other matters. The CHRT addressed these questions and clarification requests in a letter to all parties, dated September 12, 2025. Pertinent questions and answers may be summarized as follows:
 - (i) Canada asked whether the Decision had resolved any aspect of a consultation motion previously made by the Caring Society and that was under reserve, on which the CHRT had expressly refused to rule in the Decision. The CHRT reiterated in its response that the consultation motion remained undecided.
 - (ii) Canada asked whether the CHRT meant to ask Canada to participate in further meetings with the NCCC. In its response, the CHRT reiterated that the order was for Canada to inform the CHRT whether it wished to meet with the NCCC or the Caring Society and the AFN, and that the portion of the order dealing with the NCCC had now been complied with;

- (iii) Canada asked whether the CHRT suggested that Canada engage in negotiations with the Caring Society and the AFN in spite of Canada's opposition to doing so, whether such negotiations were required to incorporate the non-exhaustive parameters identified by the CHRT in the Decision, whether Canada was required to incorporate these parameters in its own National FNCFS long-term reform plan, and what was the source of these parameters. In its response, the CHRT reiterated that Canada had not been ordered to consult or negotiate, and that the object of its order was to ensure progress in addressing long-term reform. The CHRT added that the non-exhaustive parameters identified in the Decision were to be incorporated in the FNCFS long-term reform plans to be submitted, that these parameters did not expand previous CHRT rulings, that they were sourced in previous rulings, that any differences are purely terminological, and that the CHRT would provide the parties, by the following week, with a document containing pertinent excerpts from numerous rulings;
- (iv) Canada asked for the source of the jurisdiction of the CHRT to ask the Caring Society and the AFN to consult non-parties, with or without Canada. The CHRT responded that this order flowed directly from its previous rulings, decisions and findings, and that its jurisdiction to make this order was based on the complaint, and the *Canadian Human Rights Act*.
- (v) Canada questioned the adequacy of the four-month deadline for conducting consultations. The CHRT responded that it did not expect every First Nation to be consulted, that considerable consultations had already taken place, and that the four months would suffice to seek as many additional perspectives as possible without impeding the work of the CHRT;
- (vi) Canada asked whether the CHRT intended to implement a process for considering potentially completing long-term FNCFS reform plans. In its response, the CHRT reiterated its direction in the Decision that it would implement such a process, including the filing of evidence and argument, and that it would seek the views of the parties on this subject.

- (k) On September 17, 2025, the CHRT provided the parties with the compilation of excerpts referenced in the September 12 letter, and attached to a covering email an amended version of the Decision, to specify that all of the non-exhaustive parameters noted in the Decision arose from previous decisions in the proceeding.
- (l) On December 22, 2025, the Caring Society and the Assembly of First Nations filed their plan to permanently end Canada's discriminatory conduct in First Nations child and family services. Canada filed its own plan that same day, noting that the plan was "with prejudice" to the outcome of this judicial review.

The Within Application is premature and should be struck

- (m) The Decision is interlocutory. The Decision does not make a final determination of the rights of any party. It was made in the context of a complex and ongoing proceeding, expressly in order to facilitate further steps to be taken by the CHRT. The CHRT continues to retain jurisdiction over the orders made in the Decision, and the Applicant will have ample opportunity to make further submissions to the CHRT as part of the process for determining long-term reform.
- (n) The prohibition against interlocutory judicial review is near absolute, subject only to the rare exceptional circumstances whose consequences are so immediate and radical as to call into question the rule of law. Neither concerns about procedural fairness, nor even legal, constitutional or jurisdictional questions meet that elevated threshold. There are no exceptional circumstances in this case.
- (o) Permitting this Application to proceed would fragment the CHRT's process, undermine its mandate, and derail a dialogic process that is designed to meet the herculean challenge of ensuring effective eradication of discrimination from the FNCFS.

- (p) Furthermore, permitting this application to proceed would deprive the court of the benefit of the expertise, legitimate policy judgments and valuable experience of the CHRT, which are the hard-won fruits of a decade of advancing the proceeding of which the Decision forms a part.
- (q) Finally, it will remain open to the Applicant to seek judicial review of the CHRT's process for reaching long-term reform orders after those orders are made, and it is quite possible that, by that time, the Applicant may have no need of such an application.

In the Alternative, the Application Should Be Stayed

- (r) The Application challenges an interlocutory decision made in the course of the Tribunal's ongoing long-term reform proceedings;
- (s) Those proceedings now have a defined and advanced procedural path: the parties have filed their long-term reform plans related to First Nations child and family services outside of Ontario, an evidentiary hearing is scheduled for January 2027, and oral argument is scheduled for March 2027;
- (t) Allowing the Application to proceed concurrently with the Tribunal proceedings risks duplicative proceedings, unnecessary expenditure of party and judicial resources, inconsistent or incomplete determinations, and fragmentation of the Tribunal's remedial process;
- (u) A stay will permit the Tribunal to complete the evidentiary record and address the parties' positions concerning long-term reform, which may narrow or eliminate issues raised in the Application and will provide this Court with the benefit of the Tribunal's completed findings and reasons;
- (v) Canada will suffer no unfair prejudice from a stay. It remains able to advance its objections before the Tribunal and, if necessary, seek judicial review following completion of the long-term reform proceedings; and

- (w) The circumstances materially differ from those considered in *Canada (Attorney General) v First Nations Child and Family Caring Society of Canada*, 2019 FC 1529. The Tribunal process is no longer open-ended: concrete hearing and argument dates have been fixed and the process has progressed beyond preliminary discussions to the adjudication of competing long-term reform plans.
- (x) *Federal Courts Rules*, SOR/98-106, Rule 221(1).
- (y) *Canadian Human Rights Act*, RSC 1985, c H-6, ss. 48.9(1), 53(2).
- (z) Such further and other grounds as the solicitors may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) The Affidavit of Jasmine Kaur, affirmed on September 9, 2026, and the documents attached thereto.
- (b) Such further and other evidence as the solicitors may advise and this Honourable Court may permit.

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September 9, 2026

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TAB 2

Court File No. T-3594-25

FEDERAL COURT

B E T W E E N:

ATTORNEY GENERAL OF CANADA

APPLICANT

and

FIRST NATIONS CHILD & FAMILY CARING SOCIETY OF
CANADA, ASSEMBLY OF FIRST NATIONS, CANADIAN
HUMAN RIGHTS COMMISSION, CHIEFS OF ONTARIO,
NISHNAWBE ASKI NATION and AMNESTY INTERNATIONAL
CANADA

RESPONDENT

AFFIDAVIT OF JASMINE KAUR

I, Jasmine Kaur, of the City of Brampton, in the Province of Ontario, affirm as follows:

1. I am a law clerk to David Taylor, at Conway Baxter Wilson LLP/s.r.l., counsel to the Respondent, First Nations Child and Family Caring Society of Canada and as such, have knowledge of the following matters.
2. I affirm this affidavit in support of the within motion to strike.
3. I have personal knowledge of the facts stated herein, except where stated to be on information and belief, and where so stated I believe them to be true.
4. Attached as **Exhibit “A”** is a true copy of counsel for the Attorney General’s letter to the Tribunal, dated August 29, 2025, posing various questions regarding the long-term reform process decision.
5. Attached as **Exhibit “B”** is a true copy of the Tribunal’s September 12, 2025 letter to all parties, responding to the August 29 letter and answering the questions contained in that letter.

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6. Attached as **Exhibit “C”** is a true copy of the email of the Tribunal to the parties, dated September 17, 2025, advising the parties of a minor revision to 2025 CHRT 80 and the basis for that revision.
7. Attached as **Exhibit “D”** is a true copy of the Tribunal’s September 17, 2025 correspondence, supplementary to its September 12, 2025 correspondence.
8. The Tribunal released further editorial revisions to 2025 CHRT 80 on October 29, 2025.
9. The Caring Society and the AFN, on the one hand, and Canada, on the other, filed their plans for long-term reform of First Nations child and family services on December 22, 2025. Canada’s plan was specifically labeled “with prejudice” to the outcome of this proceeding. Attached as **Exhibit “E”** is a true copy of Canada’s counsel’s letter filing Canada’s long-term reform plan, as well as the first page of the long-term reform plan (which notes the plan is filed “with prejudice” to the result of this proceeding).
10. On May 19, 2026, the AFN’s counsel wrote to the Tribunal to provide the schedule for the hearing of the long-term reform proceedings contemplated in 2025 CHRT 80. The Tribunal approved this schedule on May 22, 2026. Attached as **Exhibits “F”** and **“G”** are true copies of the AFN’s scheduling letter and the Tribunal’s direction approving the schedule.

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AFFIRMED by Jasmine Kaur of the City of Brampton, in the Province of Ontario, before me at the City of Ottawa, in the Province of Ontario, on September 9, 2026 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

}



Commissioner for Taking Affidavits
(or as may be)

Zsuzsanna Terezia Gutteridge, a Commissioner, etc.,
Province of Ontario, for Conway Baxter Wilson LLP/s.r.l.,
Barristers and Solicitors.
Expires August 27, 2027.



(Signature of deponent)

This is Exhibit “A” referred to in the Affidavit of Jasmine Kaur affirmed by Jasmine Kaur of the City of Brampton, in the Regional Municipality of Peel, before me at the City of Ottawa, in the Province of Ontario, on September 9, 2026 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

Zsuzsanna Terezia Gutteridge, a Commissioner, etc.,
Province of Ontario, for Conway Baxter Wilson LLP/s.r.l.,
Barristers and Solicitors.
Expires August 27, 2027.



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Via Email

Our File Number: LEX-500219273

August 29, 2025

Canadian Human Rights Tribunal
240 Sparks Street, 6th Floor West
Ottawa, Ontario K1A 1J4

Dear Members Marchildon and Lustig:

**Re: First Nations Child and Family Caring Society of Canada et al. v.
the Attorney General of Canada et al.
Tribunal File: T1340/7008**

Introduction

We write with regard to the Panel's August 20, 2025 ruling in 2025 CHRT 80. We appreciate the Panel's confirmation that it will continue to advance proceedings on the *Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program in Ontario*. We also appreciate the Panel's indication that it will schedule a Case Management Conference Call (CMCC) to answer questions on its latest ruling, provide clarification and discuss scheduling. To assist with an orderly discussion at the CMCC, we are sharing our initial questions and requests for clarification below.

We also wish to provide additional information to the Panel and clarifications of our own in response to 2025 CHRT 80, particularly in light of the Tribunal's outstanding decision on the Caring Society's January 14, 2025 motion seeking an order for further consultations on long-term reform.

Consultation Motion

The First Nations Child and Family Caring Society of Canada (Caring Society) filed a motion in January 2024 for an order compelling Canada to engage in additional consultations with the AFN and the Caring Society on both the FNCFS Program and Jordan's Principle. The Panel determined that the motion would be heard in writing only, with filings complete as of May 22, 2025. The motion has been under reserve with the Panel since that time.

Canada's position in response to the Caring Society's motion was:

- while Canada has made intensive and meaningful efforts towards achieving final resolution of the complaint with the consent of all parties, the dialogic approach with the AFN and the Caring Society is no longer working;
- Canada's good faith efforts to consult and negotiate have been hindered by the Caring Society's conduct, which includes:
 - abandoning consultations and negotiations;
 - advocating against the Final Agreement, which was based on the terms of the Agreement in Principle between the Caring Society, the AFN, COO, NAN and Canada;
 - making extensive new and further demands that are well outside the terms to which they previously agreed, and beyond what is required to meet the Tribunal's reform orders;
- the Panel should not order any additional consultations with the AFN and the Caring Society; and
- instead, the Panel should move forward by considering the pending motion for approval of the *2025 Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program in Ontario*.¹

In paragraph 9 of 2025 CHRT 80, the Panel stated that "This ruling does not decide the Consultation Motion brought by the Caring Society, which is broader in scope and will require a lengthier consultation process, as it encompasses Jordan's Principle long-term reform." **We seek clarification, however, as to whether 2025 CHRT 80 is intended to fully or partially resolve the consultation motion as regards the FNCFS Program.**

Negotiations with the National Children's Chiefs Commission

In paragraph 119 of the Ruling, the Panel ordered that "Canada shall inform the Tribunal, by August 29, 2025, whether it agrees to meet with the National Children's Chiefs Commission to discuss National FNCFS long-term reform outside Ontario, or whether it will reconsider meeting with the AFN and the Caring Society, on a voluntary basis, for the same purpose."

Following the Panel's July 25, 2025 CMCC, and prior to the Panel's August 20 Ruling, federal political representatives and high-level officials from Indigenous Services Canada (ISC) voluntarily met with the National Children's Chiefs Commission (NCCC) on two occasions. First, on August 11, 2025, ISC Associate Deputy Minister Michelle Kovacevic met with Chief Pauline Frost, Chair of the NCCC. Second, on August 18, 2025, the Honourable Mandy Gull-Masty, Minister of Indigenous Services, together with ISC's Deputy Minister Gina Wilson, met with Chief Frost.

¹ Factum of the Attorney General of Canada in response to the Caring Society's consultation motion, dated May 15, 2025, paras 1-4.

During these meetings, Chief Frost stated that the NCCC's position remains that a national agreement must cover First Nations children both on- and off-reserve. She also noted the NCCC's position that the \$47.8 billion proposed in the *Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program* (Final Agreement) is only a baseline from which to begin negotiations.

Chief Frost stated that negotiations towards long-term reforms should be tripartite between the First Nations Child and Family Caring Society of Canada (Caring Society), the NCCC and Canada. She further stated that the NCCC has entered into a bilateral agreement with the Caring Society, although Canada has no knowledge of the contents of that bilateral agreement.

Canada's position is that the NCCC's position, particularly with respect to off-reserve Program funding, are beyond the scope of the 2021 *Agreement-in-Principle on Long-Term Reform of the First Nations Child and Family Services Program and Jordan's Principle* (Agreement in Principle) made with the Complainants (the Caring Society and the AFN), and indeed beyond the scope of the complaint itself.² **We are therefore seeking clarification from the Panel as to whether the Panel is asking that Canada engage with the NCCC beyond these two meetings and, if so, to confirm that any such additional meeting is to cover only issues within the scope of the Agreement in Principle and the complaint.**

In addition, we are seeking the Panel's clarification as to whether it is suggesting that Canada not only *consult*, but *negotiate* with the NCCC and/or the Caring Society and/or the AFN, in line with the parameters set out in paragraph 113, towards a new national long-term FNCFS Program reform agreement, and despite Canada's position articulated with respect to the January 2025 consultation motion that: (a) Canada has fully discharged its obligations pursuant to the Tribunal's orders to consult with the AFN and the Caring Society; and (b) the Panel should not order additional consultations with the AFN and the Caring Society.³ Further, on what basis has the Panel arrived at the parameters in paragraph 113 and does the Panel intend that Canada must comply with each of them in any national plan for long-term reform of the FNCFS Program? As noted by the Panel, some of these parameters have been set out in previous rulings. However, others are new and expand upon previous rulings.

Should the Panel clarify that it expects Canada to negotiate with the NCCC, the Caring Society and/or the AFN in line with its new parameters and new consultation process, Canada will require time beyond August 29, 2025 to seek and obtain instructions.

Consultation with Non-Parties

In paragraph 120 of 2025 CHRT 80, the Panel orders that the AFN and the Caring Society shall consult with a series of non-parties, including the NCCC, First Nations chiefs, other experts including First Nations and First Nation organizations outside Ontario and all those who filed interested party motions. **We are seeking clarification as to the basis on which the Panel has jurisdiction to order that complainants (in this case, the AFN and the Caring Society) consult with non-parties to a complaint, with or without the respondent.**

² *Ibid.* See for example paragraph 84.

³ *Ibid.* See for example paragraph 88.

Timing of Consultations

The Panel stated at paragraph 108 of 2025 CHRT 80 that it cannot invite all First Nations into the proceeding without creating a paralysis, while at the same time ordering that within 4 months, the AFN, the Caring Society and Canada develop long-term FNCFS Program reform plans that incorporate all regional and local First Nations perspectives, including through consultations with the NCCC, First Nations chiefs, other experts including First Nations and First Nation organizations outside Ontario and all those who filed interested party motions (paras 113, 120 and 126). **Does the Panel contemplate that the Complainants (the AFN and the Caring Society) and potentially the Respondent (Canada) will consult or negotiate directly with every First Nation community, regional entity, and First Nations child and family services agency in Canada (save for in Ontario and the Northwest Territories) on national FNCFS Program reforms in advance of providing their plan or plans on December 20, 2025?**

Like the Tribunal, Canada believes it is critical that reforms to the FNCFS Program be co-developed with First Nations, experts and regional groups. That is why Canada consulted so extensively over a number of years with the AFN, Chiefs of Ontario (COO) and Nishnawbe Aski Nation (NAN). The AFN has been viewed in these proceedings as the representative of First Nations across Canada, COO as the representative of Ontario First Nations, and NAN as the representative of 49 First Nations in northern Ontario.

It has become clear to Canada that a consultation or negotiation process to develop new plans for long-term reform, which reflects the expressed needs of First Nations leadership and communities, will take time. For example, Canada has heard a potential lack of consensus around whether one national long-term reform strategy is the right approach. Canada is deeply concerned that the Panel's four-month timeframe to develop new plans for long-term reform is not achievable.

Next Steps

At paragraph 120 of 2025 CHRT 80, the Panel ordered the Caring Society and the AFN to submit a comprehensive national plan as well as requested remedies for long-term reform of the FNCFS Program. The Panel ordered Canada to take part in development of that plan or to submit its own comprehensive national plan (paragraphs 125 and 126).

