

IN THE MATTER OF THE *JUDGES ACT*, R.S.C. 1985, c. J-1

**2024 JUDICIAL COMPENSATION
AND BENEFITS COMMISSION**

GOVERNMENT'S SUPPLEMENTAL BOOK OF DOCUMENTS

January 24, 2024

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ECKLER

Response to Judiciary's Submissions, Associate Judges Submission and Book of Exhibits

Department of Justice Canada

January 17, 2025

PROPRIETARY

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Executive Summary

This report has been prepared by Anand Parsan and Jill Wagman, Principals at Eckler Ltd., acting as independent, impartial, and fair experts, retained by the Department of Justice Canada in the context of the 2024 Judicial Compensation and Benefits Commission (“Quadrennial Commission”) process.

This report has been prepared in response to the Joint Submissions of the Canadian Superior Courts Judges Association and the Canadian Judicial Council to the Judicial Compensation and Benefits Commission (“Judiciary’s Submission”).


The table below summarizes the data and parameters used for self-employed lawyer income and judicial total compensation by each commission.

Report	Year	Age Range	Self-employed Lawyer 75 th Percentile Income	Judicial Total Compensation	Difference
No exclusion					
Government Submission	2024	47-54	\$349,625	\$571,645	-38.8%
Excluding salaries less than \$90,000/year					
Judiciary’s Submission	2023	44-56	\$589,445	\$491,136*	20.0%

* The puisne judges’ salary from Ms. Wong’s analysis was based on 2023 salary, effective April 1, 2023, and the judicial annuity value of 28.0% of salary.

Recommendations from both the Judiciary’s Submission, as well as the Associate Judges of the Federal Court are based on analyses that are skewed. The exclusion of salaries less than \$90,000/year for the income dataset from CRA and StatsCan has a significant impact on the results. Further, the method used to determine the value of the judicial annuity is also a major contributor to the difference between their results and the results in the Eckler report.

Respectfully submitted,



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Observations and Comparisons

Judicial Annuity

As noted in our report, for federally appointed judges, the judicial annuity is one of the most valuable retirement plans in Canada. In order to calculate the value of the judicial annuity, we based our calculations on the assumptions disclosed in the 13th Actuarial Report on the Pension Plan for Federally Appointed Judges as at March 31, 2022¹ ("the Chief Actuary's Report") and the data as at March 31, 2024 as provided by Department of Justice Canada, as follows:

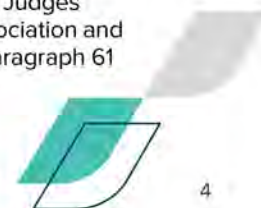
Age Range	Average Cost of Pension Accruals	Average Member Contribution Rate	Net Value of Judicial Annuity
<35	n/a	n/a	n/a
35-43	37.6%	7.0%	30.6%
44-47	47.4%	7.0%	40.4%
48-51	51.1%	7.0%	44.1%
52-55	52.3%	7.0%	45.3%
56-59	54.4%	7.0%	47.4%
60-63	55.0%	4.9%	50.1%
64-69	59.4%	4.0%	55.4%
>69	70.3%	3.9%	66.4%

As the average age of appointment is 51.85 years for puisne judges from April 1, 2020 to March 31, 2024, we used the Net Value of Judicial Annuity from the age range 48-51, which is 44.1% of puisne judges' salary, for the purpose of determining the total compensation, which arguably could be seen as conservative, since the value for the age range 52-55 is 45.3%, or 1.2% greater.

In support of the Judiciary's Submission, Carol Wong, a partner at Ernst & Young and a Fellow of the Canadian Institute of Actuaries, was retained to estimate the value of the judicial annuity for the relevant period. As highlighted in paragraph 161 of the Judiciary's Submission², Ms. Wong chose to use a discount rate of 6%, which was said to represent the best estimate long-term investment return for a balanced portfolio. Wong's discount rate is notably higher than the 3.6% discount rate used in the Chief Actuary's Report (foot-noted below), and higher than the 5.0% discount rate used at the time of the last Commission. Further, Ms. Wong's valuation of the judicial annuity

¹ Assia Billig, FCIA, FSA, PhD, Chief Actuary, "Actuarial Report on the Pension Plan for the Federally Appointed Judges as at 31 March 2022", osfi-bsif.gc.ca, September 29, 2023, (<https://www.osfi-bsif.gc.ca/en/oca/actuarial-reports/pension-plan-federally-appointed-judges-31-march-2022>)

² Pierre Bienvenu, Ad. E., Jean-Michel Boudreau, Étienne Morin-Lévesque on behalf of Canadian Superior Courts Judges Association and The Canadian Judicial Council, "Joint Submissions of The Canadian Superior Courts Judges Association and The Canadian Judicial Council to The Judicial Compensation and Benefits Commission", December 20, 2024, paragraph 61



did not include the value of the disability benefit, which we estimate to be worth approximately 5.6% for the comparable age range 48-51. We note that, as the discount rate increases, the value of the annuity will decrease.

According to Ms. Wong's report, she states that for the purposes of the analysis performed in her report, there is no prescribed method for developing actuarial assumptions and that there may be more than one set of reasonable actuarial assumptions for the purposes of determining an actuarial value of the judicial annuity. She also states that,

"Where it is reasonable to do so, it is appropriate to refer to the set of assumptions used in the Office of the Chief Actuary's (the "OCA") Reports, given the OCA's expertise and access to data to assess appropriate assumptions for the plan members. The OCA is an independent actuarial centre of excellence of the Government of Canada that provides regular actuarial reports and studies on the various pension plans sponsored by the Government of Canada, including the Pension Plan for Federally Appointed Judges (i.e. the judicial annuity). As of the last Commission, the most recent actuarial valuation report conducted by the OCA was as at March 31, 2019 (the "2019 OCA Report"). In line with industry standards of performing actuarial valuations for pension plans at least triennially, the OCA prepared an actuarial valuation as at March 31, 2022 (the "2022 OCA Report"). At the time of the last Commission, Mr. Newell referenced the 2019 OCA Report when setting certain best-estimate assumptions. Given the OCA's access to relevant data and actuarial expertise, it is reasonable to reference the OCA Report in establishing certain best estimate demographic assumptions."

Ms. Wong's estimate of the value of judicial annuity utilizes the actuarial assumptions from the 2022 OCA Report, with the exception of the discount rate, which she set at 6% per annum, is based on the expected return of a "balanced portfolio" invested 60% in risky assets (equities) and 40% in fixed income assets.

As noted above, for our valuation of the judicial annuity, we used a discount rate of 3.6% per annum. This discount rate was taken from Chief Actuary's Report and represents an estimate of the federal government's long-term cost of borrowing, since the benefits are not pre-funded. We observe that Ms. Wong's discount rate assumption of 6% per annum presumes that significant investment risk would have to be assumed by the individual in order for them to obtain an annualized return of 6%. We consider this assumption unreasonable, as one of the primary advantages of being entitled to receive the judicial annuity is that it is, essentially, risk free, as the government is responsible for bearing all investment and longevity risk associated with its payment.

Judicial Salary

Both our report and the Judiciary's Submission used the puisne judge's salary as the base to be grossed up with the judicial annuity, however we used the 2024 salary of \$396,700 compared with the Judiciary's Submission, which used the 2023 salary of \$383,700 effective April 1st of 2023. The salary increases based on changes to the Industrial Aggregate (IA), referred to as the Industrial Aggregate Index (IAI), are effective on April 1st of each year. From 2023 to 2024 increase was determined to be 3.40%.



Total Compensation of Puisne Judges

The following table compares Ms. Wong’s and our analysis of inclusive of the judicial annuity value.

Actuary	Discount Rate	Judicial Annuity	Puisne Judges	Total Compensation
Eckler	3.6%	44.1%	\$396,700	\$571,645
Ms. Wong	6%	28%	\$383,700*	\$491,136*

* The puisne judges’ salary from Ms. Wong’s analysis was based on 2023 salary, effective April 1, 2023. Eckler used the salary effective April 1, 2024.

The difference between our estimate and Ms. Wong’s estimate of total compensation of puisne judges is \$80,509 or -14.1% below our estimate.

If we adjust Ms. Wong’s estimate to use puisne judges 2024 salary, we calculate the total compensation to be \$507,776 which still results in a difference of 63,869 or -11.2% compared with our original estimate. It is important to note that we used the exact same assumptions to estimate the Deputy Ministers Level 3 (DM-3) pension value (i.e. gross up the DM-3 salary by 44.1%).

Analysis Methodology

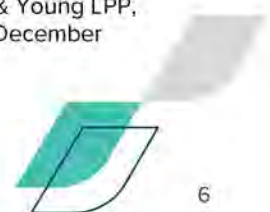
We verified all data used in the Judiciary’s Submission expert witness report in our review of the submission.

The “Report on Private Sector Compensation Prepared for the Judicial Compensation and Benefits Commission” reference used 3 of the 5 datasets provided by their commission as a comparator group: CRA data on Unincorporated Self-Employed, StatsCan data on Incorporated and Unincorporated Partner Income Lawyers, and Deputy Ministers. We agree with the dataset usage because some of the other data provided was less defined. For example, the partners in that dataset could be paying part of their income into interest from becoming a partner.

In paragraph 137 of the Judiciary’s Submission from the Ernst & Young report³, it was highlighted that the previous commission “undervalues estimated income” due to the use of age-weighting. The Ernst & Young consultants grouped the self-employed lawyer and PLC income data into seven age groups: 35-43, 44-47, 48-51, 52-55, 56-59, 60-63, and 64-69. In our report, we calculate the age-weighted total compensation of puisne judges using these same age groupings, and focused our analysis on the age group of the average appointment age for puisne and associate judges. With this methodology, the most relevant and representative market data is examined and used to compare to the compensation of puisne judges. Further, this approach helps with data integrity and facilitates consistent benchmarking that can be used in future comparisons.

With regards to the incorporated data (PLC data), it was mentioned in paragraph 180 of the Judiciary’s Submission that the focus was on the partner income share, as declared by the partnership. However, in our report we also calculated average income including dividends for PLC owners from 2018 to 2021. This is a key element of the

³ Uros Karadzic limited Partner of Ernst & Young LP and Marvin Reyes Compensation Consulting Leader of Ernst & Young LPP, “Report on Private Sector Compensation Prepared for the Judicial Compensation and Benefits Commission”, 20 December 2024, pages 17, page 93 of the Judiciary’s Submission Book of Exhibits and Documents



incorporated lawyer compensation package that we believe was important to note in our total compensation analysis as the take home pay would be understated without explaining this compensation component.

Eckler’s compensation expert, Anand Parsan, highlighted in our report that the commission often selects specific datasets, specific peers in a dataset, or uses aspirational peers. This sets pay levels above the peer group median. The Judiciary’s Submission used the highest salary exclusion datasets when available as the peer comparison to illustrate retention risks that necessitate additional compensation. These factors appear to have contributed to a feedback loop which is consistent with the findings in this report.

While excluding lower salaries may filter out under performing lawyers, this is not a common practice in the compensation consulting field. Excluding the lowest salaries in the dataset results in the highest salary outliers having a larger impact on the dataset overall, skewing the statistics higher. To illustrate this point, we have focused on the CRA self-employed dataset use. Since we are provided a select number of statistics and tiles to estimate percentages (although this assumes a linear extrapolation between tiles), it is not possible to exclude these outliers. We can infer a few things from the CRA self-employed lawyer data (from net_prov_20tiles_5age_2023a and net90k_prov_20tiles_5age_2023a):

- 2023 median, mean, and standard deviation were \$170,245, \$292,005, and \$404,210 respectively for All Canada with no exclusions. The count was 11,580.
- 2023 median, mean, and standard deviation were \$263,710, \$404,540, and \$442,310 respectively for All Canada when excluding incomes \$90,000 or below. The count was 7,990.

Note that the standard deviation increases with the exclusion, resulting in the mean being even higher than the median, indicating that the data skews. It is also important to point out that only the 75th percentile was considered. By estimating percentiles, we were able to have some insight into the income distribution of unincorporated lawyers. The bar chart below shows the median and 75th percentile as well as the estimated 60th, 70th, 80th, and 90th percentiles for all of Canada with no salary exclusions.



If excluding incomes at the bottom end of the dataset, the analysis should also exclude incomes at the top of the dataset, as there could be outliers on either end.

The age groups used for the 75th percentile were 47-54 and 44-56 for our report and Judiciary’s Submission



report, respectively. We observe that the 75th percentiles used in Judiciary's Submission were significantly higher for all years as they focus on excluding \$90,000/year. The table below shows the 75th percentile data without any exclusions and with excluding salaries less than \$90,000/year from the provincial dataset.

Year	Self-employed Lawyers 75 th Percentile Income			
	Age Range (44-56) ⁴ – ALL CANADA	Age Range (44-56) ⁵ – TOP CMA	Age Range (47-54) – ALL CANADA	Age Range (47-54) – TOP CMA
	Excluding salaries less than \$90,000/year		No exclusion	
2019	\$513,305	\$579,000	\$385,500	\$462,135
2020	\$579,035	\$652,880	\$444,095	\$510,525
2021	\$613,130	\$695,430	\$497,785	\$558,005
2022	\$569,330	\$651,475	\$460,525	\$524,180
2023	\$589,445	\$648,800	\$474,230	\$544,200

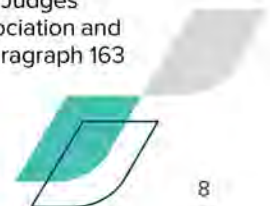
The All Canada data excluding salaries less than \$90,000/year compared to the data with no exclusions is higher by 25.0%-33.2%. The Top CMA data excluding salaries less than \$90,000/year compared to the data with no exclusions is higher by 19.2%-27.9%. Note that the slightly higher counts impact the results of the compensation analysis. For example, the 2023 "net90k_cma_10tiles_5age" All Canada data had counts of 2,980 for 44-56, while the "netk_cma10tiles_5age" All Canada data had 2,500 counts for 47-54.

It was highlighted in the Judiciary's Submission analysis that puisne judges' compensation with pension factored in still lagged behind unincorporated self-employed lawyers in paragraph 163 of the Judiciary's Submission⁶. However, our analysis shows an opposing view. The below table below shows the 75th percentile for all of Canada with no salary exclusions and the salary exclusion data cuts.

⁴ Uros Karadzic limited Partner of Ernst & Young LP and Marvin Reyes Compensation Consulting Leader of Ernst & Young LPP, "Report on Private Sector Compensation Prepared for the Judicial Compensation and Benefits Commission", 20 December 2024, Table 2A, page 97 of the Judiciary's Submission Book of Exhibits and Documents

⁵ Uros Karadzic limited Partner of Ernst & Young LP and Marvin Reyes Compensation Consulting Leader of Ernst & Young LPP, "Report on Private Sector Compensation Prepared for the Judicial Compensation and Benefits Commission", 20 December 2024, Table 3A, page 98 of the Judiciary's Submission Book of Exhibits and Documents

⁶ Pierre Bienvenu, Ad. E., Jean-Michel Boudreau, Étienne Morin-Lévesque on behalf of Canadian Superior Courts Judges Association and The Canadian Judicial Council, "Joint Submissions of The Canadian Superior Courts Judges Association and The Canadian Judicial Council to The Judicial Compensation and Benefits Commission", December 20, 2024, paragraph 163



Report	Year	Age Range	Self-employed Lawyer 75 th Percentile Income	Judicial Total Compensation	Difference
No exclusion					
Government Submission	2024	47-54	\$349,625	\$571,645	-38.8%
Excluding salaries less than \$90,000/year					
Government Submission	2024	47-54	\$462,835	\$571,645	-19.0%
Judiciary's Submission	2023	44-56	\$589,445	\$491,136*	20.0%

* The puisne judges' salary from Ms. Wong's analysis was based on 2023 salary, effective April 1, 2023, and the judicial annuity value of 28.0% of salary.

Block Comparator

The Eckler report includes the Block Comparator statistic, however we excluded it from our comparator group analysis. The Block comparator establishes an empirical statistic; however, Deputy Ministers' level 3 (DM-3) actual compensation experience data is available for comparison to the Judicial Compensation.

Proposed Increase by Judiciary's Submission

The Judiciary's Submission concluded with the proposed increase of \$60,000. We want to note the real value of this would be an increase of \$86,460 when we account for the judicial annuity. This is almost three times the value of the amount judges proposed to receive. The following table highlights the real impact of the proposed increase and compares Ernst & Young and our analysis inclusive of the judicial annuity value.

Report	Judicial Annuity	Current Puisne Judges Salary	Puisne Judges Salary with proposed Increase (\$60,000)	Current Total Compensation	Total Compensation with Proposed Increase (\$60,000)	Difference
Eckler	44.1%	\$396,700	\$456,700	\$571,645	\$658,105	\$86,460
Ernst & Young	28%	\$383,700*	\$443,700	\$491,136*	\$567,936	\$76,800

* The puisne judges' salary from Ms. Wong's analysis was based on 2023 salary, effective April 1, 2023. Eckler used the salary effective April 1, 2024.

Assuming that the methodology of Ernst & Young report is unchanged, the results differ from ours by \$90,169 when we account for the additional increase of proposed increase of \$60,000.



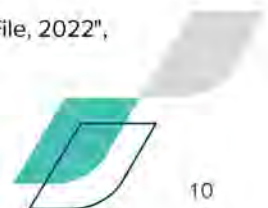
Conclusions

Recommendations from both the joint submission of the Canadian Superior Courts Judges Association and the Canadian Judicial Council, as well as the Associate Judges of the Federal Court are based on analyses that are skewed. The exclusion of salaries less than \$90,000/year for the income dataset from CRA and StatsCan impacts the results, and the method to determine the value of the judicial annuity are major contributors to the gap between the results in the Eckler report and the Ernst & Young Judicial Annuity and Compensation report. For context, the proposed increase of \$60,000 for judicial salary, not accounting for the increased value due to the judicial annuity, equates to 98.7% of the 2022 median family after-tax income of Canadians which is \$60,800⁷. When the judicial annuity is accounted for, the impact is \$86,460, which is 142.2% of the 2022 median family after-tax income of Canadians.

Note that the age weighted methodology used in the Ernst & Young compensation report was similar to how we calculated the age-weighted total compensation of puisne judges using these same age groupings.

Ms. Wong's discount rate assumption of 6% per annum presumes that significant investment risk would have to be assumed by the individual in order for them to obtain an annualized return of 6%. Once again, we consider this assumption unreasonable, as one of the primary advantages of being entitled to receive the judicial annuity is the fact that it's essentially risk free since the government is responsible for bearing all investment and longevity risk associated with its payment.

⁷ Statistics Canada, "Main highlights on income of families and individuals: Subprovincial data from the T1 Family File, 2022", statcan.gc.ca, August 19, 2024, (<https://www150.statcan.gc.ca/n1/daily-quotidien/240819/dq240819b-eng.htm>)



Appendix A: Terms and Definitions

Compensation Elements

Salary Range Minimum – The minimum rate within the salary range, or the first step of a step structure, that is acceptable for a position, on an annual, full-time basis.

Job Rate / Range Mid-point – The salary an organization is prepared to pay for competent performance by a fully trained incumbent, on an annual, full-time basis. This is typically the mid-point of a salary range or the last step of a step structure.

Salary Range Maximum – The maximum rate within the salary range, or the last step of a step structure, that is acceptable for a position, on an annual, full-time basis.

Salary – The annualized amount paid for work performed on a regular, ongoing basis. Does not include variable bonus or incentive payments, sales commissions, shift premiums, or overtime payments.

Bonus/Incentive – Cash arrangements designed to reward an individual for performance/results achieved during a period of one year or less.

Compensation Ratio – Proportion of an individuals' salary compared to the midpoint of a predefined salary range for their role.

RRSP – Registered Retirement Savings Plan; a retirement savings vehicle where contributions are tax deductible and investment returns are tax sheltered until withdrawn. Maximum contributions are 18% of pay, limited to a fixed dollar amount per year (\$31,560 in 2024).

CPP – Canada Pension Plan; a defined benefit plan for all Canadian workers, traditionally covering a maximum of 25% of earnings up to the maximum CPP earnings (\$68,500 in 2024). Expanded CPP benefits will eventually cover 33% of earnings up to a higher earnings limit (14% above prior maximum).

Accrual Rate – Rate at which pension benefits are earned for each year of contributory service, as a percentage of earnings.

Registered Pension Plan – Tax-sheltered retirement vehicle where contributions are tax-deductible and benefits are not taxed until benefits are paid.

Non-registered/Supplemental Plan – Retirement vehicle that provides benefits above the limits applicable to a registered pension plan that does not receive the same favourable tax treatment.



Statistics

90th percentile (P90) – If all observations were sorted and listed from highest/largest to lowest/smallest, 10% of the observations would fall above the 90th percentile and 90% would fall below.

75th percentile (P75) – If all observations were sorted and listed from highest/largest to lowest/smallest, 25% of the observations would fall above this value and 75% would fall below.

50th percentile (P50) – Also referred to as “median”. If all observations were sorted and listed from highest/largest to lowest/smallest, 50% of the observations would fall above this value and 50% would fall below.

25th percentile (P25) – If all observations were sorted and listed from highest/largest to lowest/smallest, 75% of the observations would fall above this value and 25% would fall below.

10th percentile (P10) – If all observations were sorted and listed from highest/largest to lowest/smallest, 90% of the observations would fall above this value and 10% would fall below.

Average – The arithmetic mean of all values, calculated by adding up all the values and dividing by the number of observations.



Appendix B: Biographies

Anand Parsan, C.Dir. Principal

Anand is an HR professional with a combination of strategic and technical skills honed over 25 years of consulting and industry experience. He is a trusted advisor to Board members and management, supporting organizational objectives, aligned with shareholders' interests, through the expert design and implementation of corporate governance and compensation programs.

Anand employs a business-forward approach in advising his clients, working across multiple sectors including financial services, insurance, mining, energy, chemical, consumer products, construction, manufacturing, retail, not-for-profit, public sectors, and private equity.

His extensive knowledge in creating executive incentive programs, and using performance metrics in their design, helps organizations to strike the right balance between retention and performance. Before joining Eckler, Anand worked as a senior total rewards practice leader for other major consulting firms.

Anand graduated with distinction from the University of Toronto and holds a Bachelor of Commerce (B.Com.) degree specializing in Finance and Economics. He graduated from the Chartered Director (C.Dir.) Program from McMaster University and obtained his Global Professional of Human Resources (GPHR) designation from the Human Resource Certification Institute in Virginia. Anand has completed the Canadian Securities Institute's (CSC) and (CPH) courses and is a faculty member of The Directors College.

Jill Wagman, FCIA, FSA, ICD.D, Principal

Jill is a qualified actuary with over 30 years of consulting experience and has held the posts of Managing Principal of Eckler Ltd. and Chair of Eckler's Board of Directors. She provides advice with respect to all aspects of valuation, administration, risk management, governance, design, funding and accounting for pension, post-retirement and supplemental pension programs.

In her professional capacity, Jill served as a member of the Financial Services Tribunal (FST) of Ontario from 2013-2023. From 2009-2016, she was a member of the Actuarial Standards Oversight Council (ASOC), acting as Vice-Chair from 2015-2016. Jill also served on the pension committee of the board of Queen's University from 2013-2016 and is currently serving on the Advisory Board of Niagara University.

She has also worked on strategic consulting projects for OMERS SC, the Ontario Ministry of Finance, the Ontario Teachers' Pension Plan Board, Bruce Power, Suncor, the Business Development Bank of Canada (BDC), Canada Mortgage and Housing Corporation (CMHC), and the Nova Scotia Public Service Superannuation Plan.

Jill graduated with distinction from the University of Waterloo with an Honours Bachelor of Mathematics in 1990. Most recently, Jill graduated from the ICD-Rotman Directors Education Program in March 2017 and achieved the ICD.D designation.



Appendix C: Report Limitations

This report was prepared by Eckler Ltd. ("Eckler") for the Department of Justice Canada (the "Client"), for its exclusive use and for the purposes of the 2024 Quadrennial Commission process and must be used solely for the purpose of servicing as an unbiased party to the Department of Justice Canada and the 2024 Quadrennial Commission. Eckler has been retained by the Department of Justice Canada to conduct an analysis on the compensation and pension of federally appointed judges to assist the 2024 Quadrennial Commission in their inquiry (the "Purpose").

This Report is not intended or necessarily suitable for purposes other than the Purpose listed above. The Report must not be used for any other purpose, recited, referred to, published, circulated, quoted, replicated, reproduced, distributed or modified (in whole or in part) except as required by law, without Eckler's prior written, express consent. The Report is not intended, nor necessarily suitable, for other parties or for other purposes. Eckler is not responsible for the consequences of any other use. The sole exception is that the Client may share this report for the Purpose with the 2024 Quadrennial Commission ("Permitted Third Parties"), but without creating any duty or liability on the part of Eckler.

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Appendix D: Data and Documents

Following data and documents were provided by the Department of Justice Canada, the Canadian Superior Courts Judges Association, the Canadian Judicial Council and Associate Judges of the Federal Court to prepare this response.

1. CRA Data for Self-Employed Lawyers (132 excel files with data covering 2019-2023, and 1 excel file with the procedure to estimate percentile ranks)
2. Government of Canada Information and Data regarding Deputy Minister and Appointed Officials (2 excel files, and 5 PDFs with data from 2018-2023)
3. Economic Analysis Division, Statistics Canada, Data for Professional Law Corporations (1 word file covering the definition of each field and 6 excel files with data covering 2018-2021 and 2018-2022)
4. Department of Justice Canada File on Judicial Personnel from when recorder start to April 2024 (Judicial Personnel System as of April 25 2024.xls)
5. Letter for the 2024 Judicial Compensation and Benefits Commission, authored and signed June 3, 2024, by Julie Turcotte, Assistant Deputy Minister, Economic Policy Branch
6. A Letter titled: Judges' Salary Increases, authored and signed February 27, 2024, by Hao Chen, FCIA, FSA, Office of the Chief Actuary, Office of the Superintendent of Financial Institutions
7. Judiciary's Submission titled: Joint Submissions of The Canadian Superior Courts Judges Association And The Canadian Judicial Council to The Judicial Compensation And Benefits Commission, authored and signed December 20, 2024, by Pierre Bienvenu, Ad. E., Jean-Michel Boudreau, Étienne Morin-Lévesque on behalf of Canadian Superior Courts Judges Association and The Canadian Judicial Council
8. Judiciary's Submission evidence titled: Book of Exhibits and Documents of the Canadian Superior Courts Judges Association and The Canadian Judicial Council, compiled and signed December 20, 2024, by Pierre Bienvenu, Ad. E., Jean-Michel Boudreau, Étienne Morin-Lévesque on behalf of Canadian Superior Courts Judges Association and The Canadian Judicial Council
9. Submission titled: Submissions of The Associate Judges of The Federal Court to The Judicial Compensation and Benefits Commission authored and signed December 20, 2024, by Paliare Roland Rosenberg Rothstein LLP, Andrew K. Lokan, Sonia Patel on behalf of Lawyers for the Associate Judges of the Federal Court
10. Submission evidence titled: Book of Documents of The Associate Judges of The Federal Court compiled and signed December 20, 2024, by Paliare Roland Rosenberg Rothstein LLP, Andrew K. Lokan, Sonia Patel on behalf of Lawyers for the Associate Judges of the Federal Court



TAB 2

SUPREME COURT OF CANADA

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Annual News Conference with the Chief Justice of Canada

Related Link

[Archived video of the press conference](#)

Remarks by the Right Honourable Richard Wagner, P.C. Chief Justice of Canada

(Check against delivery)

Good morning, and thank you for coming. I am pleased to update you this morning on the work of the Supreme Court of Canada, and my responsibilities as Chief Justice of Canada. I always look forward to this opportunity to speak to the media.

It has been another noteworthy year for the Supreme Court. We heard cases on a wide range of issues, from Indigenous rights, to contract law, to Charter rights, and more.

For me, one of the highlights was welcoming a new colleague to the Court, the Honourable Mary T. Moreau. Justice Moreau brings with her a wealth of experience and valuable knowledge, having served for more than 30 years as both a trial judge and as a Chief Justice. Throughout her long career, Justice Moreau has been extensively involved in judicial education, administration and ethics, both in Canada and internationally. My colleagues and I are very happy that she has joined us.

With her appointment, the Supreme Court of Canada has a majority of women judges for the first time in its history.

Those of you who cover the Court regularly may have noticed a few changes, all in the interest of access to justice. The Courtroom is back to full capacity. It is so nice to see the public attending our hearings. It enables them to see how we work. It has also been great to see media attending our hearings, participating in lockups and in briefings. You can do so online or in person.

We found that hybrid hearings worked quite well, so we have continued this practice. Counsel for the parties always have the option to appear in person or online, while interveners must present their views by videoconference. Virtual appearances are efficient and cost-effective for all parties.

Some amendments to the *Rules of the Supreme Court of Canada* came into force this morning. I want to point out two important changes: First, filing fees have been eliminated. While nominal, the fees added an additional burden for all litigants, particularly those who are self-represented. Eliminating them removes one more barrier to justice.

Secondly, the new rules require using the Court's e-filing portal launched in January 2023. Since its inception, the portal has been a tremendous success. We receive more than 1,000 documents every month through the portal, safely and securely, reducing the administrative burden on parties and on our staff. This is just one example of how we are modernizing. Technology offers great potential to streamline administration and improve access to justice. I salute all those working at courts across the country to identify new solutions.

I want to take a few moments to update you on the work of the Canadian Judicial Council. I chair the CJC, which is the national body that brings together the 44 Chief Justices and Associate Chief Justices.

The CJC has experienced a significant turnover in its membership in recent years, which has allowed us to benefit from new perspectives and new ideas. We are counting on an excellent collaboration, and I am convinced that the CJC is well positioned to continue exercising leadership in the administration of justice.

The CJC is working forward on a number of important fronts, such as artificial intelligence. Our members are paying close attention to its potential effects on justice and the courts. The CJC continues to engage with experts in the field, and we are working on developing helpful guidance for the courts.

The CJC is also mindful of the health and well-being of judges. We will therefore be conducting a study on this subject in the very near future. This will allow us to better understand the challenges faced by members of the judiciary, and identify ways we can assist them further. This is important, since health and well-being is a matter for everyone, including judges.

At my press conference last year, I said the judicial conduct regime needed to change. I was very happy to see that soon after, Bill C-9 was finally adopted. The process for reviewing and sanctioning judicial conduct was amended. This was something me and my fellow council members had been calling for, over many years.

Since then, the CJC published new *Review Procedures* and a new *Policy on the Publication of Judicial Conduct Decisions*. These developments will promote procedural fairness and provide greater clarity and transparency, while building public trust in our judiciary.