We are seeking clarification regarding whether the Panel intends to implement a process leading to its consideration of the merits of the potentially competing plans, including the filing of evidence and argument, or whether the Panel intends to make orders on long-term reform of the FNCFS Program based solely on the plans submitted on December 20, 2025.

Consultations ordered by the Panel in 2025 CHRT 6

In paragraph 86 of 2025 CHRT 80, the Panel wrote: "On January 29, 2025, the Tribunal made interim Jordan's Principle consultation orders. The parties opted for Tribunal-assisted mediation with a different Tribunal member than this Panel to resolve the 9 items... the Tribunal was informed by Canada that the Tribunal-assisted mediation was terminated by the member on August 13, 2025, even though two outstanding items remained to be resolved under the Tribunal's orders."

For clarity, in 2025 CHRT 6, the Panel ordered consultations on eleven items. Canada's letter to the Panel, dated August 14, 2025, advised that as of the end of the Tribunal-mediated process on August 13, 2025, "two topics that the Tribunal ordered consultation on in 2025 CHRT 6 have yet to be discussed." Our indication that two items remain to be *discussed* should not be taken to imply that the parties have *resolved* any of the other topics for consultation. Rather, the parties have to date *consulted* on nine of the eleven items. It is Canada's hope that the other parties will meet with Canada to discuss at a minimum the remaining two items, outside of Tribunal-assisted mediation. Canada is making best efforts to coordinate such discussions.

Thank you in advance for considering these questions and clarifications.

Sincerely,



Dayna Anderson
Senior General Counsel

CC:

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This is Exhibit “**B**” referred to in the Affidavit of Jasmine Kaur affirmed by Jasmine Kaur of the City of Brampton, in the Regional Municipality of Peel, before me at the City of Ottawa, in the Province of Ontario, on September 9, 2026 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

Zsuzsanna Terezia Gutteridge, a Commissioner, etc.,
Province of Ontario, for Conway Baxter Wilson LLP/s.r.l.,
Barristers and Solicitors.
Expires August 27, 2027.

Canadian Human
Rights Tribunal



Tribunal canadien
des droits de la personne

Ottawa, Canada, K1A 1J4

September 12, 2025

By e-mail

(See Distribution List)

Dear Parties,

**Re: First Nations Child and Family Caring Society et al. v. Attorney General of Canada
Tribunal File: T1340/7008**

The Panel wishes to advise the parties of the following:

The Tribunal is in receipt of the AGC's letter dated August 29, 2025. The Tribunal appreciates that the AGC seeks clarifications and provided them in advance of the CMCC. The Tribunal will provide responses below and is also looking forward to discussing this further at the upcoming CMCC. The answers (A) below are summaries provided expeditiously in advance of an upcoming CMCC but may not include all of the Tribunal's views on each point. This is letter one of two letters and attachments. Additionally, the Tribunal reserves the right to further detail its responses below.

Q. In paragraph 9 of 2025 CHRT 80, the Panel stated that "This ruling does not decide the Consultation Motion brought by the Caring Society, which is broader in scope and will require a lengthier consultation process, as it encompasses Jordan's Principle long-term reform." We seek clarification, however, as to whether 2025 CHRT 80 is intended to fully or partially resolve the consultation motion as regards the FNCFS Program.

A. The Tribunal has not yet decided the consultation motion, either in whole or in part. It remains under deliberation. In the meantime, following the parties' submissions in response to the Tribunal's request dated February 10, 2025, regarding long-term reform, the Tribunal has chosen to take a different approach to move forward.

The ruling in 2025 CHRT 80 addresses this specific matter—not the consultation motion. If the Attorney General of Canada reviews the submissions summarized in the ruling, it will be clear that they were filed in direct response to the Tribunal's request for submissions on long-term. While some parties reiterated arguments previously raised in the consultation motion, the Tribunal considered only those submissions provided in response to its February 10, 2025, request. For instance, the Commission made more extensive submissions in response to the request on long-term reform than it did for the consultation motion.

Importantly, the Tribunal did not rely on the materials filed with the consultation motion when issuing its procedural ruling to move the proceedings forward. Instead, it based its analysis on the history of the proceedings, its prior rulings, the parties' responses at the last CMCC on July 21, 2025, the submissions made in response to its February 10, 2025, request, and the developments since its 2022 CHRT 8 ruling.

The Tribunal has also considered the broader context. Nearly ten years have passed since the Merit decision, and under section 48.9(1) of the *Canadian Human Rights Act* (CHRA), the Tribunal has a duty to move the matter toward completion. The CHRA does not contemplate the Tribunal waiting indefinitely for the parties to take steps in that direction. Therefore, the Tribunal is committed to advancing the proceedings as efficiently and effectively as possible, with a view to achieving resolution in the near future.

Negotiations with the National Children's Chiefs Commission

Q. In paragraph 119 of the Ruling, the Panel ordered that "Canada shall inform the Tribunal, by August 29, 2025, whether it agrees to meet with the National Children's Chiefs Commission to discuss National FNCFS long-term reform outside Ontario, or whether it will reconsider meeting with the AFN and the Caring Society, on a voluntary basis, for the same purpose."

Following the Panel's July 25, 2025, CMCC, and prior to the Panel's August 20 Ruling, federal political representatives and high-level officials from Indigenous Services Canada (ISC) voluntarily met with the National Children's Chiefs Commission (NCCC) on two occasions. First, on August 11, 2025, ISC Associate Deputy Minister Michelle Kovacevic met with Chief Pauline Frost, Chair of the NCCC. Second, on August 18, 2025, the Honourable Mandy Gull-Masty, Minister of Indigenous Services, together with ISC's Deputy Minister Gina Wilson, met with Chief Frost.

During these meetings, Chief Frost stated that the NCCC's position remains that a national agreement must cover First Nations children both on-and off-reserve. She also noted the NCCC's position that the \$47.8 billion proposed in the Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program (Final Agreement) is only a baseline from which to begin negotiations.

Chief Frost stated that negotiations towards long-term reforms should be tripartite between the First Nations Child and Family Caring Society of Canada (Caring Society), the NCCC and Canada. She further stated that the NCCC has entered into a bilateral agreement with the Caring Society, although Canada has no knowledge of the contents of that bilateral agreement.

Canada's position is that the NCCC's position, particularly with respect to off-reserve Program funding, are beyond the scope of the 2021 Agreement-in-Principle on Long-Term Reform of the First Nations Child and Family Services Program and Jordan's Principle (Agreement in Principle) made with the Complainants (the Caring Society and the AFN), and indeed beyond the scope of the complaint itself. We are therefore seeking clarification from the Panel as to whether the Panel is asking that Canada engage with the NCCC beyond these two meetings and, if so, to confirm that any such additional meeting is to cover only issues within the scope of the Agreement in Principle and the complaint.

A. On July 21, 2025, the Panel Chair asked the AGC to consult with their client on whether they would agree to meet with the NCCC. The AGC indicated that they would present the Tribunal's request to their client. However, by the time the Panel released its ruling a month later, no response had been provided. On August 29, 2025, the Tribunal learned for the first time that two such meetings had already taken place.

The Tribunal acknowledges and thanks Canada for having met twice with the NCCC. Had the AGC informed the Tribunal of these meetings earlier, the Tribunal would have considered this aspect of the matter differently. It is also important to note that in 2025 CHRT 80, the Tribunal merely urged Canada to meet with the NCCC; it did not order Canada to do so. The Tribunal's order was limited to requiring Canada to inform the Tribunal, by August 29, 2025, whether it would agree to meet with the NCCC or whether it will reconsider meeting with the AFN and the Caring Society, on a voluntary basis, for the same purpose. The portion of this Order concerning the NCCC requirement has now been satisfied.

The Tribunal is concerned that both (1) the co-complainants and (2) the Respondent may have significantly shifted their approach in this complaint. The Tribunal will hear from all parties before and/or at the CMCC to clarify these matters and determine the appropriate course of action.

1. Position of the Co-complainants

The AGC has informed the Tribunal that the NCCC maintains its position that a national agreement must include First Nations children both on- and off-reserve. If this relates solely to Jordan's Principle in line with the Tribunal's previous rulings, the Tribunal understands this position. However, if the request now extends to the FNCFS Program and related services as part of resolving the complaint, this would represent a major development. Such a shift could potentially prevent the Tribunal from finalizing the case unless Canada agreed to those terms, and only if an agreement were filed on consent—which does not appear to be the case. While one affidavit in the record which was not considered by the Tribunal to arrive at its 2025 CHRT 80 ruling refers to the inclusion of off-reserve First Nations children, the Tribunal is unclear that the AFN Chiefs-in-Assembly resolutions reference this in relation to Jordan's Principle or also for the FNCFS Program.

Resolution no. 90/2024 mentions:

M. All First Nations children on and off reserve and living in self-governing First Nations have a right to receive substantively equal and culturally based child and family services and/or Jordan's Principle and live free of Canada's discrimination now and forever.

The Tribunal will seek clarification from the co-complainants and Canada on this matter. Did Canada base its original position on the assertion that the co-complainants have expanded their request to include off-reserve First Nations children under this resolution? If so, was this what Chief Frost reiterated in order to resume the negotiations?

If the parties confirm this to be the case, it should be noted that the matter of off-reserve First Nations children under the FNCFS Program outside of Jordan's Principle rulings was not addressed in the 2025 CHRT 80 orders. This point is of central importance and should guide any further discussion. The focus must remain on what the Tribunal found, what it ordered to cease, and what is required to ensure that the systemic racial discrimination identified is eliminated and

does not recur. While the Tribunal notes the resolution above entirely lines up with the Tribunal's Merit Decision and rulings, insofar as the resolution suggests now adding off-reserve First Nations children to the portion of the complaint for the FNCFS Program, this is a significant shift that needs to be discussed urgently. Moreover, the Tribunal holds immense respect for the decisions made by the First Nations Chiefs. While their resolutions carry significant weight, they do not confer additional jurisdiction to the Tribunal. This was not contemplated in 2025 CHRT 80, and the Tribunal will return to the parties to seek clarification.

2. Position of the Respondent

The AGC has also raised concerns regarding the lack of consensus on a national long-term reform approach. The Tribunal is concerned with this comment. The Tribunal recalls, however, that Canada previously advanced a national long-term reform agreement which was ultimately rejected by the Chiefs, who responded by calling for a renegotiated national framework that also incorporated regional perspectives. The Tribunal will return to the parties to seek clarification.

Finally, the Tribunal requests that the AGC outline what it refers to as the scope of the Agreement-in-Principle (AIP). As the AGC is aware, the AIP has not been provided in full to the Tribunal—unless it has been submitted recently for purposes of the OFA or the consultation motion. In any event, it has not yet been considered by this Tribunal in reaching its decision in 2025 CHRT 80.

Next Steps

Q. In addition, we are seeking the Panel's clarification as to whether it is suggesting that Canada not only consult, but negotiate with the NCCC and/or the Caring Society and/or the AFN, in line with the parameters set out in paragraph 113, towards a new national long-term FNCFS Program reform agreement, and despite Canada's position articulated with respect to the January 2025 consultation motion that: (a) Canada has fully discharged its obligations pursuant to the Tribunal's orders to consult with the AFN and the Caring Society; and (b) the Panel should not order additional consultations with the AFN and the Caring Society. Further, on what basis has the Panel arrived at the parameters in paragraph 113 and does the Panel intend that Canada must comply with each of them in any national plan for long-term reform of the FNCFS Program? As noted by the Panel, some of these parameters have been set out in previous rulings. However, others are new and expand upon previous rulings.

Should the Panel clarify that it expects Canada to negotiate with the NCCC, the Caring Society and/or the AFN in line with its new parameters and new consultation process, Canada will require time beyond August 29, 2025, to seek and obtain instructions.

A. The Tribunal has left it to Canada to decide whether to pursue discussion, consultation, negotiation, or neither. At the same time, the Tribunal has left open the possibility for Canada to change its position at any time and join the NCCC, the co-complainants, or both, should it so choose. The Tribunal did not order Canada to consult or negotiate. The purpose of the order is to ensure progress in addressing the long-term aspects of the complaint, not to create paralysis or delay in resolving matters that negatively affect the Tribunal's work and, most importantly, the First Nations children.

The AGC refers to what the Tribunal wrote in 2025 CHRT 80:

[113] The Tribunal, in issuing the following orders, establishes non-exhaustive parameters, some of which have been referenced in prior rulings. Long-term reform remedies shall:

1. Have lasting effects, be adequately resourced, and remain sustainable for present and future generations;
2. Be flexible and improve upon the Tribunal’s previous orders;
3. Incorporate regional and local First Nations perspectives;
4. Be evidence-based, relying on the best currently available research and studies, without delay for additional studies;
5. Align with the spirit of the Tribunal’s findings and rulings in a non-rigid manner;
6. Be First Nations–centered and respectful of their distinct needs and perspectives;
7. Be culturally appropriate, respect substantive equality, reflect the best interests of the child through an Indigenous lens and respect the specific needs of First Nations children and families;
8. Comply with domestic and international human rights, especially the Convention on the Rights of the Child, the United Nations Declaration on the Rights of Indigenous Peoples and the United Nations Declaration on the Rights of Indigenous Peoples Act; and
9. Strive for excellence rather than perfection, without narrowing the Tribunal’s findings and orders.

The quasi-totality of the parameters is found in the Tribunal’s previous merits decisions and rulings. None of the parameters expand upon those rulings. The Tribunal continues to rely on all of its earlier rulings; however, for the purposes of an expeditious response, it has focused on several key rulings and is referring to findings and orders that demonstrate the presence of the parameters. The Tribunal is preparing a document containing numerous references to its previous rulings, which will be provided to the parties no later than next week. Some terminology used in the parameters is synonymous or similar—though not always identical—to that in the Tribunal’s previous rulings, but it remains consistent with the spirit of those rulings. For example, the Tribunal has repeatedly used the expression “sustainable for generations to come,” which is similar to “remain sustainable for present and future generations” found in parameter 1 of paragraph 113.

Certain terms were also included to assist the parties—particularly Canada, which has stated that it is not necessary to mirror the Tribunal’s orders exactly and that compromise is required. Accordingly, the Tribunal has incorporated terms such as “flexible,” “non-rigid,” and “strive for excellence, rather than perfection” to reflect this position, even if similar concepts can be found in earlier rulings.

Moreover, upon thorough review of the Tribunal's previous findings and rulings, Canada will find that they encompass most, if not all, of the relevant parameters. These parameters stem from the Tribunal's careful consideration of the evidence that has informed its findings over the years. Most of these parameters should come as no surprise to Canada; if they do, the Tribunal itself would be surprised. Canada should not object to the inclusion of additional clarifying wording, which was added to prevent the constant expansion of issues and the pursuit of perfection rather than excellence. Furthermore, Canada should not settle for anything less than excellence, as this is in the best interests of First Nations children.

The Tribunal expects the co-complainant and Canada to incorporate the non-exhaustive parameters in their respective National FNCFS long-term reform plan and requested remedies outside Ontario. plans or if Canada changes its position on consultation, to the National plan filed on consent. If a parameter cannot be included, the Tribunal expects the parties who will file a National FNCFS long-term reform plan and requested remedies outside Ontario to provide a reasonable explanation as to why they could not include this aspect in their National long-term plan.

Consultation with Non-Parties

Q. In paragraph 120 of 2025 CHRT 80, the Panel orders that the AFN and the Caring Society shall consult with a series of non-parties, including the NCCC, First Nations chiefs, other experts including First Nations and First Nation organizations outside Ontario and all those who filed interested party motions. We are seeking clarification as to the basis on which the Panel has jurisdiction to order that complainants (in this case, the AFN and the Caring Society) consult with non-parties to a complaint, with or without the respondent.

A. This order flows directly from the Tribunal's previous rulings, findings, and orders, as well as from the developments in these proceedings. The Tribunal has repeatedly emphasized in its rulings that its jurisdiction stems from the complaint, the *CHRA*, all its previous findings, rulings and orders and applicable case law such as *Grover*, *Action Travail des femmes*, *NCARR*, *Robichaud*, and other cases, as analyzed in the Tribunal's rulings, findings, and orders. The Tribunal is preparing a document containing numerous references to its previous rulings, which will be provided to the parties no later than next week. The document is a compilation of some (though not all) references in the Tribunal's Merit Decision and rulings that address the requirement to consult with First Nations, other experts, First Nations agencies, and others for long-term reform. Moreover, the Tribunal has previously stated that orders should be considered alongside the findings leading to them and not separately.

The Tribunal continues to rely on all of its previous decisions and rulings. However, for the purposes of an expeditious response, it has focused on several key rulings, referring to findings and orders that demonstrate the need to consult with non-parties, First Nations chiefs, other experts (including First Nations experts), and First Nations organizations.

On the issue of the developments in these proceedings, the National Advisory Committee on Child and Family Services Reform was mandated to consult with multiple experts to make recommendations to ensure the best possible solutions and outcomes for First Nations children. The parties hold conflicting views on whether its mandate has ended or is ongoing, as well as on the timing and extent of that mandate.

Moreover, Canada informed the Tribunal that it no longer wishes to negotiate with the co-complainants and has refused to meet with the New National Children's Chiefs Commission. The Tribunal made one final request and has planned for a process should Canada refuse again. The idea of consultation aligns with the goal of obtaining the best practices and perspectives for a long-term, final solution, as reiterated numerous times in the Tribunal's rulings.