Last year, I also spoke to you about judicial vacancies. This remains a key priority for the Council, and as its chair, I have expressed our concerns to the highest levels of government. I am pleased to see that the number of judicial vacancies has gone down in recent months and I am confident that the government will continue to make efforts to appoint judges in a timely fashion.

Let me share an update on the work of another organization that I chair – the National Judicial Institute.

The NJI has developed continuing education for Canadian judges for over 35 years. Last year, the NJI provided more than 70 national judicial education seminars. The NJI has also embraced digital education, developing a growing library of on-demand resources, available to judges of all courts.

Educational seminars and resources addressed critical topics for Canadian judges, such as sexual assault law, intimate partner violence, justice issues relevant to Indigenous peoples, and the impacts of artificial intelligence on the justice system. The NJI also increased educational programming designed specifically to meet the needs of French-speaking judges across Canada.

The NJI is increasingly solicited by other countries for its expertise in judicial education, and it continues to collaborate with them on capacity building, and judicial reform. A few of those countries include: Ukraine, Vietnam, Singapore, and most recently, Pakistan.

I want to now turn to the work of the Action Committee on Modernizing Court Operations, which I co-chair with the federal Minister of Justice. The Action Committee brings members of the executive and the judiciary together around the same table. It allows chief justices, attorneys general, and court administrators to address challenges from a big picture perspective.

Our legal system is facing several key questions:

How do we ensure that it is meeting the needs of marginalized Canadians?

How do we ensure adequate funding and resources?

How can technology and collaboration improve access to justice?

And how do we continue to protect the health and safety of litigants and staff going forward?

The Action Committee has been working to identify best practices and solutions that can help address some of these questions. For instance, we shared a case study showing how family courts in Manitoba tackle backlogs and delays. We developed a roadmap for piloting virtual bail hearings, based on the experience in B.C. We also published a set of best practices for mental health and wellness. I look forward to continuing to build on that progress.

Our court system must function efficiently and effectively, because Canadians rely on it every single day. Courts must have the resources to function effectively. From staffing to infrastructure, our courts need resources to ensure that justice continues to be served.

Governments at all levels must understand that funding for justice initiatives is required to sustain our democracy.

I have said this before, and I will say it again today: public confidence in our courts is essential to maintaining the rule of law and a strong democracy. The Supreme Court of Canada, like all courts across the country in fact, enjoys a great deal of public confidence.

But the judicial system is not immune to problems. In fact, today we are seeing attacks on our judges and our institutions, something we used to only see in other countries.

One of the ongoing challenges is countering disinformation. I would like to say a few words about this. First of all, this challenge is more prevalent than ever, in the era of social media and polarization seen within society, and especially south of the border. People are finding it increasingly difficult to distinguish fact from fiction. And this causes some people, otherwise of good faith, to lose trust in their institutions.

Of course, in a democracy, we accept and even hope that court decisions will be the subject of debate. But it is important for the debates to be respectful and above all, informed. People should at least read judgments before criticizing them.

We can see all kinds of harm caused when court decisions are reported inaccurately, or out of context, for reasons of “sensationalism”.

It is also troubling when the judge is more scrutinized than the judgment itself. It is one thing to express disagreement with a decision, but it is another thing altogether to criticize it because of who the judge is or how they were appointed. Comments like this undermine public confidence in the justice system. We should be especially concerned when elected representatives say these things.

A judiciary that is independent and impartial — and perceived as such — is the pillar of our democracy. At times, it may be useful — even indispensable — for members of society as a whole to come together to denounce and condemn comments of this nature, to correct disinformation and set the record straight. Make no mistake: if we become complacent, we should not be surprised to see the very foundations of the rule of law and our democracy erode.

That is why we need you – the media – more than ever before. These narratives undermine democracies, but quality journalism strengthens trust in our institutions. I emphasized this at a recent conference in Quebec, the Festival international de journalisme de Carleton-sur-Mer. Your work is vital in making our institutions more visible and more accessible. That matters a great deal these days, when there is a lot of wrong and inaccurate information out there.

That is precisely why the Court goes to great lengths to explain our work. Because the public cannot have faith in something it does not understand. If you read our *Cases in Brief* – and I know many of you do – you will have noticed that we now issue them for oral judgments, in addition to written judgments. This adds to a long list of initiatives put in place in recent years to improve the transparency and accessibility of court hearings and decisions.

I often speak about communication and outreach with the international judicial community. Last month in Brazil, I was the first Canadian Chief Justice to participate in a J20 Summit. The J20 brought together the heads of supreme and constitutional courts of the G20 members, as well as the African Union and the European Union. I was pleased to lead a discussion on access to justice and how courts can better reflect the changing nature of society. This was a great opportunity to share the Canadian experience, as our country is a leader in tackling these issues. I also heard from my counterparts and learned how they are confronting other challenges, like AI and disinformation.

Engaging in this kind of dialogue with other courts around the world is a valuable experience for me and my colleagues. Over the past year, we welcomed delegations from the Supreme Court of the United States and the Constitutional Court of Slovenia for judicial exchanges. We also had our first exchange with the Constitutional Court of South Africa. And we welcomed many other international visitors to the Court – including from countries like Japan, Pakistan, Lithuania, Italy, and Vietnam.

These meetings are unique opportunities to discuss subjects like judicial independence or access to justice and to learn more about how other courts around the world deal with today’s challenges.

My colleagues and I have also, again this year, participated in many meetings with members of the legal community and members of the public across Canada. These meetings are important in creating a better understanding of the Court’s role, but also in getting to know more about the concerns of different stakeholders. They also allow us to learn about many inspiring initiatives.

There is a lot ahead for us this year. We have several initiatives planned to commemorate our 150th anniversary in 2025. I am really looking forward to our regional visits. Members of the Court will go to five different cities during the year. We will meet with students, the general public, the media, and the legal community and tell them

about the work of our Court. We will also host a symposium for the legal community, and launch a more modern and accessible website. So, stay tuned!

For now, let me close by saying thank you again for being so interested in the Court and our justice system. I would be happy to answer some of your questions.

Remarks by the Right Honourable Richard Wagner, P.C.

Chief Justice of Canada

On the occasion of the Annual News Conference with the Parliamentary Press Gallery

Sir John A. Macdonald Building

Ottawa, Ontario

June 3, 2024

Date modified: 2024-06-26

COUR SUPRÊME DU CANADA

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Conférence de presse annuelle du juge en chef du Canada

Lien connexe

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Allocution du très honorable Richard Wagner, C.P. Juge en chef du Canada

(La version prononcée fait foi)

Bonjour et merci d'être venus. Je suis ravi d'être ici ce matin pour vous renseigner sur les travaux de la Cour suprême du Canada et mes responsabilités en tant que juge en chef du Canada. Je suis toujours heureux de profiter de cette occasion pour m'adresser aux médias.

L'année dernière a été une autre année notable pour la Cour suprême du Canada. Nous avons entendu des causes portant sur un large éventail de questions, allant des droits autochtones au droit des contrats, en passant par les droits garantis par la Charte, et bien d'autres sujets encore.

Pour moi, l'un des faits saillants a été l'arrivée d'une nouvelle collègue au sein de la Cour, l'honorable Mary T. Moreau. La juge Moreau amène avec elle une vaste expérience et des connaissances précieuses, après avoir servi pendant plus de 30 années comme juge de première instance et comme juge en chef. Pendant sa longue carrière, la juge Moreau a été très active dans les domaines de la formation, de l'administration et de la déontologie judiciaires, tant au Canada qu'à l'étranger. Mes collègues et moi-même sommes très heureux qu'elle se soit jointe à nous.

Depuis sa nomination, la Cour suprême du Canada compte une majorité de femmes pour la première fois de son histoire.

Ceux et celles d'entre vous qui couvrent les travaux de la Cour régulièrement auront sans doute remarqué un certain nombre de changements, tous apportés dans le but d'améliorer l'accès à la justice. La salle d'audience a retrouvé sa pleine capacité d'accueil. Il est très agréable de voir à nouveau des membres du public assister aux audiences et pouvoir ainsi observer comment la Cour travaille. Nous sommes également très heureux de voir des représentants des médias assister aux audiences et participer aux huis clos et aux séances d'information - ce que vous pouvez d'ailleurs faire en ligne ou en personne.

Nous avons constaté que les audiences en mode hybride fonctionnaient plutôt bien; nous avons donc maintenu cette pratique. Les procureurs des parties ont toujours le choix de comparaître en personne ou en ligne, tandis que les intervenants doivent présenter leurs points de vue par visioconférence. Comparaître virtuellement est efficace et rentable pour toutes les parties.

Certaines modifications apportées aux *Règles de la Cour suprême du Canada* sont entrées en vigueur ce matin. Je tiens à souligner deux changements importants. Premièrement, les droits de dépôt ont été éliminés. Bien que peu élevés, ces droits constituaient néanmoins un fardeau additionnel pour tous les plaideurs, en particulier les plaideurs non représentés. Leur élimination écarte un autre obstacle à l'accès à la justice.

Deuxièmement, les nouvelles règles obligent les plaideurs à utiliser le portail de dépôt électronique lancé par la Cour en janvier 2023. Ce portail connaît un immense succès depuis sa mise en place. La Cour reçoit en effet plus de 1000 documents chaque mois par l'entremise du portail, et ce, de façon sûre et sécuritaire. Cette mesure a ainsi permis de réduire le fardeau administratif pour les parties et pour notre personnel. Ce n'est là qu'un exemple des mesures que nous prenons pour moderniser nos activités. La technologie offre un immense potentiel pour rationaliser l'administration et améliorer l'accès à la justice. Je rends hommage à toutes les personnes qui travaillent à concevoir de nouvelles solutions dans les différents tribunaux du pays.

J'aimerais prendre quelques minutes pour faire le point sur les travaux du Conseil canadien de la magistrature. Je préside le Conseil, un organisme national qui réunit 44 juges en chef et juges en chef associés ou adjoints.

Le Conseil a connu un renouvellement important de ses membres au cours des dernières années, ce qui nous permet de bénéficier de nouveaux points de vue et de nouvelles idées. Nous comptons sur une belle collaboration et je suis convaincu que le Conseil est bien placé pour continuer à exercer son leadership dans l'administration de la justice.

Le Conseil se penche actuellement sur plusieurs enjeux importants, tels que l'intelligence artificielle. Nos membres sont attentifs à ses effets potentiels sur la justice et les tribunaux. Le Conseil continue d'échanger avec des experts en la matière et nous travaillons sur des conseils utiles pour les tribunaux.

Le Conseil est également attentif à la santé et au bien-être des juges. Nous allons mener ainsi une étude à ce sujet dans un avenir très rapproché. Cette étude nous permettra de mieux comprendre les défis auxquels font face les membres de la magistrature, et d'identifier les façons de leur procurer du soutien additionnel. Il s'agit d'un travail important, car la santé et le bien-être sont des sujets qui touchent tout le monde, y compris les juges.

Lors de ma conférence de presse l'an dernier, j'ai indiqué que des changements s'imposaient en ce qui concerne le régime des enquêtes relatives à la conduite des juges. J'ai été très heureux de constater que, peu de temps après, le projet de loi C-9 a finalement été adopté. Les procédures pour examiner et sanctionner la conduite des juges ont été modifiées. C'est une chose que nous avons demandée depuis de nombreuses années, mes collègues du Conseil et moi.

Depuis, le Conseil a publié de nouvelles *Procédures d'examen des plaintes*, ainsi qu'une nouvelle *Politique en matière de publication des décisions relatives à la conduite des juges*. Ces changements favoriseront l'équité procédurale, en plus d'être un gage de clarté et de transparence, permettant d'accroître la confiance du public dans notre magistrature.

L'an dernier, je vous ai aussi parlé des postes vacants au sein des tribunaux. Cette question demeure une priorité clé pour le Conseil, et, à titre de président, j'ai fait part de nos préoccupations aux plus hautes instances gouvernementales. Je me réjouis de voir que le nombre de postes vacants a diminué au cours des derniers mois et j'ai bon espoir que le gouvernement continuera à prendre des mesures afin de nommer des juges dans des délais appropriés.

J'aimerais maintenant vous faire part des travaux d'un autre organisme que je préside – l'Institut national de la magistrature.

L'Institut élabore des programmes de formation continue pour les juges canadiens depuis plus de 35 ans. L'an dernier, il a organisé plus de 70 colloques de formation judiciaire à l'échelle nationale. L'Institut s'est également investi dans la formation numérique en se dotant d'une bibliothèque de ressources consultables sur demande, dont le nombre ne cesse d'augmenter et qui sont offertes aux juges de tous les tribunaux.

Les programmes et ressources de formation de l'Institut traitent de sujets très importants pour les juges canadiens, tels le droit relatif aux agressions sexuelles, la violence entre partenaires intimes, les questions de justice intéressant les peuples autochtones et les impacts de l'intelligence artificielle sur le système de justice. L'Institut a aussi accru son offre de programmes de formation conçus spécifiquement pour répondre aux besoins des juges d'expression française au Canada.

L'expertise de l'Institut en matière de formation judiciaire est de plus en plus sollicitée par d'autres pays. L'INM collabore avec ceux-ci dans le domaine de la réforme judiciaire et du renforcement des capacités. Parmi ces pays, mentionnons l'Ukraine, le Vietnam, Singapour et, plus récemment, le Pakistan.

Je voudrais maintenant parler du travail du Comité d'action sur la modernisation des activités judiciaires, que je copréside avec le ministre fédéral de la Justice. Le Comité d'action rassemble des membres de l'exécutif et du judiciaire autour d'une même table. Cela permet aux juges en chef, aux procureurs généraux et aux administrateurs de tribunaux d'examiner les défis qui se présentent dans une perspective d'ensemble.

Notre système de justice fait face à plusieurs enjeux importants :

Comment nous assurer que le système répond aux besoins des Canadiens marginalisés?

Comment assurer un financement suffisant ainsi que des ressources adéquates?

Comment la technologie et la collaboration peuvent-elles améliorer l'accès à la justice?

Et comment allons-nous continuer à protéger la santé et la sécurité des plaideurs et du personnel?

Le Comité d'action s'affaire à déterminer les meilleures pratiques et les solutions susceptibles d'aider à résoudre certains de ces enjeux. Par exemple, nous avons diffusé une étude de cas qui montre comment les tribunaux de la famille au Manitoba s'attaquent aux arriérés et aux retards. Nous avons mis au point une feuille de route pour la tenue d'audiences virtuelles de libération sous caution en nous inspirant de ce qui a été fait en Colombie-Britannique. Nous avons également publié un ensemble de meilleures pratiques en lien avec le bien-être et la santé mentale. Je compte bien poursuivre les efforts en bâtissant sur les progrès réalisés jusqu'à maintenant.

Notre système de justice doit fonctionner de manière efficace et efficiente, car les Canadiens et les Canadiennes y font appel tous les jours. Les tribunaux doivent disposer des ressources nécessaires pour fonctionner efficacement. Que ce soit en matière d'infrastructures ou de dotation en personnel, nos tribunaux ont besoin de ressources pour continuer à servir la justice.

Tous les ordres de gouvernement doivent comprendre que le financement d'initiatives en matière de justice est nécessaire pour soutenir notre démocratie.

Je l'ai dit, et je le répète encore aujourd'hui : la confiance du public dans nos tribunaux est essentielle au maintien de l'État de droit et d'une forte démocratie. La Cour suprême du Canada bénéficie, comme tous les tribunaux à travers le pays d'ailleurs, d'une grande confiance de la part des citoyens.

Mais le système judiciaire n'est pas à l'abri des dérives. En effet, on assiste aujourd'hui à des attaques contre nos juges et nos institutions, chose que l'on ne voyait auparavant qu'à l'étranger.

L'un des défis qui persistent est celui de contrer la désinformation. Permettez-moi de dire quelques mots à ce sujet. D'abord, ce défi est plus présent que jamais, à l'ère des médias sociaux et de la polarisation observée au sein de la société, en particulier au sud de notre frontière. Les gens ont de plus en plus de difficulté à distinguer les faits de la fiction. Et cela amène des personnes, par ailleurs de bonne foi, à perdre confiance dans leurs institutions.

Bien entendu, dans une démocratie, nous acceptons et même souhaitons que les décisions des tribunaux fassent l'objet de débats. Mais il est important que ces débats se déroulent de manière respectueuse, et par-dessus-tout, de manière informée. Les gens devraient au moins lire les jugements avant de les critiquer.

Nous sommes à même de constater les dommages en tout genre qui sont causés lorsque des décisions judiciaires sont rapportées erronément, ou hors contexte, pour des raisons de « sensationnalisme ».

La situation est également troublante lorsque le reportage s'attache davantage au juge qui a rendu la décision qu'à la décision elle-même. Exprimer son désaccord avec une décision, c'est une chose, mais c'en est une autre de la critiquer en raison de l'identité ou du mode de nomination du juge ou de la juge qui l'a rendue. Des commentaires de ce genre minent la confiance du public dans le système de justice. Cela est particulièrement préoccupant lorsque ce sont des élus qui tiennent de tels propos.

Une magistrature indépendante et impartiale – et perçue comme telle – c'est le pilier de notre démocratie. Il peut parfois s'avérer utile – voire même indispensable – que les acteurs de la société toute entière se mobilisent pour dénoncer et condamner des propos de cette nature, pour corriger la désinformation, et remettre les pendules à l'heure. Ne nous leurrions pas : si nous devenons complaisants, ne soyons pas surpris de voir s'effriter les fondements mêmes de l'État de droit et de notre démocratie.

Voilà pourquoi nous avons besoin de vous – les médias – plus que jamais auparavant. Le genre de commentaires que j'ai évoqués minent les démocraties, mais le journalisme de qualité renforce la confiance dans nos institutions. J'ai souligné ce point à l'occasion d'une conférence qui s'est déroulée récemment au Québec, le Festival international du journalisme de Carleton-sur-Mer. Votre travail est vital afin de rendre nos institutions davantage visibles et accessibles. Cela est très important ces jours-ci, alors que circule beaucoup d'information inexacte et erronée.

C'est précisément pour cette raison que la Cour déploie beaucoup d'efforts afin d'expliquer son travail. Car le public ne peut avoir confiance en quelque chose qu'il ne comprend pas. Si vous lisez notre publication *La cause en bref* – et je sais que bon nombre d'entre vous le font – vous aurez remarqué qu'elle est maintenant publiée lorsque la Cour rend un jugement oral à l'audience, et non plus seulement lors du dépôt de motifs de jugement écrits. Cette mesure s'ajoute à une longue liste d'initiatives qui ont été mises en place au cours des dernières années afin d'améliorer la transparence et l'accessibilité des audiences et des décisions de la Cour.

Je parle souvent de communication et de sensibilisation lorsque je prends la parole devant la communauté judiciaire internationale. Le mois dernier au Brésil, j'ai été le premier juge en chef canadien à participer au

Sommet du J20. Ce sommet rassemblait les juges en chef des cours suprêmes et constitutionnelles des pays membres du G20, de l'Union africaine et de l'Union européenne. J'ai eu le plaisir de diriger une discussion sur l'accès à la justice et sur la façon dont les tribunaux peuvent refléter davantage la société en constant évolution. Ce fut une excellente occasion de faire connaître l'expérience du Canada en la matière, car notre pays est un leader dans la recherche et l'adoption de solutions sur ces questions. J'ai également eu la possibilité d'entendre mes homologues – et ce faisant d'apprendre de ceux-ci – sur la façon dont ils et elles font face à d'autres défis, par exemple l'intelligence artificielle et la désinformation.

Entretenir de tels dialogues avec d'autres cours à l'international est une expérience précieuse pour mes collègues et moi-même. Au courant de la dernière année, nous avons d'ailleurs accueilli des délégations de la Cour suprême des États-Unis et de la Cour constitutionnelle de la Slovénie, pour des échanges judiciaires. Nous avons aussi tenu notre premier échange avec la Cour constitutionnelle d'Afrique du sud. Et nous avons accueilli à la Cour de nombreux autres visiteurs internationaux – y compris de pays tels que le Japon, le Pakistan, la Lituanie, l'Italie et le Vietnam.

Ces rencontres sont des occasions uniques de discuter de sujets comme l'indépendance judiciaire ou l'accès à la justice, et d'en apprendre davantage sur la façon dont les autres tribunaux dans le monde abordent les défis actuels.

Mes collègues et moi avons aussi, encore cette année, participé à de nombreuses rencontres avec les membres de la communauté juridique et du public, au Canada. Ces rencontres sont importantes pour mieux faire comprendre le rôle de la Cour, mais aussi pour mieux connaître les préoccupations des divers intervenants sur le terrain. Elles nous permettent également de prendre connaissance de plusieurs initiatives fort inspirantes.

Beaucoup de choses nous attendent cette l'année. Nous planifions plusieurs initiatives pour commémorer le 150^e anniversaire de la Cour en 2025. Je suis très enthousiaste à l'idée de nos visites dans différentes régions du pays. Au cours de l'année, les juges vont se rendre dans cinq villes. Nous allons y rencontrer des étudiants et étudiantes, ainsi que des membres du grand public, des médias et de la communauté juridique, et leur parler du travail de la Cour. La Cour sera aussi l'hôte d'un symposium réunissant des représentants de la communauté juridique, et elle lancera un site Web plus moderne et plus accessible. Restez à l'écoute!

Pour le moment, permettez-moi de terminer en vous remerciant à nouveau pour tout l'intérêt que vous portez à la Cour et à notre système de justice. Je me ferai maintenant un plaisir de répondre à certaines de vos questions.

Allocution du très honorable Richard Wagner, C.P.

Juge en chef du Canada

À l'occasion de la conférence de presse annuelle avec la Tribune de presse parlementaire

Édifice Sir-John-A.-Macdonald

Ottawa (Ontario)

Le 13 juin 2023

Date de modification : 2024-06-26

TAB 3



Government
of Canada

Gouvernement
du Canada

[Canada.ca](#) > [Department of Justice Canada](#)

New measures announced to make federal judicial appointments process more efficient

From: [Department of Justice Canada](#)

News release

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News Release

New measures announced to make federal judicial appointments process more efficient

September 5, 2023 – Ottawa, Ontario – Department of Justice Canada

The Government of Canada is committed to ensuring that the process for appointing judges to superior courts is transparent and accountable to Canadians, identifies excellent candidates and promotes greater diversity on the bench.

Today, the Honourable Arif Virani, Minister of Justice and Attorney General of Canada, announced measures aimed at making the federal judicial appointments process more efficient.

The measures include:

- Newly appointed Judicial Advisory Committees will now serve three-year terms instead of two; and
- As of August 1st, 2023, Judicial Advisory Committee assessments of judicial appointment candidates will be valid for three rather than two years.

Extending the terms of these committees to three years ensures that members can serve for longer, which will decrease time spent selecting new committee members and allow each committee to evaluate more candidate files, comparatively, over an extended period. In order to ensure that the same Judicial Advisory Committee does not assess judicial candidates twice, the validity of judicial candidate assessments will now be for three years as well.

Judicial Advisory Committees play a fundamental role in evaluating judicial applications. These committees are responsible for screening and assessing the qualifications of candidates applying for federal judicial appointments.

Streamlining the approach to judicial appointments, while maintaining a robust and thorough evaluation of candidates, will enhance the ability to make timely appointments with the aim of reducing judicial vacancies arising from elevations, retirements, resignations and members of the bench electing supernumerary status.

Quotes

“Canada has one of the most robustly independent and highly regarded judiciaries in the world. That is due in part to the quality of our judicial appointees and their dedication to Canadians. Making Judicial Advisory Committees more efficient will help fill judicial vacancies and strengthen public confidence in the justice system.”

The Honourable Arif Virani, PC, MP

Minister of Justice and Attorney General of Canada

Quick facts

- There are 17 Judicial Advisory Committees, with each province and territory represented.
- The Office of the Commissioner for Federal Judicial Affairs, established in 1978, administers the Judicial Advisory Committees.
- Committees categorize each applicant for judicial vacancies in their jurisdiction as “highly recommended”, “recommended” or “unable to recommend” and provide these recommendations to the Minister of Justice.
- Significant reforms to the role and structure of the Judicial Advisory Committees, aimed at enhancing the independence and transparency of the process, were announced on October 20, 2016.
- The judicial application process was established in 2016, following rigorous consultation with the legal and judicial community. This process emphasizes transparency, merit and the diversity of the

Canadian population and will continue to ensure the appointment of jurists who meet the highest standards of excellence and integrity.

- The Government of Canada has appointed more than 645 judges since November 2015. These exceptional jurists represent the diversity that strengthens Canada. Of these judges, more than half are women and appointments reflect an increased representation of racialized persons, Indigenous, 2SLGBTQI+ and those who self-identify as having a disability.

Associated links

- [Office of the Commissioner for Federal Judicial Affairs Canada](#)

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De nouvelles mesures annoncées pour rendre le processus de nomination à la magistrature fédérale plus efficace

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Communiqué

De nouvelles mesures annoncées pour rendre le processus de nomination à la magistrature fédérale plus efficace

Le 5 septembre 2023 – Ottawa (Ontario) – ministère de la Justice Canada

Le gouvernement du Canada est déterminé à faire en sorte que le processus de nomination des juges aux cours supérieures soit transparent et justifiable auprès des Canadiennes et des Canadiens et qu'il soutienne l'excellence des candidates et candidats en plus de favoriser la diversité au sein de la magistrature.

L'honorable Arif Virani, ministre de la Justice et procureur général du Canada, a annoncé aujourd'hui des mesures visant à rendre le processus de nomination à la magistrature fédérale plus efficace.

Parmi ces mesures, mentionnons les suivantes :

- le mandat des membres des comités consultatifs à la magistrature nouvellement nommés sera maintenant de trois ans plutôt que de deux;
- à compter du 1^{er} août 2023, les évaluations des candidats à la magistrature effectuées par les comités consultatifs à la magistrature seront valides pendant trois ans, plutôt que deux.

Le fait de prolonger à trois ans le mandat des membres de ces comités fait en sorte qu'ils peuvent être plus longtemps de service, ce qui réduira le temps nécessaire pour sélectionner de nouveaux membres du comité et, à long terme, permettra à chaque comité d'évaluer un plus grand nombre de dossiers de candidature qu'auparavant. De plus, les évaluations seront valides pendant trois ans afin d'éviter qu'un comité consultatif à la magistrature n'examine deux fois la même candidature.

Les comités consultatifs à la magistrature jouent un rôle fondamental dans l'évaluation des candidatures à la magistrature. Ces comités ont la responsabilité de sélectionner les candidats à la magistrature fédérale et d'évaluer leurs compétences.

La simplification de l'approche pour les nominations à la magistrature, tout en maintenant une évaluation rigoureuse et approfondie des candidats, améliorera la capacité à faire des nominations au moment opportun dans une perspective de réduction des taux de postes vacants à la magistrature par suite d'élévations, de départs à la retraite, de démissions ou de la décision de certains membres de la magistrature de devenir surnuméraires.

Citations

« Le Canada dispose d'une magistrature parmi les plus solidement indépendantes et les plus réputées au monde. Cela est en partie attribuable à la qualité des personnes nommées à la magistrature et à leur dévouement envers les Canadiennes et les Canadiens. Des comités consultatifs à la magistrature plus efficaces permettront de pourvoir les postes de juges vacants et de renforcer la confiance du public envers le système de justice. »

L'honorable Arif Virani, CP, député

Ministre de la Justice et procureur général du Canada

Faits en bref

- Il y a 17 comités consultatifs à la magistrature qui représentent toutes les provinces et tous les territoires.
- Le Commissariat à la magistrature fédérale, créé en 1978, administre les comités consultatifs à la magistrature.
- Les comités déterminent si un candidat à un poste de juge vacant au sein de leur administration se retrouve dans la catégorie « fortement recommandé », « recommandé » ou « sans recommandation » et ils

transmettent ces recommandations au ministre de la Justice.

- Des réformes importantes du rôle et de la structure des comités consultatifs à la magistrature ont été annoncées le 20 octobre 2016 afin d'accroître l'indépendance et la transparence du processus.
- Le processus de nomination à la magistrature a été mis sur pied en 2016, à la suite d'une consultation rigoureuse auprès de la communauté juridique et judiciaire. Ce processus met l'accent sur la transparence, le mérite et la diversité de la population canadienne, et il continuera d'assurer la nomination de juristes qui incarnent les plus hautes normes d'excellence et d'intégrité.
- Le gouvernement du Canada a nommé plus de 645 juges depuis novembre 2015. Ces juristes exceptionnels témoignent de la diversité qui renforce le Canada. Plus de la moitié de ces juges sont des femmes, et ces nominations font état d'une représentation accrue des personnes racisées, des Autochtones, des membres des communautés 2ELGBTQI+ et des personnes qui s'identifient comme en situation de handicap.

Liens connexes

- [Commissariat à la magistrature fédérale Canada](#)

Personnes-ressources

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- Suivez le ministre Virani sur X (Twitter) : [@MinJusticeFr](#).
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Recherche d'information connexe par mot-clés: [Droit](#) | [Ministère de la Justice Canada](#) | [Canada](#) | [Justice](#) | [grand public](#) | [communiqués de presse](#) | [L'hon. Arif Virani](#)

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Demographic statistics on diversity in the judiciary

Judicial Applicants and Appointees

On October 20, 2016, the Government of Canada announced reforms to the superior courts judicial appointments process. As part of these changes and in order to increase transparency and rigour, the Government mandated the Office of the Commissioner for Judicial Affairs to collect and publish statistics and demographic information on judicial applicants and appointees. Based on voluntary disclosure by candidates through self-identification in the [Questionnaire](#) for judicial appointment, these statistics relate to diversity (see p. 3 of the candidates' Questionnaire) and language proficiency (see p. 6 of the Questionnaire).

October 28, 2023 – October 28, 2024

	Total	Gender			Diversity						Language Proficiency in <u>both</u> Official Languages						
		Male	Female	Other	Indigenous individual	Racialized individual	Ethnic/Cultural Group or other	Individual with disability	2SLGBTQI+ individual	Woman	Read court materials	Discuss legal matters	Converse with counsel	Understand oral submissions	Write decisions	Conduct hearings	All 6 abilities
Applications Received	379	169	210	0	15	74	85	7	18	210	150	126	122	132	99	110	98
Candidates Assessed	540	260	280	0	18	88	118	11	35	280	228	192	181	200	153	165	152
Candidates Highly Rec. ¹	95	43	52	0	1	9	18	1	7	52	40	34	30	34	27	29	27
Candidates Recommended ¹	106	45	61	0	4	12	11	0	3	61	49	42	42	46	39	40	39
Candidates Unable to Rec. ¹	339	172	167	0	13	67	89	10	25	167	139	116	109	120	87	96	86

	Total	Gender			Diversity						Language Proficiency in <u>both</u> Official Languages						
		Male	Female	Other	Indigenous individual	Racialized individual	Ethnic/Cultural Group or other	Individual with disability	2SLGBTQI+ individual	Woman	Read court materials	Discuss legal matters	Converse with counsel	Understand oral submissions	Write decisions	Conduct hearings	All 6 abilities
Newly Appointed Judges	88	38	50	0	4	11	12	2	4	50	35	26	24	27	20	20	19

Please note that in addition to the 88 newly appointed judges, 36 other judges were appointed or elevated to other courts during the same period; 16 men and 20 women. For example, this would include judges appointed to courts of appeal from the trial level courts. There were therefore 124 appointments during this period.