The Tribunal cannot possibly hear from every party or devote all its resources to deciding motions for interested-party status, especially since Canada insists to only proceed with Ontario for the time being. Furthermore, while the Chiefs-in-Assembly approve the inclusion of any rights holders seeking interested-party status, this does not bind the Tribunal to grant such status. This creates a difficult context for the Tribunal, which must find creative ways to advance the matter toward resolution.

The parties have become more contentious, and more organizations are seeking to be added to the proceedings, which adds to this complexity. The order for the co-complainants to consider perspectives outside the Tribunal proceedings is in line with the Tribunal's previous rulings. This does not confer upon non-parties an official consultation status at the Tribunal, but it ensures that their expertise is at least considered by the co-complainants and potentially by Canada. This forms part of the Tribunal's approach, as stated in previous rulings, to obtain the best possible solutions in the best interests of First Nations children.

Canada submitted to the Tribunal, on the issue of compensation, that it relied mostly on the AFN to conduct regional and community consultations with First Nations and experts. This is similar to the current situation, which now includes the National Children's Chiefs Commission that the AFN has officially recognized in these proceedings in its filings.

Timing of Consultations

Q. The Panel stated at paragraph 108 of 2025 CHRT 80 that it cannot invite all First Nations into the proceeding without creating a paralysis, while at the same time ordering that within 4 months, the AFN, the Caring Society and Canada develop long-term FNCFS Program reform plans that incorporate all regional and local First Nations perspectives, including through consultations with the NCCC, First Nations chiefs, other experts including First Nations and First Nation organizations outside Ontario and all those who filed interested party motions (paras 113, 120 and 126). Does the Panel contemplate that the Complainants (the AFN and the Caring Society) and potentially the Respondent (Canada) will consult or negotiate directly with every First Nation community, regional entity, and First Nations child and family services agency in Canada (save for in Ontario and the Northwest Territories) on national FNCFS Program reforms in advance of providing their plan or plans on December 20, 2025?

Like the Tribunal, Canada believes it is critical that reforms to the FNCFS Program be codeveloped with First Nations, experts and regional groups. That is why Canada consulted so extensively over a number of years with the AFN, Chiefs of Ontario (COO) and Nishnawbe Aski Nation (NAN). The AFN has been viewed in these proceedings as the representative of First Nations across Canada, COO as the representative of Ontario First Nations, and NAN as the representative of 49 First Nations in northern Ontario.

It has become clear to Canada that a consultation or negotiation process to develop new plans for long-term reform, which reflects the expressed needs of First Nations leadership and communities,

will take time. For example, Canada has heard a potential lack of consensus around whether one national long-term reform strategy is the right approach. Canada is deeply concerned that the Panel's four-month timeframe to develop new plans for long-term reform is not achievable.

A. No, the Tribunal does not expect that the Complainants (the AFN and the Caring Society) and, potentially, the Respondent (Canada) will consult or negotiate directly with every First Nation community, regional entity, and First Nations child and family services agency in Canada (except in Ontario and the Northwest Territories) on national FNCFS Program reforms in advance of providing their plan or plans on December 20, 2025, as it would be impossible to do so within four months. The Tribunal believes that much of this work has already been done, or ought to have been done, over the years. Canada was prepared to bring a final settlement agreement on national long-term reform to the Tribunal if it had been approved by the AFN Chiefs-in-Assembly. Canada has stated that it has already consulted extensively and does not wish to be ordered to do so again. The Tribunal finds this demonstrates that Canada knows what is required to cease the systemic discrimination found and to prevent its recurrence and can include it in their National FNCFS long-term reform plan and requested remedies outside Ontario.

The necessary studies have been completed, and, as Canada itself noted in its question above, it has engaged in extensive consultations over a number of years with the AFN, the Chiefs of Ontario (COO), and the Nishnawbe Aski Nation (NAN). In these proceedings, the AFN has been regarded as the representative of First Nations across Canada, COO as the representative of Ontario First Nations, and NAN as the representative of 49 First Nations in northern Ontario. This demonstrates that numerous perspectives have already been provided, and four months is sufficient to seek as many perspectives possible to strengthen the National plan without accepting everyone in these proceedings which would halt the Tribunal's work.

The National plan could also include a mechanism for First Nations that wish to negotiate on a Nation-to-Nation basis and not be bound by the final orders of the Tribunal. The Tribunal had already envisioned such an approach in 2018 CHRT 4.

The Tribunal is not requesting long-term order requests through consultation with over 600 First Nations individually, which would cause the Tribunal to wait years for completion. The Tribunal is seeking long-term solutions that incorporate as many First Nations perspectives as possible, including the possibility for individual First Nations to decline the long-term solutions if they so choose and instead negotiate directly with Canada, taking into account the evidence accumulated so far that can inform such orders. Some aspects can be prospective and clearly demonstrate how the systemic discrimination identified will be eliminated and prevented from reoccurring.

Next Steps

Q. At paragraph 120 of 2025 CHRT 80, the Panel ordered the Caring Society and the AFN to submit a comprehensive national plan as well as requested remedies for long-term reform of the FNCFS Program. The Panel ordered Canada to take part in development of that plan or to submit its own comprehensive national plan (paragraphs 125 and 126).

We are seeking clarification regarding whether the Panel intends to implement a process leading to its consideration of the merits of the potentially competing plans, including the filing of evidence and argument, or whether the Panel intends to make orders on long-term reform of the FNCFS Program based solely on the plans submitted on December 20, 2025.

A. The Panel intends to implement a process leading to its consideration of the merits of the potentially competing plans, including the filing of evidence and argument. The Tribunal will also seek the parties' views on this.

Consultations ordered by the Panel in 2025 CHRT 6

Q. In paragraph 86 of 2025 CHRT 80, the Panel wrote: "On January 29, 2025, the Tribunal made interim Jordan's Principle consultation orders. The parties opted for Tribunal-assisted mediation with a different Tribunal member than this Panel to resolve the 9 items... the Tribunal was informed by Canada that the Tribunal-assisted mediation was terminated by the member on August 13, 2025, even though two outstanding items remained to be resolved under the Tribunal's orders."

For clarity, in 2025 CHRT 6, the Panel ordered consultations on eleven items. Canada's letter to the Panel, dated August 14, 2025, advised that as of the end of the Tribunal-mediated process on August 13, 2025, "two topics that the Tribunal ordered consultation on in 2025 CHRT 6 have yet to be discussed." Our indication that two items remain to be discussed should not be taken to imply that the parties have resolved any of the other topics for consultation. Rather, the parties have to date consulted on nine of the eleven items. It is Canada's hope that the other parties will meet with Canada to discuss at a minimum the remaining two items, outside of Tribunal-assisted mediation. Canada is making best efforts to coordinate such discussions.

A. The Tribunal appreciates the clarification. It had not understood that 9 of the 11 topics were resolved. Given that the consultation orders for the complaints mechanisms were postponed until after the other orders, and considering the confidentiality of the mediation process, the Tribunal does not know which items were discussed and which remain outstanding. The number 9 arose from the July 21, 2025, CMCC discussions. The Tribunal had understood that the discussions had ended and that the outcome was unclear. Canada's confirmation reinforces the concerns expressed by the Tribunal in 2025 CHRT 80. If six months of discussions between the parties did not result in agreement on any of the 11 items, Canada's desire to coordinate discussions on the two outstanding issues does not, in itself, address the Tribunal's concerns. The Tribunal is considering next steps on this point.

The Tribunal welcomes follow-up questions from Canada or any other party, whether in advance of the CMCC or at the CMCC.

Should you have any questions, please do not hesitate to contact the Registry Office by e-mail at registry.office@chrt-tcdp.gc.ca or by fax at 613-995-3484.

Yours truly,

Judy Dubois

Digitally signed by Judy Dubois
Location: Ottawa, Ontario Canada
Date: 2025.09.12 09:31:14-04'00'

Judy Dubois
Registry Officer

DISTRIBUTION LIST

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Justin Safayeni and Stephen Aylward
Counsel for Amnesty International

This is Exhibit “C” referred to in the Affidavit of Jasmine Kaur affirmed by Jasmine Kaur of the City of Brampton, in the Regional Municipality of Peel, before me at the City of Ottawa, in the Province of Ontario, on September 9, 2026 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

Zsuzsanna Terezia Gutteridge, a Commissioner, etc.,
Province of Ontario, for Conway Baxter Wilson LLP/s.r.l.,
Barristers and Solicitors.
Expires August 27, 2027.

David Taylor

From: CHRT Registry Office <Registry.Office@chrt-tcdp.gc.ca>
Sent: Wednesday, September 17, 2025 10:04 AM
To: David Taylor; 'sarah@childandfamilylaw.ca'; Kiana Saint-Macary; Peter Mantas; gcyf@fasken.com; 'tsun@fasken.com'; 'Anshumala.Juyal@chrc-ccdp.gc.ca'; khizer.pervez@chrc-ccdp.gc.ca; 'Vickery, Paul'; 'Norris, Sarah-Dawn'; 'Jones, Meg'; 'Anderson, Dayna (she; her | elle; la)'; 'Staska, Kevin'; Bird, Sarah (she her elle la); Khan, Jon; Dueck-Read, Alicia (she her elle la); Aman.Owais@justice.gc.ca; 'MWente@oktlaw.com'; Jessie Stirling; Ashley Ash; Katelyn Johnstone; Sinéad Dearman; 'julianf@falconers.ca'; Asha James; Shelby Percival; meaghand@falconers.ca; David Schwartz; Jordan Tully; 'justins@stockwoods.ca'; 'Stephen Aylward'; Jasmine Kaur; Lloyd, Michelle (CHRC/CCDP); Darvill, Jillian (she; her | elle; la); Perrault-Werner, Alisia (she her elle la); Anderson, Jackie (she her elle la); Wong, Theresa (she her elle la)
Subject: Update from the Panel - FNCFCSC and AFN v. AGC (CHRT File T1340/7008)

Dear Parties,

The Panel wishes to advise of the following:

The Tribunal will make its best efforts to issue a revised OFA schedule and provide directions on the question of the expert before the end of the week. An agenda for the CMCC will also be sent shortly.

The Tribunal confirms that all nine parameters were already addressed in previous rulings in this case. To ensure clarity, the Tribunal has decided to remove the words “some of” in 2025 CHRT 80.

The expression “some of” had been used as a precaution, recognizing that certain words and expressions function as synonyms. To avoid any misunderstanding, the Tribunal has determined that it is preferable to remove it and instead rely on the body of its previous rulings, where the parameters can be located.

Thank you.

Judy Dubois
 (she/her/elle)

Senior Registry Officer / CHRT Registry Services
 On behalf of the Canadian Human Rights Tribunal
 Administrative Tribunals Support Service of Canada / Government of Canada
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Agente principale du greffe / Services du greffe du TCDP
 Au nom du Tribunal canadien des droits de la personne
 Service canadien d'appui aux tribunaux administratifs / Gouvernement du Canada
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This is Exhibit “D” referred to in the Affidavit of Jasmine Kaur affirmed by Jasmine Kaur of the City of Brampton, in the Regional Municipality of Peel, before me at the City of Ottawa, in the Province of Ontario, on September 9, 2026 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

Zsuzsanna Terezia Gutteridge, a Commissioner, etc.,
Province of Ontario, for Conway Baxter Wilson LLP/s.r.l.,
Barristers and Solicitors.
Expires August 27, 2027.

Canadian Human
Rights Tribunal



Tribunal canadien
des droits de la personne

Ottawa, Canada, K1A 1J4

September 17, 2025

By e-mail

(See Distribution List)

Dear Parties,

**Re: First Nations Child and Family Caring Society et al. v. Attorney General of Canada
Tribunal File: T1340/7008**

The Panel wishes to advise the parties of the following:

This document includes some Tribunal ruling references on its jurisdiction and sections 53 and 16 of the *CHRA*, some important case law interpreting sections 53 and 16 and referred to in the Tribunal's previous rulings, and the Tribunal's approach to remedies explained in previous rulings. This document also includes references to some Tribunal rulings mentioning the need to have consultations with First Nations and First Nations experts, who are not necessarily part of these proceedings, to assist in crafting effective remedies. The Tribunal has included references from previous rulings and from a ruling on consent of the parties requesting the Tribunal to rely on evidence and perspectives from non-parties. The Tribunal also included a previous ruling referencing a Federal Court decision approving the Tribunal's approach to remedies in this case and finding that the Tribunal's jurisdiction to make the orders flowed not only from the parameters and objectives of the *CHRA*, but also from the evidentiary foundation upon which the Tribunal grounded its decisions, because the *CHRA* provides the Tribunal with broad discretion to fashion appropriate remedies to fit the circumstances.

The Tribunal reserves the right to edit and complement this document. Furthermore, the Tribunal continues to rely on all its rulings and decisions that align fully with the Tribunal's recent ruling in 2025 CHRT 80.

2022 CHRT 8

[136] ... this approach allowed the Tribunal to set parameters on what it is able to address based on its jurisdiction under the *CHRA*, the Complaint, and its remedial jurisdiction.

[16] The Panel also said that aside from orders of compensation, this flexibility in fashioning effective remedies arises mainly from sections 53(2)(a) and (b) of the *CHRA*. Those sections provide the Tribunal with the authority to order measures to redress the discriminatory practice or prevent the same or similar practice from occurring in the future

[see s. 53(2)(a)]; and to order that the victim of a discriminatory practice be provided with the rights, opportunities or privileges that are being or were denied [see s. 53(2)(b)].

[468] As the Complaint has been substantiated, the Panel may make an order against AANDC pursuant to section 53(2) of the *CHRA*. The aim in making an order under section 53(2) is not to punish AANDC, but to eliminate discrimination (see Robichaud at para. 13). To accomplish this, the Tribunal's remedial discretion must be exercised on a principled basis, considering the link between the discriminatory practice and the loss claimed...

[469] ...In crafting remedies under the *CHRA*, the Tribunal's powers under section 53(2) must be given such fair, large and liberal interpretation as will best ensure the objects of the *Act* are obtained.

(2018 CHRT 4 excerpt)

[32] ...This is provided for in the *Act* under section 53 (2) (a): that the person cease the discriminatory practice and take measures, in consultation with the Commission on the general purposes of the measures, to redress the practice or to prevent the same or a similar practice from occurring in future...

2022 CHRT 8

[468] ...The aim in making an order under section 53(2) is not to punish AANDC, but to eliminate discrimination (see Robichaud at para. 13).

[138] I agree with the Tribunal's reliance on *Grover v Canada (National Research Council)* (1994), 1994 CanLII 18487 (FC), 24 CHRR 390 [Grover] where the task of determining 'effective' remedies was characterized as demanding 'innovation and flexibility on the part of the Tribunal...' (2016 CHRT 10 at para 15). Furthermore, I agree that 'the [CHRA] is structured so as to encourage this flexibility' (2016 CHRT 10 at para 15). The Court in *Grover* stated that flexibility is required because the Tribunal has a difficult statutory mandate to fulfill (at para 40). The approach in *Grover*, in my view, supports the basis for the dialogic approach.

Legal Framework

[153] In considering the Tribunal's powers to make the requested orders, the Tribunal relies on the following:

This Tribunal's January 26, 2016 order (2016 CHRT 2 [Merit Decision]) ordered Canada to cease its discriminatory practices and reform the FNCFS Program to reflect the findings in that decision.

This Tribunal's April 26, 2016, order (2016 CHRT 10) required Canada to immediately take measures to address the findings in its January 26, 2016, decision.

This Tribunal's September 14, 2016, order (2016 CHRT 16) required Canada to update its policies, procedures and agreements to comply with the Tribunal's findings in its January 26, 2016, decision.

This Tribunal's understanding in making its September 14, 2016, order (2016 CHRT 16) that reform of Canada's policies, procedures and agreements to comply with the Tribunal's findings in its January 26, 2016, decision would be achieved over the longer term, with certain interim measures being put in place until that time.

The principles set out for immediate relief in the Tribunal's February 4, 2018, order (2018 CHRT 4).

All other rulings made by this Panel in this case.

[154] In light of the above and consistent with the Tribunal's detailed findings in the Merit Decision which included other related provincial/territorial agreements and other funding methods, all subsequent rulings and the Tribunal's approach to remedies and, pursuant to section 53(2) of the *CHRA*, the Panel finds it has statutory authority to make the consent orders requested by the AFN, the Caring Society and Canada and agreed to by the COO, the NAN, the Commission and Amnesty International as it will be further explained below.

[155] The Panel previously reviewed Canada's responsibility to remedy the discriminatory practice in this case in 2018 CHRT 4:

[215] In its [Merit] Decision and rulings, the Panel found that Canada was responsible for funding to cover the costs of providing family and child welfare services to First Nations on reserves. It found that this responsibility included funding to cover the costs of providing services to First Nations children on reserves in need of care, in a manner that was culturally appropriate and substantively equal to the manner that the services were provided to non-First Nations children in Canada. It found that the basis upon which Canada was calculating and providing the funding was flawed in various respects, resulting in insufficient funding (i.e. underfunding) to provide the services in the manner hereinbefore described, and to meet the needs of First Nations children on reserve. It found that Canada was underfunding the services now being requested by the Moving Parties to be paid on an actual cost basis as immediate relief in this case. It found that Canada knew that it was underfunding the services and that the underfunding of prevention services, in particular, while Canada fully funded maintenance and apprehension expenses, created a perverse incentive to remove far too many First Nations children on reserve from their homes and families. It found that this underfunding of services was one of the discriminatory practices engaged in by Canada in this case, and that Canada needed to take immediate steps to eliminate this discriminatory underfunding and to fully reform the Program in the longer term.

[216] Canada has accepted the Tribunal's [Merit] Decision and rulings that it is discriminating against First Nations children by underfunding the services and that both immediate steps and longer-term reform need to be undertaken to eliminate this discriminatory underfunding of services to First Nations children on reserve.

[217] All of the parties agree that the Tribunal's remedial powers are to be interpreted broadly to give effect to the objectives of the *CHRA* in eliminating discrimination when there has been a determination by the Tribunal that discrimination has occurred and an order to cease has been made, in order to ensure that the discrimination does not continue.

[156] Furthermore, the Panel previously wrote in 2018 CHRT 4:

[387] It took years for the First Nations children to get justice. Discrimination was proven. Justice includes meaningful remedies. Surely Canada understands this. The Panel cannot simply make final orders and close the file. The Panel determined that a phased approach to remedies was needed to ensure short term relief was granted first, then long term relief, and reform which takes much longer to implement. The Panel understood that if Canada took 5 years or more to reform the Program, there was a crucial need to address discrimination now in the most meaningful way possible with the evidence available now.

[157] The Panel also wrote in 2016 CHRT 10 that:

[15] ... [C]onstructing effective and meaningful remedies to resolve a complex dispute, as is the situation in this case, is an intricate task. Indeed, as the Federal Court of Canada stated in *Grover v. Canada (National Research Council)* (1994), 1994 CanLII 18487 (FC), 24 CHRR D/390 (FC) at para. 40 [Grover], "[s]uch a task demands innovation and flexibility on the part of the Tribunal in fashioning effective remedies and the Act is structured so as to encourage this flexibility.

[16] The Panel also said that aside from orders of compensation, this flexibility in fashioning effective remedies arises mainly from sections 53(2)(a) and (b) of the *CHRA*. Those sections provide the Tribunal with the authority to order measures to redress the discriminatory practice or prevent the same or similar practice from occurring in the future [see s. 53(2)(a)]; and to order that the victim of a discriminatory practice be provided with the rights, opportunities or privileges that are being or were denied [see s. 53(2)(b)].

[158] In the initial Merit Decision, the Panel indicated its approach once a complaint is substantiated:

[468] As the Complaint has been substantiated, the Panel may make an order against AANDC pursuant to section 53(2) of the *CHRA*. The aim in making an order under section 53(2) is not to punish AANDC, but to eliminate discrimination (see Robichaud at para. 13). To accomplish this, the Tribunal's remedial discretion must be exercised on a principled basis, considering the link between the discriminatory practice and the loss claimed (see *Chopra v. Canada (Attorney General)*, 2007 FCA 268 at para. 37). In other words, the Tribunal's remedial discretion must be exercised reasonably, in consideration of the particular circumstances of the case and

the evidence presented (*Hughes v. Elections Canada*, 2010 CHRT 4 at para. 50).

[469] It is also important to reiterate that the *CHRA* gives rise to rights of vital importance. Those rights must be given full recognition and effect through the Act. In crafting remedies under the *CHRA*, the Tribunal's powers under section 53(2) must be given such fair, large and liberal interpretation as will best ensure the objects of the *Act* are obtained. Applying a purposive approach, remedies under the *CHRA* should be effective in promoting the right being protected and meaningful in vindicating the rights and freedoms of the victim of discrimination (see *CN v. Canada (Canadian Human Rights Commission)*, 1987 CanLII 109 (SCC), [1987] 1 SCR 1114 at p. 1134; and, *Doucet-Boudreau* at paras. 25 and 55).

[159] The Panel further addressed its remedial authority in 2018 CHRT 4:

[31] The Panel provided an overview of the Tribunal's broad and flexible remedial authorities in 2016 CHRT 10 (paras. 10-19) which was not judicially reviewed.

[32] Moreover, in making its orders the Tribunal is operating under its Statute that permits it to address past discriminatory practices, and prevent future ones from occurring. This is provided for in the *Act* under section 53 (2) (a): that the person cease the discriminatory practice and take measures, in consultation with the Commission on the general purposes of the measures, to redress the practice or to prevent the same or a similar practice from occurring in future, including (...). (emphasis omitted).

[160] As noted in 2018 CHRT 4 at paragraph 40, "[t]he Tribunal made extensive findings in [the Merit Decision] and provided very detailed reasons as to how it arrived at its findings." As noted in the Merit Decision, [t]hose findings demonstrate that "AANDC's design, management and control of the FNCFS Program, along with its corresponding funding formulas and the other related provincial/territorial agreements have resulted in denials of services and created various adverse impacts for many First Nations children and families living on reserves" (Merit Decision at para. 458). Moreover, [t]he Tribunal also found that "[t]he failure to coordinate the FNCFS Program and other related provincial/territorial agreements with other federal departments and government programs and services for First Nations on reserve, resulting in service gaps, delays and denials for First Nations children and families" (2016 CHRT 2 at para. 458, emphasis added). Later, "[t]he Panel specifically mentioned that reform must address the findings in the [Merit] Decision. This case is about underfunding, policy, authorities and, the National Program that were found to be discriminatory" (see 2018 CHRT 4 at para. 40). The lengthy Merit Decision is authoritative in this case and the findings referred to above can be found in the Merit Decision and will not be repeated here. The Tribunal outlines the above to support that it has authority to issue this Consent Order since the subject matter of this Consent Order forms part of the evidence and findings in this case.

[161] Moreover, 2018 CHRT 4 provides that:

[34] Section 53(2)(a) of the *CHRA* gives this Tribunal the jurisdiction to make a cease-and-desist order. In addition, if the Tribunal considers it appropriate to prevent the same or a similar practice from occurring in the future, it may order certain measures including the adoption of a special program, plan or arrangement referred to in subsection 16(1) of the *CHRA* (see *National Capital Alliance on Race Relations (NCARR) v. Canada (Department of Health & Welfare)* T.D.3/97, pp. 30-31). The scope of this jurisdiction was considered by the *Supreme Court of Canada in CN v. Canada (Canadian Human Rights Commission)*, 1987 CanLII 109 (SCC), [1987] 1 SCR 1114, [Action Travail des Femmes]).

[162] Subsequently, the Panel noted in 2018 CHRT 4 that:

[51] Indeed, the Supreme Court in *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Communauté urbaine de Montréal*, 2004 SCC 30 (CanLII) has also directed human rights tribunals to ensure that their remedies are effective, creative when necessary, and respond to the fundamental nature of the rights in question.

[163] Furthermore, the Panel previously indicated in 2018 CHRT 4 that:

[53] ... it may deem it necessary to make further orders. It would be unfair for the Complainants, the Commission and the interested parties who were successful in this complaint, after many years and different levels of Courts, to have to file another complaint for the implementation of the Tribunal's orders and reform of the First Nations' Child welfare system.

[164] The Panel also said in 2018 CHRT 4 that:

[50] In retaining jurisdiction, the Panel is monitoring if Canada is remedying discrimination in a responsive and efficient way without repeating the patterns of the past.

[165] A similar approach to remedies was taken in the *McKinnon v. Ontario (Ministry of Correctional Services)*, [1998], OHRBID, No 10, 1998 CanLII 29849 (ON HRT), 32 CHHR D/1 and [2002] OHRBID, No 22 decisions from the HRTO informed by the specific facts in the case and affirmed on appeal (see *Ontario v. McKinnon*, 2004 CanLII 47147 (ONCA)). The Tribunal relied on this case in 2018 CHRT 4 (see paras. 24 and 388). The Tribunal held that "[a]kin to what was done in the *McKinnon* case, it may be necessary to remain seized to ensure the discrimination is eliminated and mindsets are also changed. That case was ultimately settled after ten years. The Panel hopes this will not be the case here" (2018 CHRT 4 at para. 388). While the Panel said this in 2018, notably, next month will mark the tenth year when the Federal Court quashed the former Chairperson's decision in this case and ordered a different Panel to adjudicate this case. This is when Sophie Marchildon, Edward P. Lustig and Réjean Bélanger were first seized of this matter.

[166] In a recent decision, *Ontario v. Association of Ontario Midwives*, 2020 ONSC 2839 the Ontario Divisional Court discussed the case at hand and commented on the monitoring and updating of funding policies, programs and formulas in systemic cases to ensure substantive equality:

[189] The Tribunal’s findings in this regard are reasonable. Indeed, they are consistent with the SCC’s decision in *Moore* and the Canadian Human Rights Tribunal’s decision in *Caring Society*, two cases concerning systemic discrimination in government funding policies. *Moore* and *Caring Society* make clear that governments have a proactive human rights duty to prevent discrimination which includes ensuring their funding policies, programs and formulas are designed from the outset based on a substantive equality analysis and are regularly monitored and updated. Such jurisprudence is directly at odds with the MOH’s position that it can wait before acting until midwives – a deeply sex-segregated profession that is highly susceptible to systemic gender discrimination in compensation – have proven that the MOH’s conduct constitutes sex discrimination. (footnotes omitted).

[167] Recently, in a judicial review initiated by Canada in this case, the Federal Court in Canada (*Attorney General*) v. *First Nations Child and Family Caring Society of Canada*, 2021 FC 969, in dismissing all of Canada’s arguments, made important comments on the Tribunal’s approach to remedies in this case:

[135] The fact that the Tribunal has remained seized of this matter has allowed the Tribunal to foster dialogue between the parties. The Commission states that the leading commentators in this area support the use of a dialogic approach in cases of systemic discrimination involving government respondents (Gwen Brodsky, Shelagh Day & Frances M Kelly, “The Authority of Human Rights Tribunals to Grant Systemic Remedies”, (2017) 6:1 Can J of Human Rights 1). The Commission described this approach as bold considering the nature of the Complaint and the complexity of the proceedings.

[136] The dialogic approach contributes to the goal of reconciliation between Indigenous people and the Crown. It gives the parties opportunities to provide input, seek further direction from the Tribunal if necessary, and access 2022 CHRT 8 (CanLII) information about Canada’s efforts to bring itself in compliance with the decisions. As discussed later in my analysis of the Eligibility Decision, this approach allowed the Tribunal to set parameters on what it is able to address based on its jurisdiction under the CHRA, the Complaint, and its remedial jurisdiction.

[137] The Commission states that the dialogic approach was first adopted in this proceeding in 2016 and has been repeatedly affirmed since then. It submits that the application of the dialogic approach is relevant to the reasonableness considerations in that Canada has not sought judicial review of these prior rulings.

[138] I agree with the Tribunal's reliance on *Grover v Canada (National Research Council)* (1994), 1994 CanLII 18487 (FC), 24 CHRR 390 [Grover] where the task of determining "effective" remedies was characterized as demanding "innovation and flexibility on the part of the Tribunal..." (2016 CHRT 10 at para 15). Furthermore, I agree that "the [CHRA] is structured so as to encourage this flexibility" (2016 CHRT 10 at para 15). The Court in *Grover* stated that flexibility is required because the Tribunal has a difficult statutory mandate to fulfill (at para 40). The approach in *Grover*, in my view, supports the basis for the dialogic approach. This approach also allowed the parties to address key issues on how to address the discrimination, as my summary in the Procedural History section pointed out.

...

[162] I disagree with the Applicant's characterization of the decisions following the Merit Decision as an "open-ended series of proceedings." Rather, the subsequent proceedings reflect the Tribunal's management of the proceedings utilizing the dialogic approach. The Tribunal sought to enable negotiation and practical solutions to implementing its order and to give full recognition of human rights. As well, significant portions of the proceedings following the Merit Decision were a result of motions to ensure Canada's compliance with the various Tribunal orders and rulings.

...

[281] As noted above, I have determined that the Tribunal did not change the nature of the Complaint in the remedial phase. The Tribunal, exercising extensive remedial jurisdiction under the quasi-constitutional *CHRA*, provided a detailed explanation of what had transpired previously and what would happen next in each ruling/decision (See e.g. 2016 CHRT 16 at para 161). In so doing, it was relying on a dialogic approach. Such an approach was necessary considering the scope of the discrimination and the corresponding efforts to remedy or prevent future discrimination. Most importantly, the Tribunal was relying on established legal principles articulated in *Chopra v Canada* (AG), 2007 FCA 268 at para 37 and *Hughes* 2010 at para 50 (Merit Decision at paras 468, 483). I do not agree that the Tribunal did not provide the parties with notice of matters to be determined.

...

[301] In my view, the procedural history of this case has demonstrated that there is, and has been, good will resulting in significant movements toward remedying this unprecedented discrimination. However, the good work of the parties is unfinished. The parties must decide whether they will continue to sit beside the trail or move forward in this spirit of reconciliation.

[302] I find that the Applicant has not succeeded in establishing that the Compensation Decision is unreasonable. The Tribunal, utilizing the dialogic approach, reasonably exercised its discretion under the *CHRA* to

handle a complex case of discrimination to ensure that all issues were sufficiently dealt with and that the issue of compensation was addressed in phases. The Tribunal ensured that the nexus of the Complaint, as discussed in the Merit Decision, was addressed throughout the remedial phases. Nothing changed. All of this was conducted in accordance with the broad authority the Tribunal has under the *CHRA*.

2022 CHRT 41

[492] The Tribunal is not stating that it cannot amend its orders if the FSA does not mirror the Tribunal's orders. The Tribunal can amend its orders to clarify, enhance, or reflect the parties' wishes if they consent and do not remove recognized rights.

[493] The Tribunal emphasizes that the *CHRA* is a restorative piece of legislation.

[494] In fact, special programs are permitted in the *CHRA* when it has the policy goal to provide equity for some segments of society who are the subject of discrimination (see section 16 of the *CHRA*). This was discussed in *Action travail des femmes* and relied upon in the Tribunal's Compensation Decision in 2021 CHRT 6:

[66] For the SCC, paragraph 2 of the Special Temporary Measures Order, ordering the CN to implement a special employment program, was specifically designed to address and remedy the type of systemic discrimination against women in the case under examination. Therefore, the SCC addressed the specific issue of the scope of the remedial powers established under section 41(2)(a) (now 53(2)(a)) of the *CHRA*, taking into account the power granted to the Tribunal to order measures regarding the "adoption of a special program, plan or arrangement referred to in subsection 15(1) (now 16(1)), to prevent the same or a similar practice occurring in the future" (*Action Travail des femmes*, at p. 1139).

[67] Concurring with the dissenting opinion of Justice MacGuigan of the Federal Court of Appeal in the case under appeal, the SCC held that section 41(2)(a) (now 53(2)(a)) is "designed to allow human rights tribunals to prevent future discrimination against identifiable protected groups" (*Action Travail des femmes*, at p. 1141). In cases of systemic discrimination, the prevention of reoccurrence of discriminatory practices often requires referring to historical patterns of discrimination in order to design appropriate strategies for the future (*Action Travail des femmes*, at p. 1141). Furthermore, the SCC held that the type of measure ordered by the Tribunal in the case under examination may be the only means to achieve the purpose of the *CHRA*, that is to combat and prevent future discrimination (*Action Travail des femmes*, at p. 1141, 1145), (emphasis added).

[68] In these cases, remedy and prevention cannot be dissociated, since "there is no prevention without some form of remedy" (*Action Travail des*

femmes, at p. 1142). Thus, the remedies available under section 53(2)(a) *CHRA* are directed toward a specific protected group and are not only compensatory in nature, but also prospective. As a result, with a view to achieve the prevention objective of the *CHRA*, a "special program, plan or arrangement" as referred to in subsection 16

(1) *CHRA* serves three main purposes: (1) countering the effect of systemic discrimination; (2) addressing the attitudinal problem of stereotyping, and; (3) Creating a critical mass, which may have an impact on the “continuing self-correction of the system” (*Action Travail des femmes*, at pp 1143-44), (emphasis added).

[69] In sum, while ruling that the Tribunal had the power to order such a special measure, the SCC summarized its findings as follows:

For the sake of convenience, I will summarize my conclusions as to the validity of the employment equity program ordered by the Tribunal. To render future discrimination pointless, to destroy discriminatory stereotyping and to create the required "critical mass" of target group participation in the work force, it is essential to combat the effects of past systemic discrimination. In so doing, possibilities are created for the continuing amelioration of employment opportunities for the previously excluded group. The dominant purpose of employment equity programs is always to improve the situation of the target group in the future. MacGuigan J. stressed in his dissent that "the prevention of systemic discrimination will reasonably be thought to require systemic remedies" (p. 120).

Systemic remedies must be built upon the experience of the past so as to prevent discrimination in the future. Specific hiring goals, as Hugessen J. recognized, are a rational attempt to impose a systemic remedy on a systemic problem. The Special Temporary Measures Order of the Tribunal thus meets the requirements of s. 41(2)(a) of the Canadian Human Rights Act.

It is a "special program, plan or arrangement" within the meaning of s. 15(1) and therefore can be ordered under s. 41(2)(a). The employment equity order is rationally designed to combat systemic discrimination in the Canadian National St. Lawrence Region by preventing "the same or a similar practice occurring in the future". (*Action Travail des femmes*, at pp 1145-46).

[70] The Panel has relied on several occasions on the principles established by the Supreme Court of Canada in *Action Travail des femmes*, see for example: 2016 CHRT 2 at para. 468; 2016 CHRT 10, at para. 12-18; 2018CHRT 4, at para. 21-39; 2019 CHRT 39, at para. 97.

[495] Furthermore, no concept of removing ordered entitlements suggested by the AFN and Canada is found in the *CHRA* itself, the spirit of the *CHRA* or a proper human rights analysis. A careful consideration of the Panel’s work in this case makes clear the Panel views its role under the *CHRA* as proactive to eliminate and prevent discrimination, not make orders and take them away.