1. Please note that in their application, candidates may apply to more than one court. A candidate can therefore obtain a rating of "highly recommended" for one court, "recommended" for another and "unable to recommend" for yet another court. For ease of reference, the above statistics reflect the highest rating candidates may have received from the Judicial Advisory Committees.

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- [October 29, 2022 – October 27, 2023](#)
- [October 29, 2021 – October 28, 2022](#)
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- [October 21, 2016 – October 27, 2017](#)

Judges currently on the bench

The Government of Canada has committed to tracking data on the diversity of judicial appointees. The Office of the Commissioner for Federal Judicial Affairs therefore publishes annual demographic statistics, not only regarding newly appointed judicial candidates and judges, but also, below, regarding all federally appointed judges. These statistics include judges appointed after 2016, who completed a questionnaire following reforms brought to the appointment process which included specific questions relating to diversity, and also those appointed before 2016, who completed a questionnaire which included a more general question regarding diversity. Following a detailed analysis carried out by the Office of the Commissioner of the responses from each of those judges appointed before 2016, the information has been classified according to the categories established in the current questionnaire.

As of February 1, 2024

	Number of Judges	Indigenous individual	Racialized individual	Ethnic/Cultural Group or other	Individual with Disability	2SLGBTQI+ individual	Woman
Judges appointed before 2016	647	5	16	44	2	1	271
Judges appointed after 2016	533	17	60	80	4	31	281
TOTAL:	1180	22	76	124	6	32	552

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Demographic statistics on diversity in the judiciary

Judicial Applicants and Appointees

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October 29, 2022 – October 27, 2023

	Total	Gender			Diversity						Language Proficiency in <u>both</u> Official Languages						
		Male	Female	Other	Indigenous individual	Racialized individual	Ethnic/Cultural Group or other	Individual with disability	2SLGBTQI+ individual	Woman	Read court materials	Discuss legal matters	Converse with counsel	Understand oral submissions	Write decisions	Conduct hearings	All 6 abilities
Applications Received	410	207	203	0	15	53	84	8	27	203	187	156	150	161	126	131	125
Candidates Assessed	315	160	155	0	9	37	64	6	12	155	149	120	123	126	99	104	98
Candidates Highly Rec. ¹	73	41	32	0	3	8	12	1	3	32	31	23	23	24	20	20	20
Candidates Recommended ¹	68	29	39	0	3	10	12	2	2	39	30	23	24	23	19	19	18
Candidates Unable to Rec. ¹	174	90	84	0	3	19	40	3	7	84	88	74	76	79	60	65	60

	Total	Gender			Diversity						Language Proficiency in <u>both</u> Official Languages						
		Male	Female	Other	Indigenous individual	Racialized individual	Ethnic/Cultural Group or other	Individual with disability	2SLGBTQI+ individual	Woman	Read court materials	Discuss legal matters	Converse with counsel	Understand oral submissions	Write decisions	Conduct hearings	All 6 abilities
Newly Appointed Judges	68	31	37	0	1	9	17	0	4	37	32	28	29	30	27	28	27

Please note that in addition to the 68 newly appointed judges, 19 other judges were appointed or elevated to other courts during the same period; 11 men and 8 women. For example, this would include judges appointed to courts of appeal from the trial level courts. There were therefore 87 appointments during this period.

1. Please note that in their application, candidates may apply to more than one court. A candidate can therefore obtain a rating of "highly recommended" for one court, "recommended" for another and "unable to recommend" for yet another court. For ease of reference, the above statistics reflect the highest rating candidates may have received from the Judicial Advisory Committees.

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Judges currently on the bench

The Government of Canada has committed to tracking data on the diversity of judicial appointees. The Office of the Commissioner for Federal Judicial Affairs therefore publishes annual demographic statistics, not only regarding newly appointed judicial candidates and judges, but also, below, regarding all federally appointed judges. These statistics include judges appointed after 2016, who completed a questionnaire following reforms brought to the appointment process which included specific questions relating to diversity, and also those appointed before 2016, who completed a questionnaire which included a more general question regarding diversity. Following a detailed analysis carried out by the Office of the Commissioner of the responses from each of those judges appointed before 2016, the information has been classified according to the categories established in the current questionnaire.

As of February 1, 2024

	Number of Judges	Indigenous individual	Racialized individual	Ethnic/Cultural Group or other	Individual with Disability	2SLGBTQI+ individual	Woman
Judges appointed before 2016	647	5	16	44	2	1	271
Judges appointed after 2016	533	17	60	80	4	31	281
TOTAL:	1180	22	76	124	6	32	552

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Statistics regarding Judicial Applicants and Appointees

October 29, 2021 – October 28, 2022

On October 20, 2016, the Government of Canada announced reforms to the superior courts judicial appointments process. As part of these changes and in order to increase transparency and rigour, the Government mandated the Office of the Commissioner for Judicial Affairs to collect and publish statistics and demographic information on judicial applicants and appointees. Based on voluntary disclosure by candidates through self-identification in the [Questionnaire](#) for judicial appointment, these statistics relate to diversity (see p. 3 of the candidates' Questionnaire) and language proficiency (see p. 6 of the Questionnaire).

	Total	Gender			Diversity						Language Proficiency in <u>both</u> Official Languages						
		Male	Female	Other	Indigenous individual	Racialized individual	Ethnic/Cultural Group or other	Individual with disability	2SLGBTQI+ individual	Woman	Read court materials	Discuss legal matters	Converse with counsel	Understand oral submissions	Write decisions	Conduct hearings	All 6 abilities
Applications Received	318	152	166	0	10	48	72	5	10	166	140	108	106	113	87	93	86
Candidates Assessed	227	100	127	0	7	44	58	5	11	127	115	96	95	101	75	82	75
Candidates Highly Rec. ¹	45	23	22	0	1	6	10	2	2	22	25	20	20	22	17	18	17
Candidates Recommended ¹	53	17	36	0	2	9	15	1	1	36	32	29	28	29	24	26	24
Candidates Unable to Rec. ¹	129	60	69	0	4	29	33	2	8	69	58	47	47	50	34	38	34

	Total	Gender			Diversity						Language Proficiency in <u>both</u> Official Languages						
		Male	Female	Other	Indigenous individual	Racialized individual	Ethnic/Cultural Group or other	Individual with disability	2SLGBTQI+ individual	Woman	Read court materials	Discuss legal matters	Converse with counsel	Understand oral submissions	Write decisions	Conduct hearings	All 6 abilities
Judges Appointed	58	30	28	0	2	13	6	1	2	28	19	18	20	18	15	15	15

Please note that in addition to the 58 candidates appointed, 13 other judges were appointed or elevated to other courts during the same period; 4 men and 9 women. For example, this would include judges appointed to courts of appeal from the trial level courts. There were therefore 71 appointments during this period.

1. Please note that in their application, candidates may apply to more than one court. A candidate can therefore obtain a rating of "highly recommended" for one court, "recommended" for another and "unable to recommend" for yet another court. For ease of reference, the above statistics reflect the highest rating candidates may have received from the Judicial Advisory Committees.

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	Total	Gender			Diversity						Language Proficiency in <u>both</u> Official Languages						
		Male	Female	Other	Indigenous	Visible Minority	Ethnic/Cultural Group or other	Person with Disability	LGBTQ2	Woman	Read court materials	Discuss legal matters	Converse with counsel	Understand oral submissions	Write decisions ²	Conduct hearings ²	All 6 abilities ²
Applications Received	227	113	114	0	6	40	54	6	10	114	95	76	79	81	58	62	58
Candidates Assessed	360	182	178	0	14	36	61	10	23	178	136	118	116	121	86	92	86
Candidates Highly Rec. ¹	85	44	41	0	4	10	8	3	7	41	34	30	28	32	21	21	21
Candidates Recommended ¹	93	42	51	0	4	10	12	0	4	51	35	28	31	30	24	24	24

	Total	Gender			Diversity						Language Proficiency in <u>both</u> Official Languages						
		Male	Female	Other	Indigenous	Visible Minority	Ethnic/Cultural Group or other	Person with Disability	LGBTQ2	Woman	Read court materials	Discuss legal matters	Converse with counsel	Understand oral submissions	Write decisions ²	Conduct hearings ²	All 6 abilities ²
Candidates Unable to Rec. ¹	181	95	86	0	6	16	41	7	12	86	67	60	57	59	41	47	41
Judges Appointed	71	31	40	0	4	7	7	0	9	40	28	22	21	24	16	16	16

Please note that in addition to the 71 candidates appointed, 13 other judges were appointed or elevated to other courts during the same period; 8 men and 5 women. For example, this would include judges appointed to courts of appeal from the trial level courts. There were therefore 84 appointments during this period.

1. Please note that in their application, candidates may apply to more than one court. A candidate can therefore obtain a rating of "highly recommended" for one court, "recommended" for another and "unable to recommend" for yet another court. For ease of reference, the above statistics reflect the highest rating candidates may have received from the Judicial Advisory Committees.

2. Please note that two questions regarding language proficiency in both official languages were added to the [Questionnaire \(p. 6\)](#) in November 2017. However, some of the candidates were assessed and appointed during this period based on the previous Questionnaire. In fact, of the 71 judges appointed during this period, 14 used the old Questionnaire while 57 used the new one. Of these 71 judges, 20 answered "yes" to all questions related to language proficiency in both official languages in the Questionnaire they completed.

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	Total	Gender			Diversity						Language Proficiency in <u>both</u> Official Languages						
		Male	Female	Other	Indigenous	Visible Minority	Ethnic/Cultural Group or other	Person with Disability	LGBTQ2	Woman	Read court materials	Discuss legal matters	Converse with counsel	Understand oral submissions	Write decisions ²	Conduct hearings ²	All 6 abilities ²
Applications Received	397	190	207	0	12	34	67	9	22	207	161	142	136	147	105	109	104
Candidates Assessed	374	193	181	0	12	51	74	7	23	181	159	125	125	131	84	95	82
Candidates Highly Rec. ¹	76	38	38	0	2	11	10	0	10	38	34	25	26	25	16	18	16
Candidates Recommended ¹	94	48	46	0	2	16	20	1	5	46	43	35	35	37	22	26	21

	Total	Gender			Diversity						Language Proficiency in <u>both</u> Official Languages						
		Male	Female	Other	Indigenous	Visible Minority	Ethnic/Cultural Group or other	Person with Disability	LGBTQ2	Woman	Read court materials	Discuss legal matters	Converse with counsel	Understand oral submissions	Write decisions ²	Conduct hearings ²	All 6 abilities ²
Candidates Unable to Rec. ¹	204	107	97	0	8	24	44	6	8	97	82	65	64	69	46	51	45
Judges Appointed	60	21	39	0	2	10	8	0	6	39	22	19	21	21	7	10	7

Please note that in addition to the 60 candidates appointed, 22 other judges were appointed or elevated to other courts during the same period; 12 men and 10 women. For example, this would include judges appointed to courts of appeal from the trial level courts. There were therefore 82 appointments during this period.

1. Please note that in their application, candidates may apply to more than one court. A candidate can therefore obtain a rating of "highly recommended" for one court, "recommended" for another and "unable to recommend" for yet another court. For ease of reference, the above statistics reflect the highest rating candidates may have received from the Judicial Advisory Committees.

2. Please note that two questions regarding language proficiency in both official languages were added to the [Questionnaire \(p. 6\)](#) in November 2017. However, some of the candidates were assessed and appointed during this period based on the previous Questionnaire. In fact, of the 60 judges appointed during this period, 30 used the old Questionnaire while 30 used the new one. Of these 60 judges, 15 answered "yes" to all questions related to language proficiency in both official languages in the Questionnaire they completed.

Periods:

- [October 28, 2023 – October 28, 2024](#)
- [October 29, 2022 – October 27, 2023](#)
- [October 29, 2021 – October 28, 2022](#)
- [October 28, 2020 – October 29, 2021](#)
- [October 28, 2019 – October 29, 2020](#)
- [October 28, 2018 – October 28, 2019](#)
- [October 28, 2017 – October 27, 2018](#)
- [October 21, 2016 – October 27, 2017](#)

Date modified: 2020-10-28

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Statistics regarding Judicial Applicants and Appointees

October 28, 2018 – October 28, 2019

On October 20, 2016, the Government of Canada announced reforms to the superior courts judicial appointments process. As part of these changes and in order to increase transparency and rigour, the Government mandated the Office of the Commissioner for Judicial Affairs to collect and publish statistics and demographic information on judicial applicants and appointees. Based on voluntary disclosure by candidates through self-identification in the [Questionnaire](#) for judicial appointment, these statistics relate to diversity (see p. 3 of the candidates' Questionnaire) and language proficiency (see p. 6 of the Questionnaire).

	Total	Gender			Diversity						Language Proficiency in <u>both</u> Official Languages						
		Male	Female	Other	Indigenous	Visible Minority	Ethnic/Cultural Group or other	Person with Disability	LGBTQ2	Woman	Read court materials	Discuss legal matters	Converse with counsel	Understand oral submissions	Write decisions ²	Conduct hearings ²	All 6 abilities ²
Applications Received	320	170	150	0	15	45	71	6	19	150	129	107	110	106	68	81	67
Candidates Assessed	182	86	96	0	11	19	41	4	9	96	55	53	50	49	23	24	20
Candidates Highly Rec. ¹	41	18	23	0	3	10	12	1	3	23	11	11	13	12	5	5	5
Candidates Recommended ¹	45	20	25	0	2	2	4	0	2	25	14	15	14	13	6	6	5

	Total	Gender			Diversity						Language Proficiency in <u>both</u> Official Languages						
		Male	Female	Other	Indigenous	Visible Minority	Ethnic/Cultural Group or other	Person with Disability	LGBTQ2	Woman	Read court materials	Discuss legal matters	Converse with counsel	Understand oral submissions	Write decisions ²	Conduct hearings ²	All 6 abilities ²
Candidates Unable to Rec. ¹	96	48	48	0	6	7	25	3	4	48	30	27	23	24	12	13	10
Judges Appointed	86	39	47	0	2	4	14	0	0	47	37	28	30	31	4	4	3

Please note that in addition to the 86 candidates appointed, 27 other judges were appointed or elevated to other courts during the same period; 13 men and 14 women. For example, this would include judges appointed to courts of appeal from the trial level courts. There were therefore 113 appointments during this period.

1. Please note that in their application, candidates may apply to more than one court. A candidate can therefore obtain a rating of "highly recommended" for one court, "recommended" for another and "unable to recommend" for yet another court. For ease of reference, the above statistics reflect the highest rating candidates may have received from the Judicial Advisory Committees.

2. Please note that two questions regarding language proficiency in both official languages were added to the [Questionnaire \(p. 6\)](#) in November 2017. However, some of the candidates were assessed and appointed during this period based on the previous Questionnaire. In fact, of the 86 judges appointed during this period, 72 used the old Questionnaire while 14 used the new one. Of these 86 judges, 27 answered "yes" to all questions related to language proficiency in both official languages in the Questionnaire they completed.