[496] In 2021 CHRT 6, the Tribunal wrote:

[61] To the contrary, in the interpretation of the *CHRA*, it is important to take into account the purpose of the *CHRA*, that is to extend the present laws in Canada as set forth in section 2 in order to give effect to the principle that every human being should be given equal opportunity to live his or her life without discrimination (*Action Travail des femmes*, at p 1133). It should be recalled that human rights legislations are intended to give effect to rights of vital importance, ultimately

enforceable by a court of law (*Action Travail des femmes*, at p 1134). As a result, while the meaning of the words of the *CHRA* is important, rights must be given full recognition and effect (*Action Travail des femmes*, at p 1134). This is also in line with the federal Interpretation Act, RSC 1985, c I-21, according to which statutes are deemed remedial and thus, must receive a fair, large and liberal interpretation with a view to give effect to their objects and purpose (*Action Travail des femmes*, at p 1134).

[62] This comprehensive method of interpretation of human rights legislation was first stated in *Insurance Corporation of British Columbia v. Heerspink*, 1982 CanLII 27 (SCC), [1982] 2 S.C.R. 145, where Justice Lamer acknowledged the fundamental nature of human rights legislation: they are “not to be treated as another ordinary law of general application. It should be recognized for what it is, a fundamental law” (*Action Travail des femmes*, at pp 1135-36, citing Heerspink, at p. 158). This principle of interpretation was later confirmed and further articulated in *Winnipeg School Division No. 1 v. Craton*, 1985 CanLII 48 (SCC), [1985] 2 S.C.R. 150, at p. 156, where Justice McIntyre, writing for a unanimous Court, stated that:

Human rights legislation is of a special nature and declares public policy regarding matters of general concern. It is not constitutional in nature in the sense that it may not be altered, amended, or repealed by the Legislature. It is, however, of such nature that it may not be altered, amended, or repealed, nor may exceptions be created to its provisions, save by clear legislative pronouncement. (cited in *Action Travail des femmes*, at 1136).

[65] These principles must equally be applied when interpreting the remedial powers granted to the Tribunal under the *CHRA*.

[497] An analysis of section 53 of the *CHRA* where the Tribunal has recognized victims/survivors in its orders and can change its mind later for the reasons advanced in this motion including unproven financial constraints is not appropriate and does not keep with the SCC’s reasons in *Action Travail des femmes*.

[498] The Tribunal cannot make the alternative order requested to amend its previous orders to conform to the FSA or to elevate the FSA over the Tribunal’s orders in case of conflict. The Tribunal reaches this conclusion after considering the **applicable case law discussed, the *CHRA* and human rights regime all discussed above, its previous findings and its previous orders.**

[517] This does not dispose of the Tribunal's retained jurisdiction to ensure systemic

discrimination is eliminated. Canada cannot contract out the Tribunal’s quasi-constitutional responsibility to eliminate the discrimination found and prevent similar discriminatory practices from arising. **It has to occur after an evidence-based finding that satisfies the Tribunal that discrimination is eliminated and prevented from reoccurring or on consent of all, not just some, parties** in the Tribunal proceedings and based on compelling evidence that the systemic racial discrimination will be eliminated (...).

2022 CHRT 41: [181] Of note, this finding was made on the evidence presented that linked the increased sustainable prevention funding and **community-based programs** with the ceasing of removals of children from their homes, families and communities:

[149] The above findings demonstrate the need for culturally appropriate and safe prevention services that address the key drivers resulting in First Nations children entering care and the need for adequately funded and sustainable prevention services that **are tailored to the distinct needs of First Nations children, families and communities.**

[150] The elimination of the mass removal of children is achievable when a real shift is made from reactive services that bring children into care to preventive services, **especially when prevention services are developed and delivered by the First Nations children's respective First Nations communities.** The evidence provided by the parties demonstrates that this shift will be made possible with the April 1, 2022, implementation of increased prevention funds provided to First Nations and First Nations child and family service providers across Canada.

[151] Finally, the consent orders discussed above are in line with the Panel's findings and orders. The Panel believes the full and timely implementation of those orders will significantly improve the lives of First Nations children, families and communities. (2022 CHRT 8).

2022 CHRT 41

[225] This approach is consistent with the clearly expressed intent by the Tribunal to issue short-term, mid-term and long-term relief and for long-term relief to be informed by the short term and mid-term phases.

[226] The Panel previously wrote in 2018 CHRT 4:

[387] It took years for the First Nations children to get justice. Discrimination was proven. Justice includes meaningful remedies. Surely Canada understands this. The Panel cannot simply make final orders and close the file. The Panel determined that a phased approach to remedies was needed to ensure short term relief was granted first, then long term relief, and reform which takes much longer to implement. The Panel understood that if Canada took 5 years or more to reform the Program, there was a crucial need to address discrimination now in the most meaningful way possible with the evidence available now.

...

[415] The Panel also recognizes that in light of its orders, and the fact that data collection will be further improved in the future and the NAC's work will progress more adjustments will need to be made as the quality of information increases.

[227] The Tribunal has clearly expressed on a number of occasions that it will retain jurisdiction until sustainable long-term relief and reform has been addressed in a way that is responsive to the Tribunal's findings and role to eliminate the discrimination found and prevent its reoccurrence or similar discriminatory practices to arise. The Tribunal has always focused on the need to uphold the principle of substantive equality considering the specific needs of First Nations children, families, communities and Nations as an integral part of eliminating the systemic discrimination found. Those specific needs are accounted for in First Nations-led and designed prevention programs for example.

[230] The Tribunal considered the request for compensation by direct and specific reference to the evidence in this case. This fundamental tenet of justice was underscored by the Federal Court in its upholding of the Tribunals' orders, concluding that the Tribunal's jurisdiction to make the orders flowed **not only from the parameters and objectives of the CHRA, but also from the evidentiary foundation upon which the Tribunal grounded its decisions:**

Ultimately, the Compensation Decision is reasonable because the *CHRA* provides **the Tribunal with broad discretion to fashion appropriate remedies to fit the circumstances.** To receive an award, the victims did not need to testify to establish individual harm. The Tribunal already had extensive evidence of Canada's discrimination; the resulting harm experienced by First Nations children and their families (the removal of First Nations children from their homes); and Canada's knowledge of that harm. Further, the Tribunal did not turn the proceedings into a class action because the nature and rationale behind the awards are different from those ordered in a class action. From the outset, First Nations children and families were the subject matter of the complaint and Canada always knew that the Respondents were seeking compensation for the victims. If Canada wanted to challenge these aspects of the Complaint, it should have done so earlier. Canada may not collaterally attack the Merit Decision or other decisions in this proceeding.

(2021 FC 969 at para. 231, emphasis added).

[268] Furthermore, in determining if the victims/survivors will be compensated, the Tribunal **cannot divorce the task from the evidence and findings that warrant the remedy (...).**

Experts, First Nations perspectives, studies

[7] Dr. Cindy Blackstock

"...Respecting the right of First Nations to be self-determining, I believe that First Nations ought to have the right to make a free, prior and informed choice

about which funding approaches, policies and practices, including those arising from the Tribunal proceedings, ought to apply.”

2022 CHRT 8

[30–33] Dr. Blackstock & IFSD

“While the Panel has considered all the materials, it finds Dr. Cindy Blackstock’s affidavit reliable given her expert knowledge of the matters at hand... Dr. Blackstock provides a concise and very useful outline of this order request indicating that:

...Canada has agreed to reform the FNCFS Program to reflect a performance-informed budgeting approach, with consideration of the well-being outcome indicators defined in the IFSD Measuring to Thrive framework... The Reformed Funding Approach must be based on evidence informed principles including the following:

- a. Funding will be provided... based on evidence informed well-being indicators for First Nations children, youth, and families...
- b. The well-being indicators will facilitate reliable data collection at a community, regional and national level to inform best practices and improve federal child welfare policies...
- c. Funding will be based on a bottom-up budgeting approach...
- d. Funding will address the structural drivers of the over-representation as well as culturally based child welfare services.

[33] Dr. Blackstock further affirms that: ...The Measuring to Thrive framework is a results-based tool to plan, monitor, and assess the performance of policies and programs, against the goal of thriving First Nations children, families and First Nations... Implementation of the performance-based budgeting framework... **will center funding levels and structures on the needs of children, youth and families...**”

2022 CHRT 8

[114–117] The Panel entirely agrees with this wise approach to prevention reform proposed by the parties in order to **generate real and lasting systemic change**. Moreover, the evidence filed supports this finding.

This success story is referenced in Stephanie Wellman’s affidavit and also included in the IFSD report #1, Enabling Children to Thrive filed in evidence. The report states that a case for prevention is clear from both FNCFS agency cases and from existing research. **The unanimity from agencies and experts on the importance and need for a focus on prevention services and funding to match cannot be overemphasized...**

...The Tribunal notes that **Carrier Sekani Family Services has developed a prevention model informed by its own research and experience, implementing a unique integration of health and social services across the life cycle.**

2022 CHRT 8 at para.36:

In 2018 CHRT 4 at para. 236 the Tribunal ordered that its immediate to mid-term orders will remain in effect:

Until such time as one of the options below occur:

1. Nation (Indigenous)-to Nation (Canada) agreement respecting self-governance to provide its own child welfare services.
2. Canada reaches an agreement that is Nation specific even if the Nation is not yet providing its own child welfare services and the agreement is more advantageous for the Indigenous Nation than the orders in this ruling.
3. **Reform is completed in accordance with best practices recommended by the experts including the NAC** and the parties and interested parties, and Eligibility of reimbursements from prevention/least disruptive measures, building repairs, intake and investigations and legal fees services are no longer based on discriminatory funding formulas or programs.
4. Evidence is brought by any party or interested party to the effect that readjustments of this order need to be made to overcome specific unforeseen challenges and is accepted by the Panel.

2022 CHRT 8 at paragraph 88:

As set out in Dr. Blackstock's affidavit dated March 4, 2022:

48. The NAC has considered necessary reforms of ISC and reforms within the Government of Canada. In its Interim Report of the National Advisory Committee on First Nations Child and Family Services Program Reform, January 2018 [see Exhibit I attached to Dr. Blackstock's affidavit], the NAC makes several recommendations regarding internal reform, training, and education, including the following:

a. A comprehensive 360 evaluation of ISC's FNCFS Program and Jordan's Principle must be completed to ensure it is fulfilling the Treasury Board Authorities and is compliant with the law and Canada's commitment to the Truth and Reconciliation Commission (TRC) Calls to Action. **Such an evaluation should include consultation with First Nations leadership, FNCFS Agencies and experts such as provincial/territorial child advocates.** The evaluation can inform the reformulation of ISC and Indigenous Crown Relations. This evaluation should be made public, and the evaluation team/group will be selected jointly by First Nations leadership and Canada. These evaluations should be done every 4 years to ensure ongoing compliance (see p. 17).

50. From the Caring Society's perspective, reform of ISC is critical to sustainable and equitable long-term reform. In addition to the recommendations made by the NAC, the Caring Society will continue to advocate for full ISC reform including: (a) ensuring that ISC staff have proper credentials in First Nations child and family services, children's health, education and social services; (b) implementing employee performance and incentive programs linked to **ensuring non**

discrimination and alignment with human rights law, including but not limited to the United Nations Convention on the Rights to the Child (with attention to General Comment No. 11) and UNDRIP; and (c) adoption and implementation of the Spirit Bear Plan to address all inequities in federally funding public services. The Spirit Bear plan was introduced as an exhibit to the cross examination of Sony Perron (then Associate Deputy Minister at Indigenous Services Canada) on May 9, 2018, and a copy is attached to Dr. Blackstock's affidavit as Exhibit "J".

[89] The Panel accepts the above and finds this is consistent with the evidence and history in this case. For example, in the Merit Decision, the Panel wrote:

449] The CRC's monitoring body, the CRC Committee, stressed the importance of culturally appropriate social services for indigenous children (see General Comment No. 11, February 12, 2009 (CRC/C/GC/11) at para. 25).

[2] In 2016, the Tribunal released its *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 2 [Merit Decision] and found that this case is about children and how the past and current child welfare practices in First Nations communities on reserves, across Canada, have impacted and continue to impact First Nations children, their families and their communities. The Tribunal found that Canada racially discriminated against First Nations children on reserve and in the Yukon in a systemic way not only by underfunding the FNCFS Program but also in the manner that it designed, managed and controlled it. One of the worst harms found by the Tribunal was the FNCFS Program creating incentives to remove First Nations from their homes, families and communities. Another major harm to First Nations children was that zero cases were approved under Jordan's Principle given the narrow interpretation and restrictive eligibility criteria developed by Canada. The Tribunal found that more than just funding, there is a need to refocus the policy of the program to respect human rights principles and sound social work practice in the best interest of children. The Tribunal ordered Canada to cease the discriminatory practice, take measures to redress and prevent it from reoccurring, and reform the FNCFS Program and the 1965 Agreement in Ontario to reflect the findings in the Merit Decision. The Tribunal determined it would proceed in phases for immediate, mid-term and long-term relief so as to allow immediate change followed by adjustments and finally, **sustainable long-term relief informed by data collection, new studies and best practices as identified by First Nations experts, the specific needs of First Nations communities and of First Nations Agencies, the National Advisory Committee on child and family services reform and the parties**

2022 CHRT 41

[225] This approach is consistent with the clearly expressed intent by the Tribunal to issue short-term, mid-term and long-term relief and for long-term relief to be informed by the short term and mid-term phases.

[226] The Panel previously wrote in 2018 CHRT 4:

[415] The Panel also recognizes that **in light of its orders, and the fact that data collection will be further improved in the future and the NAC's work will progress, more adjustments will need to be made as the quality of information increases.**

Should you have any questions, please do not hesitate to contact the Registry Office by e-mail at registry.office@chrt-tcdp.gc.ca or by fax at 613-995-3484.

Yours truly,

Judy Dubois
Digitally signed by Judy Dubois
Location: Ottawa, Ontario Canada
Date: 2025.09.17 08:30:26-04'00'

Judy Dubois
Registry Officer

DISTRIBUTION LIST

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Counsel for Amnesty International

This is Exhibit “E” referred to in the Affidavit of Jasmine Kaur affirmed by Jasmine Kaur of the City of Brampton, in the Regional Municipality of Peel, before me at the City of Ottawa, in the Province of Ontario, on September 9, 2026 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

Zsuzsanna Terezia Gutteridge, a Commissioner, etc.,
Province of Ontario, for Conway Baxter Wilson LLP/s.r.l.,
Barristers and Solicitors.
Expires August 27, 2027.



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Via Titanfile

Our File Number: LEX-500219273

December 22, 2025

Canadian Human Rights Tribunal
240 Sparks Street, 6th Floor West
Ottawa, Ontario K1A 1J4

Dear Members Marchildon and Lustig:

**Re: First Nations Child and Family Caring Society of Canada et al. v.
the Attorney General of Canada et al.
Tribunal File: T1340/7008
2025 CHRT 80 – Canada’s National Plan for Long Term Reform**

In accordance with the Tribunal’s August 20, 2025 Ruling, 2025 CHRT 80, please find attached the following:

- Canada’s National Plan on Long-Term Reform and Requested Remedies Outside Ontario;
- Affidavit of Duncan Farthing Nichol, affirmed December 22, 2025;
- Affidavit of Kyle McKenzie, affirmed on December 22, 2025;
- Affidavit of Kirsten Mattison, affirmed on December 22, 2025;
- Affidavit of Richard Goodyear, affirmed on December 22, 2025; and
- Affidavit of Lisa Smylie, affirmed on December 22, 2025.

Canada’s National Plan contemplates providing the Tribunal with updated evidence in October 2026, with the matter being heard and decided before April 1, 2027. Canada is endeavouring to work with the other parties on a mutually agreeable procedural schedule towards a timely hearing. In the meantime, we suggest that a Case Management Conference Call in early January 2026 may be of assistance.

Sincerely,

Dayna Anderson
Senior General Counsel

Encls.

CC:

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Docket: T1340/7008

CANADIAN HUMAN RIGHTS TRIBUNAL

B E T W E E N :

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA and
ASSEMBLY OF FIRST NATIONS**

Complainants

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

ATTORNEY GENERAL OF CANADA
(representing the Minister of Indigenous Services Canada)

Respondent

- and -

**CHIEFS OF ONTARIO and
AMNESTY INTERNATIONAL CANADA and NISHNAWBE ASKI NATION**

Interested Parties

**Canada's National First Nations Child and Family Services
Long-Term Reform Plan and Requested Remedies Outside Ontario**

Caveat: This plan is filed by the Attorney General of Canada, representing the Minister of Indigenous Services Canada, in compliance with this Tribunal's orders in 2025 CHRT 80, but is expressly provided with prejudice to the outcome of Canada's related judicial review application in *Attorney General of Canada v. First Nations Child and Family Caring Society of Canada et al*, Federal Court File No. T-3594-25.

This is Exhibit “F” referred to in the Affidavit of Jasmine Kaur affirmed by Jasmine Kaur of the City of Brampton, in the Regional Municipality of Peel, before me at the City of Ottawa, in the Province of Ontario, on September 9, 2026 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

Zsuzsanna Terezia Gutteridge, a Commissioner, etc.,
Province of Ontario, for Conway Baxter Wilson LLP/s.r.l.,
Barristers and Solicitors.
Expires August 27, 2027.

FASKEN

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May 19, 2026

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Canadian Human Rights Tribunal
240 Sparks Street, 6th Floor West
Ottawa, ON K1A 1J4
Attn: Registrar

Dear Registrar and Tribunal:

Re: First Nations Child and Family Caring Society of Canada, Assembly of First Nations v. Attorney General of Canada, et al. - Tribunal File: T1340/7008

I write on behalf of the Assembly of First Nations (“AFN”), jointly with the First Nations Child and Family Caring Society of Canada (“**Caring Society**”) with respect to timetabling on the national long-term reform matter. Counsel for Canada have had an opportunity to review a draft of this letter.

Further to your oral direction during the case management conference on April 30, 2026, as well as your further written directions dated May 5, 2026 and May 12, 2026, the AFN, Caring Society, and Canada have engaged in additional discussions with respect to scheduling the remaining steps in this proceeding.

These negotiations have successfully culminated in a mutually acceptable timetable proposal. The proposed timetable is appended as Annex “A” to this letter. Please note that the proposed schedule does not adopt the term “regional settlement agreements” that was used in the Tribunal’s May 5, 2026 direction, as the AFN and the Caring Society are of the view that Canada cannot “settle” the complaint with non-parties. These are instead referred to as regional agreements, as part of the plan that Canada is submitting with respect to the final orders to dispose of this part of the complaint. Canada does not agree with this characterization.

Amongst other things, the Parties jointly propose an oral evidence hearing of up to ten days over the weeks of January 11 and 18, 2027 (subject to the Tribunal’s availability) and that oral submissions be heard, also subject to the Tribunal’s availability, on March 8-10, 2027.

Canada has advised that it is of utmost importance to it that a hearing be held prior to April 1, 2027, as that is the beginning of its fiscal year and when it seeks to implement its plan. The AFN and the Caring Society are cognisant of the Tribunal’s January 27, 2026 direction that it would not be bound to a two-month timeline to render a decision. While both the AFN and Caring Society welcome a hearing and a decision on long-term reform remedies as soon as possible, they do not seek to impose a specific timeframe on the Tribunal’s decision. Canada recognizes that it may not

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be possible for the Tribunal to rule by April 1, 2027, but wishes to leave it open to the Tribunal to do so.

The January dates have been canvassed with counsel for the interested parties (Chiefs of Ontario, Amnesty International, Nishnawbe Aski Nation, Assembly of Manitoba Chiefs, Southern Chiefs' Organization, Our Children Our Way Society, Assembly of First Nations Quebec-Labrador and First Nations of Quebec and Labrador Health and Social Services Commission, and the National Children's Chiefs Commission. COO, NAN, AMC, OCOW and the NCCC are available for these January dates, while AFNQL/FNQLHSSC confirmed availability but indicated a preference for weeks other than the week of January 11. Counsel for SCO are not available on January 11-12. No response was received from Amnesty International.

Given that agreement on the proposed timetable was reached over the Victoria Day long weekend, counsel have not yet had the occasion to canvass the proposed filing dates or the proposed March 8-10, 2027 hearing dates with the interested parties. We have also not had the opportunity to seek the Canadian Human Rights Commission's position on this schedule.

In the process of canvassing the January dates, counsel for COO and NAN also indicated they would agree to participate in the annexed timetable in this matter on the same basis as other admitted interested parties and to abide by the parameters established in the Tribunal's direction dated May 5, 2026, with respect to filing affidavit evidence and participating in the evidentiary portion of the hearing. Furthermore, COO and NAN have advised that their materials and submissions would be confined to Ontario-related issues and issues relating to Jordan's Principle, to the extent that such issues are identified by COO and NAN.

Finally, I can advise that all of the AFN, Caring Society, Canada, Commission, COO and NAN are available on Friday, June 5, 2026 from 2:00 PM to 3:00 PM Eastern, or from 4:00 PM to 5:00 PM Eastern to continue the discussion regarding next steps on interim items related to Jordan's Principle, which was commenced at the April 30, 2026 case management conference.

We thank the Tribunal in advance for your attention to this matter and look forward to receiving your direction with respect to the timetable.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP



Peter Mantas

Cc:

David Taylor, Henna Mohan, and Sarah Clarke – Counsel for the First Nations Child and Family Caring Society of Canada

FASKEN

Dayna Anderson, Paul Vickery, Sarah Bird and Alicia Dueck-Read – Counsel for the Attorney General of Canada

Maggie Wenté, Sinéad Dearman, Jenna Rogers, Jessie Stirling-Voss, Ashley Ash, and Katelyn Johnstone – Counsel for the Chiefs of Ontario

Julian Falconer and Meaghan Daniel – Counsel for the Nishnawbe Aski Nation

Justin Safayeni, Stephen Aylward and Geneviève Citron – Counsel for Amnesty International

Harold Cochrane, K.C. and Alyssa Cloutier – Counsel for the Southern Chiefs' Organization Inc.

Carly Fox and Jason Erbeznik – Counsel for the Assembly of Manitoba Chiefs

Alexandra Heine and Dan Goudge – Counsel for Our Children, Our Way Society

Pierre-Simon Cleary and Sophie Gagné – Counsel for the First Nations of Quebec and Labrador Health and Social Services Commission and the Assembly of First Nations Quebec-Labrador

Liam Smith, Tuma Young, K.C., Scott Smith, Alexander DeParde – Counsel for the National Children's Chiefs Commission

Anshumala Juyal and Khizer Pervez – Counsel for the Canadian Human Rights Commission



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Annex A

Friday, June 5, 2026 (Revised Plans): Deadline for Canada, AFN and/or Caring Society to file a revised plan (if any).

Monday, July 27, 2026 (Caring Society/AFN Supplemental Affidavit Evidence): Deadline for Caring Society/AFN to file supplemental affidavit evidence restricted to an update on their presentation to the AFN Annual General Assembly.

Monday October 5, 2026 (Canada Supplemental Evidence): Deadline for Canada to file supplemental affidavit evidence restricted to:

1. update on the status of regional negotiations; and
2. updates to proposed National Framework, including further co-developments, modifications or supplements required by regional long-term FNCFS Program reform agreements.

Monday, October 5, 2026 (Interested Party Motions): Deadline for proposed interested parties, if any, to file motions and written submissions for interested party status with respect to the national long-term reform plans (outside Ontario)

Monday October 19, 2026 (Interested Party Motions – Responding Written Submissions): Deadline for Caring Society/AFN and Canada to file written submissions in response to any motions for interested party status.

Friday, October 23, 2026 (Interested Party Motions - Reply): Deadline for proposed interested parties, if any, to file reply written submissions with respect to their motions for interested party status.

Monday November 23, 2026 - Based on the Tribunal's direction of May 5, 2026, this is the date the Tribunal approximates it will be able to issue a decision on interested party status motions.

Friday, November 27, 2026: Subject to further direction from the Tribunal, deadline for all interested parties to file evidence regarding long term reform. The Parties jointly propose that this deadline be communicated by the Registry to any new interested parties who file a motion for interested party status prior to October 5, 2026 immediately after their motion is filed.

Monday December 14, 2026 - (Reply Affidavit Evidence):

- Deadline for Canada and AFN/Caring Society to file evidence, if any, responding to the other party's plan filed on December 22, 2025 and June 5, 2026;
- Deadline for Canada and AFN/Caring Society to file evidence, if any, responding to the November 27, 2026 affidavit evidence of the interested parties;
- Deadline for Canada to file evidence, if any, responding to the AFN/Caring Society's July 27, 2026 affidavit evidence;
- Deadline for AFN/Caring Society to file evidence, if any, responding to Canada's October 5, 2026 affidavit evidence.

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Monday, January 11, 2026 to Friday, January 22, 2026 (Examinations): Each party, including interested parties, may present evidence, including a summary of the evidence filed through evidence-in-chief, and/or conduct cross-examinations and re-examinations, subject to further direction of the Tribunal.

- The Parties jointly submit that the number of days required for the evidentiary portion of the proceedings may need to be revisited at a later point depending on the volume of evidence that arrives via interested parties.

Tuesday, February 16, 2027 (Written Submissions): Deadline for the AFN/Caring Society, Canada and any parties who are granted interested party status to file written submissions

Friday, February 26, 2027 (Reply Written Submissions): Deadline for Caring Society/AFN and Canada and interested parties to file reply written submissions

Monday, March 8, 2027 to Wednesday, March 10, 2027 - subject to availability of the Tribunal – oral submissions by all parties and interested parties.

- AFN/Caring Society: one day.
- Canada: one day.
- Interested Parties: half day.
- Reply for AFN/Caring Society and Canada: half day.

This is Exhibit “G” referred to in the Affidavit of Jasmine Kaur affirmed by Jasmine Kaur of the City of Brampton, in the Regional Municipality of Peel, before me at the City of Ottawa, in the Province of Ontario, on September 9, 2026 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

Zsuzsanna Terezia Gutteridge, a Commissioner, etc.,
Province of Ontario, for Conway Baxter Wilson LLP/s.r.l.,
Barristers and Solicitors.
Expires August 27, 2027.

Canadian Human
Rights Tribunal



Tribunal canadien
des droits de la personne

Ottawa, Canada, K1A 1J4

May 22, 2026 / le 22 mai 2026

By e-mail / par courriel

**Re: First Nations Child and Family Caring Society et al. v. Attorney General of Canada
Tribunal File: T1340/7008**

**Société de soutien à l'enfance et à la famille des Premières Nations du Canada et autres
c. Procureur général du Canada
Dossier du Tribunal : T1340/7008**

Dear Parties,

The Tribunal is in receipt of the proposed timetable dated May 19, 2026.

1- The Panel agrees and accepts the timetable submitted by the parties, subject to the following instructions:

Period to rule on potential interested party motions

The one-month period to rule on potential interested party motions is limited to regional agreements between First Nations in a region and Canada. While the Tribunal agrees that non-parties cannot settle the complaint with Canada and that the term regional settlement agreements may be referred to as regional agreements, this is not reflected in your proposed timetable. Given that parties often publish documents online, if the terms remain as proposed, it could convey the message that any group could still file a motion and have it considered within one month. This is not what the Tribunal has decided.

The Tribunal already has sufficient parties to assist it in determining the matter. This deadline applies only to those who will be part of a regional agreement with Canada. This is what informed the Tribunal's approximate timeline. It is the Tribunal's view that the likelihood of granting interested party status to a moving party that has concluded a regional agreement with Canada is high, given the importance of hearing from parties to the regional agreement and the assistance such participation could provide to the Tribunal. This is the context for this point.

2- Hearing days

With respect to hearing days, if all parties and interested parties can agree, this is ideal. However, the Tribunal has been clear that newly added interested parties will have to abide by the Tribunal's timelines. Newly interested parties cannot impose or delay hearing dates.

Moreover, interested parties have submitted that they would comply with all Tribunal deadlines, and the Tribunal issued orders to ensure this. Moreover, the hearing dates proposed by the parties are not next month, they are in 2027.

These proceedings involve many parties, and finding common dates for both the Tribunal and the parties is already challenging, let alone if one or two limited interested parties are unavailable. Interested parties are there to assist the Tribunal in determining the matter, not to hinder the scheduling of hearing days.

3- Timetable for issuance of a decision following oral arguments

The latter part of the OFA hearing timetable proved challenging and left the Tribunal with little time to consider the OFA joint motion. The Tribunal, out of deep concern and love for First Nations children, families and Nations in Ontario, diligently and without pause, to issue a letter decision to ensure that one year of funding would not be lost. This was challenging. In retrospect, the Tribunal will not agree to accommodate parties' schedules when doing so places undue pressure on the Tribunal to issue a decision within an unreasonable timeframe.

Moreover, given the recent developments and the prospect of an even larger decision outside Ontario, the Tribunal may opt to issue full reasons in due course rather than a letter decision.

The Tribunal is available on all the dates proposed and would like to schedule a Case management conference call on June 5, 2026, from 2 to 3 pm EDT, to discuss Jordan's Principle interim issues. The Tribunal will send an invitation with an agenda and information to join the CMCC shortly.

4- Ruling with reasons FNQLHSSC-AFNQL

The Tribunal has completed its ruling with reasons on the FNQLHSSC-AFNQL joint motion in English to ensure that both members of the formation could fully review and understand it. The ruling will be sent shortly for expedited translation into French.

The Tribunal will be in a position to release the ruling to the parties once the French translation is completed, unless the joint moving parties advise the Tribunal that they would prefer to receive an English version on Monday, May 25, 2026, while awaiting the French translation.

Cher(ère)s parties,

Le Tribunal a reçu l'échéancier proposé daté du 19 mai 2026.

1- La formation du Tribunal accepte l'échéancier soumis par les parties, sous réserve des instructions suivantes :

Période pour statuer sur les éventuelles requêtes en qualité de partie intéressée

La période d'un mois prévue pour statuer sur les éventuelles requêtes en qualité de partie intéressée est limitée aux ententes régionales conclues entre les Premières Nations d'une région et le Canada. Bien que le Tribunal convienne que des non-parties ne peuvent régler la plainte avec le Canada et que le terme ententes de règlement régionales puisse être désigné comme ententes régionales, cela ne ressort pas de l'échéancier proposé. Étant donné que les parties publient souvent des documents en ligne, si les termes demeurent tels que proposés, cela pourrait laisser entendre que tout groupe pourrait encore déposer une requête et la voir examinée dans un délai d'un mois. Ce n'est pas ce que le Tribunal a décidé.

Le Tribunal compte déjà un nombre suffisant de parties pour l'aider à trancher l'affaire. Ce délai s'applique uniquement à ceux qui feront partie d'une entente régionale avec le Canada. C'est ce qui a guidé l'échéancier approximatif d'un mois du Tribunal. De l'avis du Tribunal, la probabilité d'accorder le statut de partie intéressée à une partie requérante ayant conclu une entente régionale avec le Canada est élevée, compte tenu de l'importance d'entendre les parties à l'entente régionale et de l'aide qu'une telle participation pourrait apporter au Tribunal. Tel est le contexte de ce point.

2- Journées d'audience

En ce qui concerne les journées d'audience, si toutes les parties et parties intéressées peuvent s'entendre, cela est idéal. Toutefois, le Tribunal a clairement indiqué que les nouvelles parties intéressées devront respecter les échéanciers du Tribunal. Les nouvelles parties intéressées ne peuvent imposer ou retarder les dates d'audience. De plus, les parties intéressées ont indiqué qu'elles se conformeraient à tous les délais fixés par le Tribunal, et celui-ci a rendu des ordonnances à cette fin. Par ailleurs, les dates d'audience proposées par les parties ne sont pas prévues le mois prochain, mais en 2027.

La présente instance implique de nombreuses parties, et il est déjà difficile de trouver des dates convenant à la fois au Tribunal et aux parties, sans compter la disponibilité d'une ou deux parties intéressées limitées. Les parties intéressées sont présentes pour aider le Tribunal à trancher l'affaire, et non pour nuire à la planification des journées d'audience.

3- Échéancier pour le prononcé d'une décision à la suite des plaidoiries orales

La dernière partie de l'échéancier de l'audience relative à l'OFA s'est révélée difficile et a laissé au Tribunal peu de temps pour examiner la requête conjointe relative à l'OFA. Le Tribunal, animé d'une profonde préoccupation et d'un profond attachement envers les enfants, les familles et les Nations des Premières Nations en Ontario, a travaillé avec diligence et sans interruption afin de rendre une décision par lettre pour veiller à ce qu'une année de financement ne soit pas perdue. Cela a été difficile. Avec le recul, le Tribunal

n'acceptera pas d'accommoder les horaires des parties lorsque cela exerce une pression induite sur lui afin de rendre une décision dans un délai déraisonnable.

De plus, compte tenu des développements récents et de la perspective d'une décision encore plus vaste à l'extérieur de l'Ontario, le Tribunal pourrait choisir de rendre des motifs complets en temps opportun plutôt qu'une décision par lettre.

Le Tribunal est disponible à toutes les dates proposées et souhaite tenir une Conférence de gestion de cas le 5 juin 2026, de 14 h à 15 h (HAE), afin de discuter des questions intérimaires liées au Principe de Jordan. Le Tribunal transmettra sous peu une invitation accompagnée d'un ordre du jour et des renseignements nécessaires pour participer à la Conférence de gestion de cas.

4- Décision motivée de la CSSSPNQL-APNQL

Le Tribunal a terminé sa décision motivée sur la requête conjointe du CSSSPNQL-APNQL en anglais afin de veiller à ce que les deux membres de la formation puissent l'examiner et la comprendre pleinement. La décision sera transmise sous peu pour une traduction accélérée vers le français.

Le Tribunal sera en mesure de communiquer la décision aux parties une fois la traduction française terminée, à moins que les parties requérantes conjointes n'informent le Tribunal qu'elles préfèrent recevoir une version anglaise le lundi 25 mai 2026, dans l'attente de la traduction française.

Yours truly / Salutations cordiales,

**Wiebe,
Amanda**

Digitally signed by
Wiebe, Amanda
Date: 2026.05.22
10:53:35 -04'00'

Amanda Wiebe
Registry Officer / Agent du greffe

TAB 3

Court File No. T-3594-25

FEDERAL COURT

B E T W E E N:

ATTORNEY GENERAL OF CANADA

APPLICANT

and

FIRST NATIONS CHILD & FAMILY CARING SOCIETY OF
CANADA, ASSEMBLY OF FIRST NATIONS, CANADIAN
HUMAN RIGHTS COMMISSION, CHIEFS OF ONTARIO,
NISHNAWBE ASKI NATION and AMNESTY INTERNATIONAL
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OVERVIEW

1. This motion seeks an order striking or dismissing this application for judicial review (“the Application”), brought by the Attorney General of Canada, on the ground of prematurity. The Application challenges an interlocutory decision of the Canadian Human Rights Tribunal (“CHRT”), made in the context of the remedial phase of a complex and ongoing proceeding under the *Canadian Human Rights Act*. The impugned decision does not determine the rights of the parties. On the contrary, it was issued to facilitate the next steps in the on-going fashioning of appropriate remedies by the CHRT for the long-term reform of First Nations child and family services on-reserve and in the Yukon. In the impugned decision, the CHRT made procedural and forward-looking orders: directing the complainants to undertake consultations, setting timelines for the filing of long-term reform plans, providing Canada with options for its participation in that process, and providing for a case management process. It retained jurisdiction over its orders and expressly signaled that its work regarding long-term reform is ongoing.