Periods:

- [October 28, 2023 – October 28, 2024](#)
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Statistics regarding Judicial Applicants and Appointees

October 28, 2017 – October 27, 2018

On October 20, 2016, the Government of Canada announced reforms to the superior courts judicial appointments process. As part of these changes and in order to increase transparency and rigour, the Government mandated the Office of the Commissioner for Judicial Affairs to collect and publish statistics and demographic information on judicial applicants and appointees. Based on voluntary disclosure by candidates through self-identification in the [Questionnaire](#) for judicial appointment, these statistics relate to diversity (see p. 3 of the candidates' Questionnaire) and language proficiency (see p. 6 of the Questionnaire).

	Total	Gender			Diversity						Language Abilities in <u>both</u> Official Languages				
		Male	Female	Other	Indigenous	Visible Minority	Ethnic/Cultural Group or other	Person with Disability	LGBTQ2	Woman	Read court materials	Discuss legal matters	Converse with counsel	Understand oral submissions	All 4 abilities ²
Applications Received	252	115	137	0	10	24	44	5	16	137	93	83	77	82	73

	Total	Gender			Diversity						Language Abilities in <u>both</u> Official Languages				
		Male	Female	Other	Indigenous	Visible Minority	Ethnic/Cultural Group or other	Person with Disability	LGBTQ2	Woman	Read court materials	Discuss legal matters	Converse with counsel	Understand oral submissions	All 4 abilities ²
Candidates Assessed	629	343	286	0	23	58	126	16	33	286	248	199	201	211	187
Candidates Highly Rec. ¹	125	61	64	0	5	11	20	0	5	64	50	44	43	44	41
Candidates Recommended ¹	132	63	69	0	3	9	24	3	8	69	50	38	38	43	38
Candidates Unable to Rec. ¹	372	219	153	0	15	38	82	13	20	153	148	117	120	124	108
Judges Appointed	79	33	46	0	3	7	11	2	6	46	26	23	22	23	21

Please note that in addition to the 79 candidates appointed, 19 other judges were appointed or elevated to other courts during the same period; 8 men and 11 women. For example, this would include judges appointed to courts of appeal from the trial level courts. There were therefore 98 appointments during this period.

1. Please note that in their application, candidates may apply to more than one court. A candidate can therefore obtain a rating of "highly recommended" for one court, "recommended" for another and "unable to recommend" for yet another court. For ease of reference, the above statistics reflect the highest rating candidates may have received from the Judicial Advisory Committees.

2. Please note that two additional questions were added to the [Questionnaire \(p. 6\)](#) in November 2017. Statistics reflecting these questions will be included in next year's publication once sufficient data has been collected.

Periods:

- [October 28, 2023 – October 28, 2024](#)
- [October 29, 2022 – October 27, 2023](#)
- [October 29, 2021 – October 28, 2022](#)
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- [October 28, 2019 – October 29, 2020](#)
- [October 28, 2018 – October 28, 2019](#)
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Statistics regarding Judicial Applicants and Appointees

October 21, 2016 – October 27, 2017

On October 20, 2016, the Government of Canada announced reforms to the superior courts judicial appointments process. As part of these changes and in order to increase transparency and rigour, the Government mandated the Office of the Commissioner for Judicial Affairs to collect and publish statistics and demographic information on judicial applicants and appointees. Based on voluntary disclosure by candidates through self-identification in the [Questionnaire](#) for judicial appointment, these statistics relate to diversity (see p. 3 of the candidates' Questionnaire) and language proficiency (see p. 6 of the Questionnaire).

	Total	Gender			Diversity						Language Abilities in both Official Languages				
		Male	Female	Other	Indigenous	Visible Minority	Ethnic/Cultural Group or other	Person with Disability	LGBTQ2	Woman	Read court materials	Discuss legal matters	Converse with counsel	Understand oral submissions	All 4 abilities
Applications Received	997	570	427	0	36	97	190	23	51	427	406	323	323	345	300

	Total	Gender			Diversity						Language Abilities in <u>both</u> Official Languages				
		Male	Female	Other	Indigenous	Visible Minority	Ethnic/Cultural Group or other	Person with Disability	LGBTQ2	Woman	Read court materials	Discuss legal matters	Converse with counsel	Understand oral submissions	All 4 abilities
Candidates Assessed	441	256	185	0	11	42	80	10	23	185	196	157	153	167	143
Candidates Highly Rec. ¹	129	75	54	0	5	13	18	2	6	54	68	55	57	59	53
Candidates Recommended ¹	82	47	35	0	2	6	16	0	6	35	42	33	31	37	31
Candidates Unable to Rec. ¹	230	134	96	0	4	23	46	8	11	96	86	69	65	71	59
Judges Appointed	74	37	37	0	3	9	15	1	4	37	34	26	25	28	24

Please note that in addition to the 74 candidates appointed, 12 other judges were appointed or elevated to other courts during the same period; 5 men and 7 women. For example, this would include judges appointed to courts of appeal from the trial level courts. There were therefore 86 appointments during this period.

1. Please note that in their application, candidates may apply to more than one court. A candidate can therefore obtain a rating of "highly recommended" for one court, "recommended" for another and "unable to recommend" for yet another court. For ease of reference, the above statistics reflect the highest rating candidates may have received from the Judicial Advisory Committees.

Periods:

- [October 28, 2023 – October 28, 2024](#)
- [October 29, 2022 – October 27, 2023](#)
- [October 29, 2021 – October 28, 2022](#)
- [October 28, 2020 – October 29, 2021](#)
- [October 28, 2019 – October 29, 2020](#)
- [October 28, 2018 – October 28, 2019](#)
- [October 28, 2017 – October 27, 2018](#)
- [October 21, 2016 – October 27, 2017](#)

Date modified: 2017-11-20

TAB 5



CANADA

CONSOLIDATION

CODIFICATION

Federal Courts Act

Loi sur les Cours fédérales

R.S.C., 1985, c. F-7

L.R.C. (1985), ch. F-7

Current to December 15, 2024

À jour au 15 décembre 2024

Last amended on June 20, 2024

Dernière modification le 20 juin 2024

Barristers, Advocates, Attorneys and Solicitors

Barrister or advocate

11 (1) Every person who is a barrister or an advocate in a province may practise as a barrister or an advocate in the Federal Court of Appeal or the Federal Court.

Attorney or solicitor

(2) Every person who is an attorney or a solicitor in a superior court of a province may practise as an attorney or a solicitor in the Federal Court of Appeal or the Federal Court.

Officers of court

(3) Every person who may practise as a barrister, an advocate, an attorney or a solicitor in the Federal Court of Appeal or the Federal Court is an officer of that Court.

R.S., 1985, c. F-7, s. 11; 2002, c. 8, s. 19.

Associate Judges

Associate judges

12 (1) The Governor in Council may appoint as associate judges of the Federal Court any fit and proper persons who are barristers or advocates in a province and who are, in the opinion of the Governor in Council, necessary for the efficient performance of the work of that court that, under the Rules, is to be performed by them.

Number of associate judges

(2) The Governor in Council may, by regulation, fix the number of associate judges that may be appointed under subsection (1).

Supernumerary associate judges

(2.1) For each office of associate judge of the Federal Court, there is an additional office of supernumerary associate judge that an associate judge of the Federal Court may elect under the *Judges Act* to hold.

Powers and duties

(3) The powers, duties and functions of the associate judges shall be determined by the Rules.

Salary, allowances and annuities

(4) Each associate judge shall be paid a salary, and the allowances and annuities, provided for under the *Judges Act*.

Avocats et procureurs

Avocats

11 (1) Les avocats qui exercent dans une province peuvent agir à titre d'avocats à la Cour d'appel fédérale ou à la Cour fédérale.

Procureurs

(2) Les procureurs auprès d'une cour supérieure provinciale peuvent agir à ce titre à la Cour d'appel fédérale ou à la Cour fédérale.

Qualité de fonctionnaire judiciaire

(3) Quiconque peut exercer à titre d'avocat ou de procureur à la Cour d'appel fédérale ou à la Cour fédérale, selon le cas, en est fonctionnaire judiciaire.

L.R. (1985), ch. F-7, art. 11; 2002, ch. 8, art. 19.

Juges adjoints

Juges adjoints

12 (1) Le gouverneur en conseil peut nommer juges adjoints de la Cour fédérale tous avocats remplissant, à son avis, les conditions voulues pour l'exécution des travaux de celle-ci qui, aux termes des règles, incombent à cette catégorie de personnel.

Nombre de juges adjoints

(2) Le gouverneur en conseil peut, par règlement, fixer le nombre de juges adjoints qui peuvent être nommés en vertu du paragraphe (1).

Juges adjoints surnuméraires

(2.1) La charge de juge adjoint de la Cour fédérale comporte également un poste de juge adjoint surnuméraire, qui peut être occupé, conformément à la *Loi sur les juges*, par un juge adjoint de ce tribunal.

Pouvoirs et fonctions

(3) Les pouvoirs et fonctions des juges adjoints sont fixés par les règles.

Traitement, indemnités et pensions

(4) Les juges adjoints reçoivent les traitements, indemnités et pensions prévus par la *Loi sur les juges*.

TAB 6



CANADA

CONSOLIDATION

CODIFICATION

Federal Courts Rules

Règles des Cours fédérales

SOR/98-106

DORS/98-106

Current to December 15, 2024

À jour au 15 décembre 2024

Last amended on January 13, 2022

Dernière modification le 13 janvier 2022

(a) detained in custody until the witness's presence is no longer required; or

(b) released on a recognizance, with or without sureties, on condition that the witness attend to give evidence.

PART 3

Rules Applicable to All Proceedings

General

Powers

Discretionary powers

47 (1) Unless otherwise provided by these Rules, if these Rules grant a discretionary power to the Court, a judge or prothonotary has jurisdiction to exercise that power on his or her own initiative or on motion.

Exercise of powers on motion

(2) Where these Rules provide that powers of the Court are to be exercised on motion, they may be exercised only on the bringing of a motion.

SOR/2007-130, s. 1.

48 [Repealed, SOR/2004-283, s. 10]

Transfer of proceedings

49 If a proceeding has been commenced in the Federal Court of Appeal or the Federal Court, a judge of that court may order that the proceeding be transferred to the other court.

SOR/2004-283, s. 10.

Prothonotaries

50 (1) A prothonotary may hear, and make any necessary orders relating to, any motion under these Rules other than a motion

(a) in respect of which these Rules or an Act of Parliament has expressly conferred jurisdiction on a judge;

(b) in the Federal Court of Appeal;

(c) for summary judgment or summary trial other than

(i) in an action referred to in subsection (2), or

a) soit de le détenir jusqu'à ce que sa présence en qualité de témoin ne soit plus requise;

b) soit de le relâcher sur engagement de comparaître, avec ou sans cautionnement.

PARTIE 3

Règles applicables à toutes les instances

Dispositions générales

Pouvoirs

Pouvoir discrétionnaire

47 (1) Sauf disposition contraire des présentes règles, le juge et le protonotaire ont compétence pour exercer, sur requête ou de leur propre initiative, tout pouvoir discrétionnaire conféré à la Cour par celles-ci.

Pouvoirs exercés sur requête

(2) Dans les cas où les présentes règles prévoient l'exercice d'un pouvoir discrétionnaire sur requête, la Cour ne peut exercer ce pouvoir que sur requête.

DORS/2007-130, art. 1.

48 [Abrogé, DORS/2004-283, art. 10]

Transfert d'instances

49 Lorsqu'une instance a été introduite en Cour d'appel fédérale ou en Cour fédérale, un juge de la cour saisie peut en ordonner le transfert à l'autre cour.

DORS/2004-283, art. 10.

Protonotaires

50 (1) Le protonotaire peut entendre toute requête présentée en vertu des présentes règles — à l'exception des requêtes suivantes — et rendre les ordonnances nécessaires s'y rapportant :

a) une requête à l'égard de laquelle les présentes règles ou une loi fédérale confèrent expressément la compétence à un juge;

b) une requête devant la Cour d'appel fédérale;

c) une requête en jugement sommaire ou en procès sommaire, sauf :

(i) dans une action visée au paragraphe (2),

(ii) in respect of a claim referred to in subsection (3);

(d) to hold a person in contempt at a hearing referred to in paragraph 467(1)(a);

(e) for an injunction;

(f) relating to the liberty of a person;

(g) to stay, set aside or vary an order of a judge, other than an order made under paragraph 385(a), (b) or (c);

(h) to stay execution of an order of a judge;

(i) to appoint a receiver;

(j) for an interim order under section 18.2 of the Act;

(k) to appeal the findings of a referee under rule 163; or

(l) for the certification of an action or an application as a class proceeding.

(ii) à l'égard d'une réclamation visée au paragraphe (3);

(d) une requête pour obtenir une condamnation pour outrage au tribunal à la suite d'une citation pour comparaître ordonnée en vertu de l'alinéa 467(1)a);

(e) une requête pour obtenir une injonction;

(f) une requête concernant la mise en liberté ou l'incarcération d'une personne;

(g) une requête pour annuler ou modifier l'ordonnance d'un juge ou pour y surseoir, sauf celle rendue aux termes des alinéas 385a), b) ou c);

(h) une requête pour surseoir à l'exécution de l'ordonnance d'un juge;

(i) une requête visant la nomination d'un séquestre judiciaire;

(j) une requête pour obtenir des mesures provisoires en vertu de l'article 18.2 de la Loi;

(k) une requête pour en appeler des conclusions du rapport d'un arbitre visée à la règle 163;

(l) une requête en vue de faire autoriser une action ou une demande comme recours collectif.

Actions not over \$100,000

(2) A prothonotary may hear an action exclusively for monetary relief, or an action *in rem* claiming monetary relief, in which no amount claimed by a party exceeds \$100,000 exclusive of interest and costs.

Class proceedings

(3) A prothonotary may hear a claim in respect of one or more individual questions in a class proceeding in which the amount claimed by a class member does not exceed \$100,000 exclusive of interest and costs.

Foreign judgment or arbitral award

(4) A prothonotary may hear an application made under rule 327 for registration of a foreign judgment or recognition and enforcement of an arbitral award.

Matters on consent

(5) Despite paragraphs (1)(c) and (k), a prothonotary may render any final judgment that could be rendered by a judge of the Federal Court, except in a proceeding in

Actions d'au plus 100 000 \$

(2) Le protonotaire peut entendre toute action visant exclusivement une réparation pécuniaire ou toute action réelle visant en outre une réparation pécuniaire dans lesquelles chaque réclamation s'élève à au plus 100 000 \$, à l'exclusion des intérêts et des dépens.

Recours collectif

(3) Le protonotaire peut entendre toute réclamation à l'égard de points individuels présentée dans un recours collectif si elle vise une réparation pécuniaire qui s'élève à au plus 100 000 \$, à l'exclusion des intérêts et des dépens.

Jugement étranger ou sentence arbitrale

(4) Le protonotaire peut entendre toute demande d'enregistrement d'un jugement étranger ou de reconnaissance et d'exécution d'une sentence arbitrale faite conformément à la règle 327.

Jugement sur consentement

(5) Malgré les alinéas (1)c) et k) et sauf dans une instance à l'égard de laquelle une loi fédérale confère expressément la compétence à un juge, le protonotaire peut

respect of which an Act of Parliament expressly confers jurisdiction on a judge, if the prothonotary is satisfied that all of the parties that will be affected by the judgment have given their consent.