2. As the Federal Court of Appeal has repeatedly emphasized, the prohibition against interlocutory judicial review is near-absolute. Only in rare and exceptional circumstances, where immediate and radical consequences threaten the rule of law, may the Court intervene before a tribunal has completed its process. No such circumstances exist here. The CHRT’s record on long-term reform remains open; evidentiary and consultative processes related to long-term reform are still unfolding; the Applicant has every opportunity to raise any objections directly before the CHRT.

3. Permitting this Application to proceed risks fragmenting and derailing the CHRT’s remedial process, undermining the Tribunal’s statutory mandate, and depriving this Court of the benefit of the Tribunal’s accumulated expertise, evidence, and policy judgments. It will remain open to Canada to seek judicial review once the CHRT has completed its work on long-term reform—if, by then, there be any grounds for review.

PART I - STATEMENT OF FACTS

A. The Impugned Decision

4. In January 2016, the CHRT released its decision in *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 2 (the “Merits Decision”), which found that Canada discriminated against First Nations children and families, notably through its provision of child and family services on-reserve and in the Yukon through the First Nations Children and Family Services Program, which was then delivered by the department of Indigenous and Northern Affairs Canada (now, Indigenous Services Canada). The CHRT ordered Canada to cease its discriminatory conduct and reform the FNCFS program to eliminate the discrimination.¹ It phased remedial proceedings to deal first with measures of immediate relief, then with compensation to past victims, and finally with long-term reform to eliminate the discrimination and prevent its recurrence.²

5. From April 2016 to January 2025, the CHRT issued six orders regarding immediate relief related to child and family services on-reserve and in the Yukon,³ seven orders regarding compensation,⁴ six orders regarding Jordan’s Principle,⁵ and one order on consent related to setting the stage for long-term reform.⁶

6. On February 10, 2025, nearly three years after the consent order that was to set the stage for long-term reform, the CHRT advised the parties that it was “seriously considering options to move forward with the long-term remedial phase in accordance with its mandate under the *CHRA*” and directed “the parties to share their views on the

¹ [2016 CHRT 2](#) at para [481](#).

² [2016 CHRT 2](#) at paras [483-484](#), [490](#) and [494](#).

³ [2016 CHRT 10](#); [2016 CHRT 16](#); [2018 CHRT 4](#); [2020 CHRT 24](#); [2021 CHRT 12](#); [2021 CHRT 41](#).

⁴ [2019 CHRT 39](#); [2020 CHRT 7](#); [2020 CHRT 15](#); [2021 CHRT 6](#); [2021 CHRT 7](#); [2022 CHRT 41](#); [2023 CHRT 44](#).

⁵ [2017 CHRT 14](#); [2017 CHRT 35](#); [2019 CHRT 7](#); [2020 CHRT 20](#); [2020 CHRT 36](#); [2025 CHRT 6](#).

⁶ [2022 CHRT 8](#).

above for the Panel’s consideration before it decides next steps.”⁷ The parties exchanged submissions in the following months.⁸

7. On August 20, 2025, the CHRT released 2025 CHRT 80 (the “LTR Process Decision”). In the LTR Process Decision, the CHRT stated that, nearly ten years after the Merits Decision, crucial long-term remedial measures to eradicate discrimination from First Nations child and family services on-reserve and in the Yukon had not been ordered or determined.⁹ The CHRT acknowledged that, while the “ideal solution” would be an agreement by the parties on the appropriate remedial orders related to child and family services on-reserve and in the Yukon,¹⁰ its statutory mandate, as well as the interests of First Nations children, required swiftness in imposing the requisite remedial orders, whether or not such an agreement could be reached.¹¹

8. Thus, the CHRT expressly excluded broader aspects of the proceeding from the LTR Process Decision,¹² focusing instead on obtaining the necessary information that would permit it to craft future orders regarding long-term remedies for child and family services on-reserve and in the Yukon that would be practical, effective, and attuned to the perspectives of those that the orders would affect.¹³

9. With that in mind, the CHRT considered the submissions it had sought from the parties concerning how rapidly to proceed towards the long-term reform of child and family services on-reserve and in the Yukon.¹⁴ Invoking the dialogic approach it has long adopted to fashion remedies in this case, as well as its broad powers and weighty mandate under the *Canadian Human Rights Act*,¹⁵ the CHRT made orders that it deemed necessary to allow it to decide next steps towards the timely finalisation of

⁷ [2025 CHRT 80](#) at [para 11](#).

⁸ [2025 CHRT 80](#) at [para 12](#).

⁹ [2025 CHRT 80](#) at paras [1](#), [6](#), [84](#) and [96](#).

¹⁰ [2025 CHRT 80](#) at [para 105](#).

¹¹ [2025 CHRT 80](#) at paras [11](#), [68](#), [75-76](#), [83-85](#), [89](#), [105-107](#).

¹² [2025 CHRT 80](#) at paras [9](#), [89](#), [97-98](#), [128](#).

¹³ [2025 CHRT 80](#) at paras [9](#), [75-76](#).

¹⁴ [2025 CHRT 80](#) at paras [13-47](#).

¹⁵ [2025 CHRT 80](#) at paras [57-76](#).

long-term remedial measures regarding child and family services on-reserve and in the Yukon.¹⁶

10. Accordingly, the CHRT:

- (a) Determined that it would consider an agreement between Canada and the Interested Parties Chiefs of Ontario and Nishnawbe Aski Nation regarding long-term reform of on-reserve child and family services in Ontario (the “Ontario Agreement”) concurrently, but separately, from national long-term reform of on-reserve child and family services outside of Ontario and in the Yukon, without either being contingent on the other;¹⁷
- (b) Ordered the Assembly of First Nations (“AFN”) and the Caring Society, within four months of the LTR Process Decision, to conduct broad long-term reform consultations, in English and French, with First Nations outside of Ontario, experts, and other interested parties. The order provided that consultations would be conducted in accordance with specified, non-exhaustive, parameters,¹⁸ and would have for their object the development of a comprehensive national long-term FNCFS reform plan, to be filed with the Tribunal along with supporting evidence and materials;¹⁹
- (c) Directed Canada to advise, by August 29, 2025, whether it would meet with the National Children’s Chiefs Commission (“NCCC”) to discuss long-term reform of child and family services on-reserve outside of

¹⁶ [2025 CHRT 80](#) at paras [9](#), [112](#), [115](#).

¹⁷ [2025 CHRT 80](#) at paras [98](#), [122-123](#). The Tribunal ultimately approved the Ontario Agreement via letter decision, with reasons to follow, on March 30, 2026. Canada has sought judicial review of elements of that decision with which it disagrees (Federal Court File No. T-2155-26), though, pursuant to the May 29, 2026 Order of Associate Judge Molgat, that proceeding is in abeyance pending the release of the Tribunal’s full reasons approving the Ontario Agreement.

¹⁸ [2025 CHRT 80](#) at para [113](#).

¹⁹ [2025 CHRT 80](#) at paras [110](#), [120-121](#).

Ontario and in the Yukon, or to reconsider meeting with the AFN and the Caring Society for the same purpose;²⁰

- (d) Provided Canada two options for its participation in the development of proposals for long-term reform of child and family services on-reserve outside of Ontario and in the Yukon:
 - (i) First, the CHRT directed that Canada could choose to engage in the national discussions regarding long-term reform to be conducted by the Caring Society and the AFN, leading, if possible, to a national plan for long-term reform of child and family services on-reserve outside of Ontario and in the Yukon, submitted to the Tribunal on consent of Canada, the Caring Society and the AFN, along with evidence and supporting materials;²¹
 - (ii) Second, the Tribunal directed that if Canada refused to engage in the national discussions regarding long-term reform noted above, or in the event that these discussions did not result in agreement on a national plan for long-term reform of child and family services on-reserve outside of Ontario and in the Yukon, Canada would file, within four months of the LTR Process Decision, its own evidence-based national reform plan, along with supporting materials and evidence;²²
- (e) Ordered the Caring Society, AFN and Canada to provide the Tribunal with monthly progress updates;²³
- (f) Directed that, regardless of whether one national FNCFS long-term reform plan was filed on consent, or whether two competing plans were

²⁰ [2025 CHRT 80](#) at para [119](#).

²¹ [2025 CHRT 80](#) at para [125](#).

²² [2025 CHRT 80](#) at para [126](#).

²³ [2025 CHRT 80](#) at paras [117](#), [124](#).

filed, the parties would have an opportunity to respond to these plans;²⁴ and

- (g) Indicated that a case management conference (“CMC”) would be held to discuss the implementation of the LTR Process Decision, to provide clarifications or answer questions, if necessary, and to address the mechanism for filing reply evidence to the reform plans, and cross-examinations, if need be.²⁵

B. Correspondence Between Canada and the CHRT

11. On August 29, 2025, Canada sent a letter to the CHRT²⁶ (“**Canada’s Letter**”) informing the Tribunal that it had met on two occasions with the NCCC and seeking clarifications and answers to questions about the LTR Process Decision. The Tribunal addressed Canada’s questions and clarification requests in a letter, dated September 12, 2025²⁷ (the “**September 12 Response**”).

12. The questions raised by Canada, and answered by the CHRT, may be summarised as follows:

- (a) **Question:** Canada asked whether the LTR Process Decision had resolved any aspect of a consultation motion made by the Caring Society²⁸ (on which the CHRT had expressly refused to rule in the LTR Process Decision and which was still (and remains) under reserve²⁹).

Answer: The CHRT reiterated that the consultation motion remained undecided;³⁰

²⁴ [2025 CHRT 80](#) at para [130](#).

²⁵ [2025 CHRT 80](#) at paras [97](#), [130](#).

²⁶ Affidavit of Jasmine Kaur affirmed September 9, 2026 [Kaur Affidavit] at Exhibit A: Motion Record [MR], Tab 2, pp 19-24.

²⁷ Kaur Affidavit, Exhibit B: MR, pp 26-35.

²⁸ Kaur Affidavit, Exhibit A: MR, p 19.

²⁹ [2025 CHRT 80](#) at para [9](#).

³⁰ Kaur Affidavit, Exhibit B: MR, p 26.

- (b) **Question:** Canada asked whether the CHRT meant to ask Canada to participate in further meetings with the NCCC.³¹

Answer: The CHRT reiterated that the order was for Canada to inform the CHRT whether it would meet with the NCCC or the Caring Society and the AFN, and that the portion of the order dealing with the NCCC had been complied with;³²

- (c) **Question:** Canada asked whether the CHRT suggested that Canada engage in negotiations with the Caring Society and the AFN in spite of Canada's opposition to doing so, whether such negotiations were required to incorporate the non-exhaustive parameters identified by the CHRT in the LTR Process Decision, whether Canada was required to incorporate these parameters in its own National FNCFS long-term reform plan, and what was the source of these parameters.³³

Answer: The CHRT reiterated that it did not order Canada to consult or negotiate, and that the object of its order was to ensure progress in addressing long-term reform. The CHRT added that the non-exhaustive parameters identified in the LTR Process Decision were to be incorporated in the FNCFS long-term reform plans to be filed, that they did not expand previous CHRT rulings, that the parameters could be found in previous rulings, that any differences were purely terminological, and that the CHRT would provide the parties, by the following week, with a document containing pertinent excerpts from its numerous rulings;³⁴

- (d) **Question:** Despite the lack of any opposition from the Caring Society or the AFN, Canada asked for the source of the CHRT's jurisdiction to

³¹ Kaur Affidavit, Exhibit A: MR, p. 21.

³² Kaur Affidavit, Exhibit B: MR, p. 28.

³³ Kaur Affidavit, Exhibit A: MR, p. 20.

³⁴ Kaur Affidavit, Exhibit B: MR, pp. 29-31.

ask the Caring Society and the AFN to consult non-parties, with or without Canada.³⁵

Answer: The CHRT responded that this order flowed directly from its previous rulings, decisions and findings, and that its jurisdiction to make this order was based on the complaint and the *Canadian Human Rights Act*;³⁶

- (e) **Question:** Canada questioned the adequacy of the four-month deadline for conducting consultations.³⁷

Answer: The CHRT responded that it did not expect every Nation to be consulted, that considerable consultations had already taken place, and that the four months would suffice to seek as many additional perspectives as possible without impeding the CHRT's work;³⁸

- (f) **Question:** Canada asked whether the CHRT intended to implement a process for considering potentially competing long-term FNCFS reform plans.³⁹

Answer: The CHRT reiterated that it would implement such a process, including the filing of evidence and argument, and that it would seek the views of the parties on this subject.⁴⁰

C. Amendment of the LTR Process Decision

13. On September 17, 2025, the CHRT provided the parties with the compilation of excerpts referenced in the September 12 Response,⁴¹ and provided an amended copy of the LTR Process Decision, in which two words ("some of") had been removed from

³⁵ Kaur Affidavit, Exhibit A: MR, p. 21.

³⁶ Kaur Affidavit, Exhibit B: MR, pp. 31-32.

³⁷ Kaur Affidavit, Exhibit A: MR, p. 22.

³⁸ Kaur Affidavit, Exhibit B: MR, p. 33.

³⁹ Kaur Affidavit, Exhibit A: MR, p. 22.

⁴⁰ Kaur Affidavit, Exhibit B: MR, p. 34.

⁴¹ Kaur Affidavit, Exhibit C: MR, p. 37.

the phrase “[t]he Tribunal, in issuing the following orders, establishes non-exhaustive parameters, [~~some of~~] which have been referenced in prior rulings” in paragraph 113.⁴² The CHRT later released editorial revisions to the LTR Process Decision on October 29, 2025.⁴³

D. The Present Application

14. On September 19, 2025, Canada brought the present application, seeking an order setting aside the LTR Process Decision. Canada also seeks an order removing the complaint from the Panel that has been seized of it for the last thirteen years, as it asks that the LTR Process Decision be remitted to a differently constituted panel of the CHRT.⁴⁴

15. Canada’s Notice of Application for judicial review is sparse and fails to comply with Rule 301(e) of the *Federal Courts Rules*, as the extent of the grounds to be argued are covered in the following boiler plate terms:

5. In issuing the Decision, the Tribunal breached natural justice and the duty of fairness;

6. The Decision was unreasonable because the Tribunal:

- a. unreasonably interpreted its statutory authority;
- b. ordered unreasonable remedies;
- c. unreasonably exercised its discretion;
- d. unreasonably failed to consider evidence and submissions;

16. While the Caring Society does not require further particulars of Canada’s judicial review given that the interlocutory nature of the LTR Process Decision is clear on its face, it notes that Canada’s choice to limit its pleading to sparse allegations, with no particulars, has been described as a practice that is “unfairly prejudicial” and “wrong

⁴² Kaur Affidavit, Exhibit C: MR, p. 37.

⁴³ Kaur Affidavit at para 8: MR, Tab 2, p. 16.

⁴⁴ Notice of Application, paras 1-2

in principle” by Sharlow J.A., sitting in chambers,⁴⁵ and would constitute an independent ground for striking this application for judicial review.

E. Implementation of the LTR Process Decision

17. Both Canada and the complainants (the Caring Society and the AFN) filed their respective long-term reform plans on December 22, 2025.⁴⁶ The Tribunal has set a schedule for consideration of the plans filed that includes an evidentiary hearing in January 2027 and oral argument in March 2027.⁴⁷

PART II - QUESTIONS AT ISSUE

18. The sole issue that the Court is to decide on this motion is whether the present application for judicial review should be struck on the ground of prematurity. This, in turn, requires answering two questions:

- (a) Is the impugned decision interlocutory?
- (b) If so, has the Applicant demonstrated such highly exceptional circumstances as to warrant judicial intervention in an on-going CHRT proceeding?

19. The first question should be answered in the affirmative, and the second in the negative.

PART III - ARGUMENT

A. Applicable Principles

20. An application for judicial review will be struck when there is an “obvious, fatal flaw striking at the root of this Court’s power to entertain the application.”⁴⁸ The Federal Court of Appeal has directed that such challenges are to be raised at the earliest

⁴⁵ *Canada (Attorney General) v. Picard*, [2013 FCA 71](#) at paras [9](#) and [10](#).

⁴⁶ Kaur Affidavit at para 9 and Exhibit E: MR, Tab 2, p. 10 and pp. 58-60.

⁴⁷ Kaur Affidavit at Exhibits F and G: MR, Tab 2 pp. 65-66 and 68-71.