SOR/2002-417, s. 8; SOR/2004-283, s. 32; SOR/2007-130, s. 2; SOR/2007-301, s. 2; SOR/2009-331, s. 1; SOR/2021-150, s. 1; SOR/2021-245, s. 1.

Appeals of Prothonotaries' Orders

Appeal

51 (1) An order of a prothonotary may be appealed by a motion to a judge of the Federal Court.

Service of appeal

(2) Notice of the motion shall be served and filed within 10 days after the day on which the order under appeal was made and at least four days before the day fixed for the hearing of the motion.

SOR/2004-283, s. 33; SOR/2007-130, s. 3.

Assessors

Role of assessor

52 (1) The Court may call on an assessor

- (a)** to assist the Court in understanding technical evidence; or
- (b)** to provide a written opinion in a proceeding.

Fees and disbursements

(2) An order made under subsection (1) shall provide for payment of the fees and disbursements of the assessor.

Communications with assessor

(3) All communications between the Court and an assessor shall be in open court.

Form and content of question

(4) Before requesting a written opinion from an assessor, the Court shall allow the parties to make submissions in respect of the form and content of the question to be asked.

Answer by assessor

(5) Before judgment is rendered, the Court shall provide the parties with the questions asked of, and any opinion given by, an assessor and give them an opportunity to make submissions thereon.

prononcer tout jugement final qu'un juge de la Cour fédérale a le pouvoir de prononcer s'il est convaincu que les parties intéressées y consentent.

DORS/2002-417, art. 8; DORS/2004-283, art. 32; DORS/2007-130, art. 2; DORS/2007-301, art. 2; DORS/2009-331, art. 1; DORS/2021-150, art. 1; DORS/2021-245, art. 1.

Appel des ordonnances du protonotaire

Appel

51 (1) L'ordonnance du protonotaire peut être portée en appel par voie de requête présentée à un juge de la Cour fédérale.

Signification de l'appel

(2) L'avis de la requête est signifié et déposé dans les 10 jours suivant la date de l'ordonnance frappée d'appel et au moins quatre jours avant la date prévue pour l'audition de la requête.

DORS/2004-283, art. 33; DORS/2007-130, art. 3.

Asseseurs

Services d'un assesseur

52 (1) La Cour peut demander à un assesseur :

- a)** de l'aider à comprendre des éléments de preuve techniques;
- b)** de fournir un avis écrit dans une instance.

Honoraires et débours

(2) L'ordonnance rendue en application du paragraphe (1) doit prévoir le paiement des honoraires et débours de l'assesseur.

Communications avec l'assesseur

(3) Les communications entre la Cour et l'assesseur se font en audience publique.

Forme et contenu de la question

(4) Avant de demander un avis écrit de l'assesseur, la Cour donne aux parties l'occasion de présenter leurs observations sur la forme et le contenu de la question à soumettre.

Réponse de l'assesseur

(5) Avant de rendre jugement, la Cour transmet aux parties la question soumise et l'avis de l'assesseur et leur donne l'occasion de présenter leurs observations à cet égard.

paragraph 380(1)(b) or (2)(b), and no order under rule 385 has been made in accordance with that paragraph, the plaintiff or applicant, within 20 days of the date of the order, shall serve and file a proposed timetable for the completion of the steps necessary to advance the proceeding in an expeditious manner.

SOR/2007-214, s. 1.

Representations of plaintiff or applicant

382 (1) If a notice of status review is issued in respect of an action or an application, the plaintiff or applicant, within 15 days of the date of the notice of status review, shall serve and file representations stating the reasons why the proceeding should not be dismissed for delay. The representations shall include a justification for the delay and a proposed timetable for the completion of the steps necessary to advance the proceeding in an expeditious manner.

Representations of defendant or respondent

(2) The defendant or respondent may serve and file representations within seven days after being served with the representations of the plaintiff or applicant.

Reply

(3) The plaintiff or applicant may serve and file a reply within four days after being served with the representations of the defendant or respondent.

SOR/2007-214, s. 1.

Review to be in writing

382.1 (1) Unless the Court directs otherwise, a status review of a proceeding commenced in the Federal Court shall be conducted on the basis of the written representations of the parties.

Review by the Court

(2) A judge or prothonotary shall conduct a status review and may

(a) if he or she is not satisfied that the proceeding should continue, dismiss the proceeding; or

(b) if he or she is satisfied that the proceeding should continue, order that it continue as a specially managed proceeding and may make an order under rule 385.

SOR/2007-214, s. 1.

application des alinéas 380(1)b) ou (2)b) et qu'aucune ordonnance prévue à la règle 385 n'a été rendue en application de ces alinéas, le demandeur signifie et dépose, dans les vingt jours de la date de l'ordonnance, un projet d'échéancier indiquant les mesures nécessaires pour faire avancer l'instance de façon expéditive.

DORS/2007-214, art. 1.

Prétentions du demandeur

382 (1) Si l'action ou la demande fait l'objet d'un avis d'examen de l'état de l'instance, le demandeur signifie et dépose, dans les quinze jours de la date de l'avis d'examen de l'état de l'instance, ses prétentions énonçant les raisons pour lesquelles l'instance ne devrait pas être rejetée pour cause de retard. Ces prétentions comprennent notamment une justification du retard et un projet d'échéancier indiquant les mesures nécessaires pour faire avancer l'instance de façon expéditive.

Prétentions du défendeur

(2) Le défendeur peut signifier et déposer ses prétentions dans les sept jours suivant la signification des prétentions du demandeur.

Réponse

(3) Le demandeur peut signifier et déposer une réponse dans les quatre jours suivant la signification des prétentions du défendeur.

DORS/2007-214, art. 1.

Examen sur pièces

382.1 (1) Sauf directives contraires de la Cour, l'examen de l'état de l'instance devant la Cour fédérale se fait uniquement sur la base des prétentions écrites des parties.

Examen de la Cour

(2) Un juge ou un protonotaire procède à l'examen de l'état de l'instance et peut :

a) s'il n'est pas convaincu que l'instance doit se poursuivre, la rejeter;

b) s'il est convaincu que l'instance doit se poursuivre, ordonner qu'elle se poursuive à titre d'instance à gestion spéciale et rendre toute ordonnance prévue à la règle 385.

DORS/2007-214, art. 1.

Status Review — Federal Court of Appeal

Application or appeal — Federal Court of Appeal

382.2 If, in an application or appeal commenced in the Federal Court of Appeal, 180 days have elapsed since the issuance of the notice of application or appeal and no requisition for a hearing date has been filed, the Court may issue a notice of status review in Form 382.2 to the parties.

SOR/2007-214, s. 1.

Representations when applicant or appellant in default

382.3 (1) If the party in default is the applicant or the appellant, that party, within 30 days after the issuance of the notice of status review, shall serve and file representations stating the reasons why the proceeding should not be dismissed for delay. The representations shall include a justification for the delay and a proposed timetable for the completion of the steps necessary to advance the proceeding in an expeditious manner.

Representations when respondent in default

(2) If the party in default is the respondent, that party, within 30 days after the issuance of the notice of status review, shall serve and file representations stating the reasons why default judgment should not be entered. The representations shall include a justification for the delay and a proposed timetable for the completion of the steps necessary to advance the proceeding in an expeditious manner.

Representations of the other party

(3) The other party may serve and file representations within 10 days after being served with the representations of the party that is in default.

Definition of *party in default*

(4) In this rule and rule 382.4, *party in default* means the party that failed to take the next chronological step required by these Rules after the last step that was completed.

SOR/2007-214, s. 1.

Review to be in writing

382.4 (1) Unless the Court directs otherwise, a status review of a proceeding commenced in the Federal Court

Examen de l'état de l'instance — Cour d'appel fédérale

Cour d'appel fédérale — demande ou appel

382.2 Dans le cas d'une demande ou d'un appel présenté devant la Cour d'appel fédérale, si cent quatre-vingts jours se sont écoulés depuis la délivrance de l'avis de demande ou de l'avis d'appel et qu'aucune demande d'audience n'a été déposée, la Cour peut délivrer aux parties un avis d'examen de l'état de l'instance, établi selon la formule 382.2.

DORS/2007-214, art. 1.

Prétentions du demandeur ou de l'appellant qui est en défaut

382.3 (1) Si la partie qui est en défaut est le demandeur ou l'appellant, celle-ci signifie et dépose, dans les trente jours suivant la délivrance de l'avis d'examen de l'état de l'instance, ses prétentions énonçant les raisons pour lesquelles l'instance ne devrait pas être rejetée pour cause de retard. Ces prétentions comprennent notamment une justification du retard et un projet d'échéancier indiquant les mesures nécessaires pour faire avancer l'instance de façon expéditive.

Prétentions du défendeur ou de l'intimé qui est en défaut

(2) Si la partie qui est en défaut est le défendeur ou l'intimé, celle-ci signifie et dépose, dans les trente jours suivant la délivrance de l'avis d'examen de l'état de l'instance, ses prétentions énonçant les raisons pour lesquelles il n'y a pas lieu d'enregistrer un jugement par défaut. Ces prétentions comprennent notamment une justification du retard et un projet d'échéancier indiquant les mesures nécessaires pour faire avancer l'instance de façon expéditive.

Prétentions de l'autre partie

(3) L'autre partie peut signifier et déposer ses prétentions dans les dix jours suivant la signification des prétentions de la partie qui est en défaut.

Définition de « *partie en défaut* »

(4) Pour l'application de la présente règle et de la règle 382.4, est en défaut la partie qui omet de prendre la mesure qui, selon les présentes règles, doit suivre la dernière mesure prise.

DORS/2007-214, art. 1.

Examen sur pièces

382.4 (1) Sauf directives contraires de la Cour, l'examen de l'état de l'instance devant la Cour d'appel fédérale

of Appeal shall be conducted on the basis of the written representations of the parties.

Review by a judge

(2) A judge shall conduct a status review and may

(a) if he or she is not satisfied that the proceeding should continue and

(i) the party in default is the applicant or the appellant, dismiss the proceeding, or

(ii) the party in default is the respondent, grant judgment in favour of the applicant or appellant or order the applicant or appellant to proceed to prove entitlement to the judgment claimed; or

(b) if he or she is satisfied that the proceeding should continue,

(i) give any directions that are necessary for the just, most expeditious and least expensive outcome of the proceeding, and

(ii) fix the period for completion of subsequent steps in the proceeding.

SOR/2007-214, s. 1; SOR/2021-244, s. 18(E).

Specially Managed Proceedings

Case management judges — Federal Court

383 The Chief Justice of the Federal Court may assign

(a) one or more judges to act as a case management judge in a proceeding;

(b) one or more prothonotaries to act as a case management judge in a proceeding; or

(c) a prothonotary to assist in the management of a proceeding.

SOR/2004-283, s. 22; SOR/2007-214, s. 2.

Case management judges — Federal Court of Appeal

383.1 The Chief Justice of the Federal Court of Appeal may assign one or more judges to act as a case management judge in a proceeding.

SOR/2004-283, s. 23.

Order for special management

384 The Court may at any time order that a proceeding continue as a specially managed proceeding.

SOR/2007-214, s. 3.

se fait uniquement sur la base des prétentions écrites des parties.

Examen du juge

(2) Un juge procède à l'examen de l'état de l'instance et peut :

a) s'il n'est pas convaincu que l'instance doit se poursuivre :

(i) dans le cas où la partie qui est en défaut est le demandeur ou l'appelant, la rejeter,

(ii) dans le cas où la partie qui est en défaut est le défendeur ou l'intimé, rendre un jugement en faveur du demandeur ou de l'appelant ou lui ordonner de démontrer qu'il a droit au jugement demandé;

b) s'il est convaincu que l'instance doit se poursuivre :

(i) donner toute directive nécessaire pour permettre d'apporter une solution au litige qui soit juste et la plus expéditive et économique possible,

(ii) fixer les délais applicables aux mesures à prendre subséquentement dans l'instance.

DORS/2007-214, art. 1; DORS/2021-244, art. 18(A).

Instance à gestion spéciale

Juge responsable — Cour fédérale

383 Le juge en chef de la Cour fédérale peut :

a) affecter un ou plusieurs juges à titre de juge responsable de la gestion d'une instance;

b) affecter un ou plusieurs protonotaires à titre de juge responsable de la gestion d'une instance;

c) affecter un protonotaire pour aider à la gestion d'une instance.

DORS/2004-283, art. 22; DORS/2007-214, art. 2.

Juge responsable — Cour d'appel fédérale

383.1 Le juge en chef de la Cour d'appel fédérale peut affecter un ou plusieurs juges à titre de juge responsable de la gestion d'une instance.

DORS/2004-283, art. 23.

Ordonnance de poursuivre à titre d'instance à gestion spéciale

384 La Cour peut, à tout moment, ordonner que l'instance se poursuive à titre d'instance à gestion spéciale.

DORS/2007-214, art. 3.

Class proceedings

384.1 A proceeding commenced by a member of a class of persons on behalf of the members of that class shall be conducted as a specially managed proceeding.

SOR/2002-417, s. 23; SOR/2007-301, s. 9.

Powers of case management judge or prothonotary

385 (1) Unless the Court directs otherwise, a case management judge or a prothonotary assigned under paragraph 383(c) shall deal with all matters that arise prior to the trial or hearing of a specially managed proceeding and may

- (a) give any directions or make any orders that are necessary for the just, most expeditious and least expensive outcome of the proceeding;
- (b) notwithstanding any period provided for in these Rules, fix the period for completion of subsequent steps in the proceeding;
- (c) fix and conduct any dispute resolution or pre-trial conferences that he or she considers necessary; and
- (d) subject to subsection 50(1), hear and determine all motions arising prior to the assignment of a hearing date.

Order for status review

(2) A case management judge or a prothonotary assigned under paragraph 383(c) may, at any time, order that a status review be held in accordance with this Part.

Order to cease special management

(3) A case management judge or a prothonotary assigned under paragraph 383(c) may order that a proceeding, other than a class proceeding, cease to be conducted as a specially managed proceeding, in which case the periods set out in these Rules for taking any subsequent steps apply.

SOR/2002-417, s. 24; SOR/2007-214, s. 4; SOR/2007-301, s. 10(E); SOR/2013-18, s. 14; SOR/2021-244, s. 19(E).

Recours collectif

384.1 L'instance introduite par un membre d'un groupe de personnes au nom du groupe est une instance à gestion spéciale.

DORS/2002-417, art. 23; DORS/2007-301, art. 9.

Pouvoirs du juge ou du protonotaire responsable de la gestion de l'instance

385 (1) Sauf directives contraires de la Cour, le juge responsable de la gestion de l'instance ou le protonotaire visé à l'alinéa 383c) tranche toutes les questions qui sont soulevées avant l'instruction de l'instance à gestion spéciale et peut :

- a) donner toute directive ou rendre toute ordonnance nécessaires pour permettre d'apporter une solution au litige qui soit juste et la plus expéditive et économique possible;
- b) sans égard aux délais prévus par les présentes règles, fixer les délais applicables aux mesures à entreprendre subséquemment dans l'instance;
- c) organiser et tenir les conférences de règlement des litiges et les conférences préparatoires à l'instruction qu'il estime nécessaires;
- d) sous réserve du paragraphe 50(1), entendre les requêtes présentées avant que la date d'instruction soit fixée et statuer sur celles-ci.

Ordonnance d'examen de l'état de l'instance

(2) Le juge responsable de la gestion de l'instance ou le protonotaire visé à l'alinéa 383c) peut, à tout moment, ordonner que soit tenu un examen de l'état de l'instance en conformité avec la présente partie.