⁴⁸ *JP Morgan Asset Management (Canada) Inc. v. Canada (National Revenue)*, [2013 FCA 250](#) at [para 47](#) [*JP Morgan*].

opportunity, as “[a] judicial review [...] that is doomed to fail wastes resources and should be nipped in the bud”.⁴⁹

21. The maxim that “absent exceptional circumstances, parties cannot proceed to the court system until the administrative process has run its course,”⁵⁰ is a “cardinal rule of Canadian administrative law,”⁵¹ of “next to absolute” stringency,⁵² which places an insuperable hurdle in the way of interlocutory judicial review. The jurisprudence demonstrates that “[c]ourts across Canada have enforced the general principle of non-interference with ongoing administrative processes vigorously.”⁵³ The Federal Court of Appeal has repeatedly reiterated that an applicant may only overcome this hurdle in the case of such highly rare and exceptional decisions of which the “immediate and radical” consequences call into question the rule of law,⁵⁴ or may justify the issuance of a writ of prohibition.⁵⁵

22. The Federal Court of Appeal has recently reaffirmed that “even constitutional questions or questions qualified as ‘jurisdictional’ questions cannot attract interlocutory relief.”⁵⁶ Neither “procedural fairness concerns,” nor even “important legal, jurisdictional or constitutional questions” meet the elevated threshold set out by the Federal Court of Appeal,⁵⁷ and the existence of an “adequate, effective recourse [...] somewhere or at another time,”⁵⁸ including the possibility of seeking judicial

⁴⁹ *Lin v. Canada (Public Safety and Emergency Preparedness)*, [2021 FCA 81](#) at [para 7](#) [*Lin*]. The Caring Society raised the sequencing of its motion to strike in case management. On July 13, 2026, Associate Judge Molgat directed the Caring Society to argue its motion to strike at the hearing of the application for judicial review.

⁵⁰ *Canada (Border Services Agency) v. C.B. Powell Limited*, [2010 FCA 61](#) at [para 31](#) [*C.B. Powell*].

⁵¹ *Buffalocalf v. Nekaneet First Nation*, [2024 FCA 127](#) at [para 40](#).

⁵² *Dugré v. Canada (Attorney General)*, [2021 FCA 8](#) at [para 37](#) [*Dugré*].

⁵³ *C.B. Powell* at [para 33](#).

⁵⁴ *Dugré* at [paras 35](#) and [37](#); see also *Society of Composers, Authors and Music Publishers of Canada v. Apple Canada Inc.*, [2026 FCA 122](#) at [para 28](#) [*SOCAN*].

⁵⁵ *Lin* at [para 6](#).

⁵⁶ *SOCAN* at [para 29](#).

⁵⁷ *Herbert v. Canada (Attorney General)*, [2022 FCA 11](#) at [para 11](#) [*Herbert*]; *SOCAN* at [para 12](#).

⁵⁸ *JP Morgan*, at [para 84](#).

review of the final decision after the administrative proceeding has been concluded, is a sufficient “showstopper” to justify granting a motion to strike,⁵⁹ or striking the application of the Court’s own motion.⁶⁰ For, as the Federal Court of Appeal explained in its seminal decision in this matter, *C.B. Powell*, the rigorous enforcement of this rule:

prevents fragmentation of the administrative process and piecemeal court proceedings, eliminates the large costs and delays associated with premature forays to court and avoids the waste associated with hearing an interlocutory judicial review when the applicant for judicial review may succeed at the end of the administrative process anyway.⁶¹

23. This approach ensures that matters come to reviewing courts “at the end of the administrative process”, allowing them to “have all of the administrative decision-maker’s findings”, which “may be suffused with expertise, legitimate policy judgments and valuable regulatory experience.”⁶²

B. Analysis

1. The LTR Process Decision is Interlocutory

24. The Applicant does not plead that the decision under review is final. In fact, it can hardly be disputed that the LTR Process Decision forms part of an ongoing proceeding, in that it expressly sets the stage for further decision-making by the CHRT regarding long-term reform of child and family services on-reserve outside of Ontario and in the Yukon. Only administrative action that affects rights, imposes legal obligations, or causes prejudicial effects is amenable to judicial review.⁶³ The LTR Process Decision makes no final determination of the substantive rights of the parties,⁶⁴

⁵⁹ *Forner v. Professional Institute of the Public Service of Canada*, [2016 FCA 35](#) at paras [11-13](#).

⁶⁰ *Dugré* at paras [11](#) and [38](#).

⁶¹ *C.B. Powell* at [para 32](#) [citations omitted].

⁶² *C.B. Powell* at [para 32](#).

⁶³ *SOCAN* at [para 17](#).

⁶⁴ See, e.g., *Ontario Federation of Anglers and Hunters v. Alderville Indian Band*, [2014 FCA 145](#) at [para 21](#); *National Benefit Authority Corporation v. Canada*, [2022 FCA 17](#) at [paras 10-11](#).

is expressly and repeatedly characterised as a step towards making final orders,⁶⁵ and remains subject to the jurisdiction of the Tribunal.⁶⁶

25. The LTR Process Decision is entirely unlike the seven orders upheld by Favel J. in *Canada (Attorney General) v. First Nations Child and Family Caring Society of Canada et al*, which were substantive orders that: (i) determined the amount of compensation to be paid to victims, the victims who were eligible, and the process by which compensation would be paid (2019 CHRT 39, 2020 CHRT 7, 2020 CHRT 15, 2021 CHRT 6 and 2021 CHRT 7); and (ii) set out eligibility criteria for the First Nations children who are eligible under the CHRT’s Jordan’s Principle orders, and the process for determining eligibility (2020 CHRT 20 and 2020 CHRT 36).⁶⁷

2. The Applicant Has Not Shown Any Exceptional Circumstances Justifying Interlocutory Judicial Intervention

26. A Notice of Application “must include the material facts necessary to show that the Court can and should grant the relief sought.”⁶⁸ In addition to the sparse nature of the pleading noted above, and even presuming the facts asserted in the notice of application to be true,⁶⁹ the present Application neither pleads nor substantiates any exceptional circumstances of sufficient gravity to overrule the “next to absolute” principle of prematurity.

27. The grounds of the application are confined to boilerplate arguments related to procedural fairness and substantive reasonableness. The Applicant may raise all of these matters with the CHRT in the course of the ongoing proceeding.⁷⁰ Indeed, it should. A party who could have raised an issue before the administrative decision-maker, and did not, risks this Court declining to consider it on a subsequent application

⁶⁵ [2025 CHRT 80](#) at paras [9](#), [11](#), [76-78](#), [85](#), [88-89](#), [94-99](#), [106-107](#), [110](#) and [112](#).

⁶⁶ [2025 CHRT 80](#) at [para 129](#).

⁶⁷ See, by analogy, *SOCAN* at [para 20](#), distinguishing a first-phase ruling that disentitled a party from collecting royalties from an entire class of users and was therefore final in that respect.

⁶⁸ *JP Morgan* at [para 40](#).

⁶⁹ *JP Morgan* at [para 54](#); *SOCAN* at [para 10](#).

⁷⁰ [2025 CHRT 80](#) at [paras 97](#) and [130](#).

for judicial review.⁷¹ The Federal Court of Appeal has unequivocally held that such considerations do not justify an interlocutory intervention in an ongoing administrative process.⁷²

28. This Court has, in fact, refused to permit applications for judicial review of interlocutory CHRT decisions on the same grounds, even when the final outcome of the proceedings was virtually certain. Thus, in *Nedelec v. Rogers*, the applicant sought judicial review of an interlocutory CHRT decision which set the method to be used for determining, in an age discrimination case, whether age-based mandatory retirement policies were discriminatory.⁷³ The applicant argued that its procedural rights had been violated, and that the decision was unreasonable.⁷⁴ The Court refused to permit the application for judicial review to proceed, even though the CHRT had released its final decision shortly before the hearing of the application for judicial review, because:

[i]f the Court were to fail to apply the principle in the case at hand, this could encourage litigants to disregard the principle and challenge interlocutory decisions in circumstances where they anticipate that a subsequent final administrative decision may add little substantive content to the issues in dispute, [which] would make the application of the prematurity principle less certain and therefore represent an unwelcome development in the law.⁷⁵

29. Even more than in *Nedelec*, the very concerns that animate the rule against premature review are engaged here. The CHRT is in the midst of a complex and iterative remedial exercise. In his decision upholding the CHRT’s approach to compensation and Jordan’s Principle eligibility, Favel J. recognized that the CHRT’s approach is permitted by “[t]he large, liberal approach to human rights legislation”⁷⁶ and that “flexibility is required because the [CHRT] has a difficult statutory mandate

⁷¹ *SOCAN* at [para 31](#).

⁷² *Herbert* at [para 11](#).

⁷³ *Nedelec v. Rogers*, [2023 FC 950](#) at [paras 1-5](#) [*Nedelec*].

⁷⁴ *Nedelec* at [para 32](#).

⁷⁵ *Nedelec* at [para 44](#).

⁷⁶ *Canada (Attorney General) v. First Nations Child and Family Caring Society of Canada et al*, [2021 FC 969](#) at [para 134](#) [*Caring Society—FC*].

to fulfill”.⁷⁷ Interrupting that process now risks fragmenting the proceeding, imposing duplicative efforts on the parties, freezing an incomplete evidentiary record, and depriving this Court of the benefit of the Tribunal’s fully developed findings and reasons. The Federal Court of Appeal has repeatedly weighed in against such fragmentation, which increases cost, causes delay, and produces piecemeal litigation with no corresponding benefit to justice.⁷⁸

30. Given the availability of an eventual, adequate, and effective remedy through judicial review at the conclusion of the CHRT process, the present Application cannot proceed.⁷⁹ To allow it now would be to invite the very harm that the prematurity doctrine exists to prevent. The Application must therefore be struck.

3. In the Alternative, the Application Should Be Stayed

31. In the alternative, the Application should be stayed pending the completion of the ongoing long-term reform proceedings. Paragraph 50(1)(b) of the *Federal Courts Act* provides this Court with the power and discretion to stay an application where the Court determines that a stay is in the interests of justice.

32. In *Mylan Pharmaceuticals ULC v. AstraZeneca Canada Inc.*, Stratas J.A., in what has become the leading case on this point, set out an “interest of justice test” to determine when a matter ought to be put into abeyance, in the following terms:

*This Court deciding not to exercise its jurisdiction until some time later. When we do this, we are exercising a jurisdiction that is not unlike scheduling or adjourning a matter. Broad discretionary considerations come to bear in decisions such as these. There is a public interest consideration - the need for proceedings to move fairly and with due dispatch - but this is qualitatively different from the public interest considerations that apply when we forbid another body from doing what Parliament says it can do. As a result, the demanding tests prescribed in *RJR-MacDonald* do not apply here. This is not to say that this Court will lightly delay a matter. It all depends*

⁷⁷ *Caring Society—FC* at [para 138](#).

⁷⁸ *C.B. Powell* at [paras 31-32](#); *Herbert* at [para 17](#).

⁷⁹ *SOCAN* at [paras 30 and 32](#).

on the factual circumstances presented to the Court. In some cases, it will take much to convince the Court, for example where a long period of delay is requested or where the requested delay will cause harsh effects upon a party or the public. In other cases, it may take less.⁸⁰

33. A court will not stay an application for judicial review lightly and has broad discretion in considering such a request.⁸¹ Indeed, it is a contextual test under which the Court will consider whether, in all the circumstances, the interests of justice support the application being delayed.⁸² The following principles most often guide the Court's consideration of a motion to hold a judicial review in abeyance:

- (a) the just, most expeditious and least expensive determination of every proceeding on its merits must be considered;⁸³
- (b) the Court should exercise its discretion against the wasteful use of judicial resources as long as no party is unfairly prejudiced;⁸⁴
- (c) whether a stay will prevent unnecessary and costly duplication of judicial and legal resources;⁸⁵
- (d) the possibility of inconsistent decisions;⁸⁶ and
- (e) prejudice to the parties.⁸⁷

34. Those considerations favour a stay here. The Tribunal's long-term reform process is now well advanced and has a defined procedural path. Canada and the

⁸⁰ *Mylan Pharmaceuticals ULC v. AstraZeneca Canada Inc.*, [2011 FCA 312](#) at para [5](#) [*Mylan Pharmaceuticals*].

⁸¹ *Canada v. Hudson*, [2024 FCA 33](#) at para [39](#) [*Hudson*].

⁸² *Mylan Pharmaceuticals* at para 14; *Hudson* at para 41.

⁸³ Rule 3 of the *Federal Courts Rules*, SOR/98-106.

⁸⁴ *Coote v. Lawyer Professional Indemnity Company*, [2013 FCA 143](#) at para [12](#).

⁸⁵ *Hudson* at para 47.

⁸⁶ *Ibid.*

⁸⁷ *Power to Change Ministers v. Canada (Minister of Employment, Workforce Development and Labour)*, [2019 CanLII 13579](#).

complainants filed their respective long-term reform plans on December 22, 2025.⁸⁸ The Tribunal has scheduled an evidentiary hearing for January 2027 and oral argument for March 2027.⁸⁹ A stay would therefore not postpone the Application for an indeterminate period while the parties merely explore whether or not the administrative process may produce a result; it would permit an existing and ongoing adjudicative process, with concrete and relatively near-term milestones, to run its course.

35. Proceeding with the Application in parallel would serve little purpose and risks considerable duplication. The decision under review established the process by which the Tribunal would obtain the evidence and submissions necessary to determine long-term reform of First Nations child and family services outside of Ontario. That very process is now underway. Its completion may narrow, clarify or eliminate issues raised by Canada and will, in any event, provide this Court with a complete evidentiary record and the benefit of the Tribunal's findings and reasons. Requiring the parties and the Court simultaneously to litigate the legality of that process would instead fragment the proceeding and expend judicial and party resources on a record that is still developing.

36. Nor would a stay unfairly prejudice Canada. Canada may advance its objections in the ongoing Tribunal proceedings and retains an adequate and effective remedy by way of judicial review once those proceedings have concluded. The stay would preserve, rather than determine, Canada's rights in this Court. Conversely, refusing a stay would require the parties to litigate overlapping matters simultaneously before the Tribunal and this Court, with the attendant risk of duplication, inconsistent determinations and unnecessary expense.

37. The circumstances are materially different from those before this Court in *Canada (Attorney General) v First Nations Child and Family Caring Society of Canada et al*, 2019 FC 1529. There, Favel J. declined to hold the judicial review in abeyance principally because the immediate Tribunal process consisted of further discussions between the parties, there was "no clear timeline" for completion of the

⁸⁸ Kaur Affidavit at para 9 and Exhibit E: MR, Tab 2, p. 10 and pp. 58-60.

⁸⁹ Kaur Affidavit at Exhibit F and G: MR, Tab 2 pp. 65-66 and 68-71.

Tribunal's work, and an extended delay could postpone compensation to victims. Justice Favel also considered that the pending judicial review might encourage the parties to expedite their discussions.

38. Those considerations do not apply in the same manner here. The long-term reform plans have been filed, the Tribunal has fixed dates for evidence and argument, and the matter has moved from open-ended discussions to a scheduled adjudicative process. A stay now has a concrete endpoint and would allow that process to produce the record and decisions that the present Application prematurely asks this Court to review.

PART IV - STATEMENT OF THE ORDER SOUGHT

39. The Moving Party requests an Order:

- (a) striking the Application for Judicial Review as premature or, in the alternative, staying the Application pending the completion of the ongoing long-term reform proceedings;
- (b) awarding costs of this motion to the Moving Party; and
- (c) granting such further and other relief as this Honourable Court deems just.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 9th day of September, 2026.

September 9, 2026



**David P. Taylor/Sarah Clarke/
Mohammed Elshafie**

Co-Counsel for the Respondent,
First Nations Child and Family
Caring Society of Canada

PART V - LIST OF AUTHORITIES

TAB	DESCRIPTION
Legislation and Statues	
1.	<i>Federal Courts Rules</i> , SOR/98-106
Caselaw	
2.	<i>Buffalocalf v. Nekaneet First Nation</i> , 2024 FCA 127
3.	<i>Canada (Attorney General) v. First Nations Child and Family Caring Society of Canada et al</i> , 2021 FC 969
4.	<i>Canada (Attorney General) v. Picard</i> , 2013 FCA 71
5.	<i>Canada (Border Services Agency) v. C.B. Powell Limited</i> , 2010 FCA 61
6.	<i>Canada v. Hudson</i> , 2024 FCA 33
7.	<i>Coote v. Lawyer Professional Indemnity Company</i> , 2013 FCA 143
8.	<i>Dugré v. Canada (Attorney General)</i> , 2021 FCA 8
9.	<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)</i> , 2016 CHRT 2
10.	<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)</i> , 2016 CHRT 10
11.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indian and Northern Affairs)</i> , 2016 CHRT 16
12.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2017 CHRT 14
13.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2017 CHRT 35

14.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2018 CHRT 4
15.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2019 CHRT 7
16.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2020 CHRT 20
17.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2020 CHRT 24
18.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2020 CHRT 36
19.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2021 CHRT 12
20.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2021 CHRT 41
21.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2022 CHRT 8
22.	<i>First Nations Child & Family Caring Society of Canada and Assembly of First Nations v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2025 CHRT 6 .
23.	<i>First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)</i> , 2025 CHRT 80
24.	<i>Forner v. Professional Institute of the Public Service of Canada</i> , 2016 FCA 35
25.	<i>Herbert v. Canada (Attorney General)</i> , 2022 FCA 11
26.	<i>JP Morgan Asset Management (Canada) Inc. v. Canada (National Revenue)</i> , 2013 FCA 250

27.	<i>Lin v. Canada (Public Safety and Emergency Preparedness)</i> , 2021 FCA 81
28.	<i>Mylan Pharmaceuticals ULC v. AstraZeneca Canada Inc.</i> , 2011 FCA 312
29.	<i>National Benefit Authority Corporation v. Canada</i> , 2022 FCA 17
30.	<i>Nedelec v. Rogers</i> , 2023 FC 950
31.	<i>Ontario Federation of Anglers and Hunters v. Alderville Indian Band</i> , 2014 FCA 145
32.	<i>Power to Change Ministers v. Canada (Minister of Employment, Workforce Development and Labour)</i> , 2019 CanLII 13579
33.	<i>Society of Composers, Authors and Music Publishers of Canada v. Apple Canada Inc.</i> , 2026 FCA 122