Ordonnance

(3) Sauf s'il s'agit d'un recours collectif, le juge responsable de la gestion de l'instance ou le protonotaire visé à l'alinéa 383c) peut ordonner qu'une instance ne soit plus considérée comme une instance à gestion spéciale, auquel cas les délais prévus aux présentes règles s'appliquent aux mesures prises subséquemment.

DORS/2002-417, art. 24; DORS/2007-214, art. 4; DORS/2007-301, art. 10(A); DORS/2013-18, art. 14; DORS/2021-244, art. 19(A).

Dispute Resolution Services

Order for dispute resolution conference

386 (1) The Court may order that a proceeding, or any issue in a proceeding, be referred to a dispute resolution conference, to be conducted in accordance with rules 387 to 389 and any directions set out in the order.

Time limit for dispute resolution conference

(2) Unless the Court orders otherwise, a dispute resolution conference shall be completed within 30 days.

Interpretation

387 A dispute resolution conference shall be conducted by a case management judge or prothonotary assigned under paragraph 383(c), who may

- (a)** conduct a mediation, to assist the parties by meeting with them together or separately to encourage and facilitate discussion between them in an attempt to reach a mutually acceptable resolution of the dispute;
- (b)** conduct an early neutral evaluation of a proceeding, to evaluate the relative strengths and weaknesses of the positions advanced by the parties and render a non-binding opinion as to the probable outcome of the proceeding; or
- (c)** conduct a mini-trial, presiding over presentation by counsel for the parties of their best case and rendering a non-binding opinion as to the probable outcome of the proceeding.

Confidentiality

388 Discussions in a dispute resolution conference and documents prepared for the purposes of such a conference are confidential and shall not be disclosed.

Notice of settlement

389 (1) Where a settlement of all or part of a proceeding is reached at a dispute resolution conference,

- (a)** it shall be reduced to writing and signed by the parties or their solicitors; and
- (b)** a notice of settlement in Form 389 shall be filed within 10 days after the settlement is reached.

Services de règlement des litiges

Ordonnance de la Cour

386 (1) La Cour peut ordonner qu'une instance ou une question en litige dans celle-ci fasse l'objet d'une conférence de règlement des litiges, laquelle est tenue conformément aux règles 387 à 389 et aux directives énoncées dans l'ordonnance.

Durée de la conférence

(2) Sauf ordonnance contraire de la Cour, la conférence de règlement des litiges ne peut s'étendre sur plus de 30 jours.

Définition

387 La conférence de règlement des litiges est présidée par un juge responsable de la gestion de l'instance ou le protonotaire visé à l'alinéa 383(c), lequel :

- a)** s'il procède par médiation, aide les parties en les rencontrant ensemble ou individuellement afin de susciter et de faciliter les discussions entre elles dans le but de trouver une solution au litige qui convienne à chacune d'elles;
- b)** s'il procède par une évaluation objective préliminaire de l'instance, évalue les points forts et les points faibles respectifs des positions formulées par les parties et leur donne son opinion — à caractère non obligatoire — sur le résultat probable de l'instance;
- c)** s'il procède par mini-procès, préside la présentation des arguments des avocats des parties et leur donne son opinion — à caractère non obligatoire — sur le résultat probable de l'instance.

Confidentialité

388 Les discussions tenues au cours d'une conférence de règlement des litiges ainsi que les documents élaborés pour la conférence sont confidentiels et ne peuvent être divulgués.

Avis de règlement

389 (1) Si l'instance est réglée en tout ou en partie à la conférence de règlement des litiges :

- a)** le règlement obtenu est consigné et signé par les parties ou leurs avocats;
- b)** un avis de règlement, établi selon la formule 389, est déposé dans les 10 jours suivant la date du règlement.

TAB 7

A new generation of judges is redefining what Canada's top courts look like

DAVID EBNER > JUSTICE REPORTER

VANCOUVER

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Leonard Marchand, centre, Chief Justice of the B.C. and Yukon Courts of Appeal, leaves after a formal ceremony to welcome him to the new role, in Vancouver, on Feb. 8. Marchand is from the Syilx Okanagan Nation and is the first Indigenous person to be appointed as chief justice in the province.

DARRYL DYCK/THE CANADIAN PRESS

A year ago, Leonard Marchand became the first Indigenous chief justice of British Columbia, appointed to lead the province's Court of Appeal. His job in downtown Vancouver is light-years from his father's childhood in the B.C. Interior.

The elder Leonard Marchand attended an Indian Day School in the Okanagan and then a residential school in Kamloops before going on to high school, the University of British Columbia and a long life as a trailblazer. In 1968, Mr. Marchand was the first status Indian elected to Parliament. He later served in the Senate.

The younger Mr. Marchand, with advantages his father did not have, first worked as an engineer before becoming a lawyer. Yet, after two decades in law during which he helped negotiate the residential schools settlement agreement, Chief Justice Marchand still felt uncertain when he first applied to become a provincial court judge in the early 2010s.

“It’s not easy to do,” he said of putting his name forward. “It’s not easy to think of yourself in that way.”

Chief Justice Marchand, along with chief justices in Alberta, Ontario and elsewhere, is among a new generation of judges across Canada who have redefined what the bench looks like on the country’s top courts, from the Supreme Court in Ottawa to provincial appeal and superior courts.

A decade ago, and forever before that, a clear majority of judges on Canada’s most important courts were white men. That began to change after the federal government’s 2016 reshaping of the judicial hiring process, which in part focused on increasing diversity.

Now, among 1,180 federally appointed judges, 47 per cent are women, 6 per cent are racialized and 2 per cent are Indigenous, according to data compiled by the Office of the Commissioner of Federal Judicial Affairs in 2024. It is the first time the agency has compiled statistics on the varied backgrounds of all judges who decide the biggest cases.

Underrepresentation remains an issue, especially among Indigenous and racialized people, but recent gains are significant. In unofficial data from 2016, compiled by a former senior federal civil servant in Policy Options magazine, 30 per cent of judges at the time on federally appointed benches were women, 2 per cent were racialized and 1 per cent were Indigenous.

Chief Justice Marchand, looking back to his father's boyhood and his own career, made the case for the value of diversity among judges.

“The law is the law and has to be approached impartially by all judges, but the interpretation and application of the law varies among judges – we know that,” he said. “It’s been a good thing over time to have judges from different backgrounds, because it leads to better law and better justice and better outcomes.”

Judges appointed to the federal benches are decided by the prime minister, justice minister and cabinet, but the process, since the late 1980s, starts with 17 judicial advisory committees across the country. They assess applicants and make recommendations to Ottawa.

In 2016, the Liberals overhauled the process and made “greater diversity on the bench” a specific goal. “To look more like Canada,” wrote Jody Wilson-Raybould, the first Indigenous federal justice minister and the one who led the changes, in her 2021 book *Indian in the Cabinet*.

The advisory committees were asked to identify “outstanding jurists” with a wide range of backgrounds and legal experience. Ottawa for the first time also started to publish annual diversity data on applicants, candidates recommended by the committees and new judges.

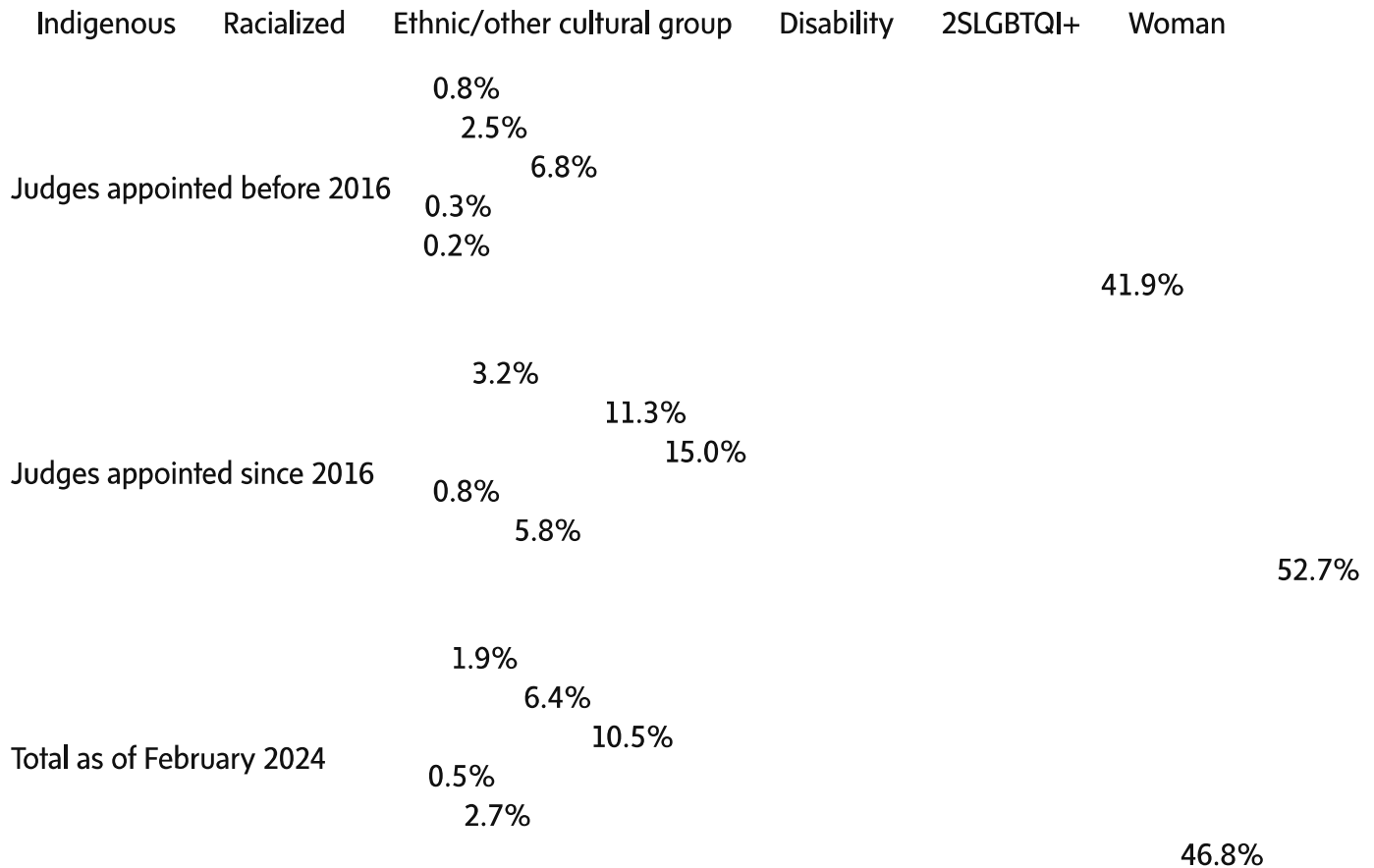
Up until 2016, the top judicial ranks were dominated by white men, chosen by Liberal and Conservative governments alike. From 2007 through 2015, when Stephen Harper was prime minister, two-thirds of 701 appointments were men, according to earlier data on gender from Federal Judicial Affairs. For several years, almost all new judges appointed by Mr. Harper’s government were white, a 2012 Globe story reported.

The federal Conservative Party did not respond to requests for comment.

In the new data compiled by Federal Judicial Affairs, with numbers as of February, 2024, the shift under Prime Minister Justin Trudeau is distinct.

A more diverse bench

Canada's top courts today are overseen by a more diverse group of judges, following the federal government's 2016 changes to the judicial hiring process



Note: Includes all working judges, full- and part-time, as of Feb. 1, 2024.

DAVID EBNER / THE GLOBE AND MAIL, SOURCE: OFFICE OF THE COMMISSIONER OF FEDERAL JUDICIAL AFFAIRS CANADA

Of 647 judges appointed before 2016 and serving as of early 2024, about 40 per cent – 271 people – are women. There are five Indigenous people and 16 racialized people. There is one person who identifies as LGBTQ.

Of the 533 judges appointed since 2016, more than 50 per cent – 281 people – are women. There are 17 Indigenous people and 60 racialized people; 31 people identify as LGBTQ.

Change perhaps is easiest to see at the top. From 1875, when the Supreme Court of Canada was established, to late 2015, when Mr. Trudeau's Liberals won power, 86 people had been appointed to the top court: 77 men and nine women.

Mr. Trudeau's most recent Supreme Court appointment, Mary Moreau in 2023, shifted the top bench for the first time to a majority of women, five of the nine

justices. In 2021, Mahmud Jamal became the first racialized person to serve on the country's top court. In 2022, Michelle O'Bonsawin became its first Indigenous justice.

Federal Justice Minister Arif Virani, whose family came to Canada as refugees from Uganda in 1972 when he was an infant, said merit and legal ability are the top priorities when appointing people to the bench but diversity among judges is essential. He also pointed to a record number of new judges appointed in 2024, countering criticism that the push for diversity worsened a spate of judicial vacancies in recent years.

“Diversity helps the strength of the bench, and the quality of the jurisprudence they produce,” Mr. Virani said, “but it also helps with the confidence that Canadians have in the administration of justice by seeing themselves reflected in it.”



Premier Doug Ford (left to right), Ontario Chief Justice Michael Tulloch and Edith Dumont clap during the installation ceremony of Ontario's 30th Lieutenant Governor in the Queen's Park Legislative Chamber in Toronto, on Nov 14, 2023.

ANDREW LAHODYNSKYJ/THE CANADIAN PRESS

The legal profession, including the Canadian Bar Association in 2013 and in 2020, has long advocated for more judicial diversity. Supreme Court Chief Justice Richard Wagner has extolled the value of diversity in speeches and his annual press conferences.

While diversity has increased, there are still major areas of underrepresentation.

The first full look at judicial diversity from Federal Judicial Affairs will be updated each year. New data should land in March, the second annual look at all older and newer judges serving on the top courts.

These numbers are in addition to the annual tally of applicants, candidates recommended and judges hired, for which Federal Judicial Affairs has published diversity statistics since 2017.

A comparison of the initial annual numbers in 2017 with the latest numbers in 2024 shows an increase in the percentage of women and racialized people applying but little change among Indigenous applicants. The percentage of women hired in 2024 was higher than in 2017, but the percentage of racialized people and Indigenous people was roughly the same.

Of 1,180 judges, 1.9 per cent are Indigenous, compared with 5 per cent of Canada's population. According to Statistics Canada, 27 per cent of the country's work force are racialized people and 19 per cent of lawyers are racialized, but only 6 per cent of judges are racialized.

Women have made the most progress. Of 28 chief justices in Canada, for example, 15 are men and 13 are women, but most of them are white. Sylvia Guirguis, a lawyer at Singer Kwinter in Toronto, has argued for a greater diversity among women hired as judges, but she underscored the importance of the increase of women on the bench.

Ms. Guirguis recalled being a student when Supreme Court Justice Andromache Karakatsanis visited Osgoode Hall Law School in the early 2010s. Justice Karakatsanis had been appointed to the top court by Mr. Harper in 2011.

"It's a really big deal to see yourself reflected on the bench," Ms. Guirguis said.

There has been a series of firsts in recent years. Among them are Chief Justice Michael Tulloch in Ontario, the first Black provincial Chief Justice; Deborah Fry, the first woman to serve as chief justice of Newfoundland and Labrador; and Shannon Smallwood, the first Indigenous person to serve as chief justice of the Northwest Territories superior court.

The firsts also include Ritu Khullar, Alberta's chief justice, appointed to run the province's Court of Appeal in late 2022. She is the first woman of South Asian descent to become a provincial chief justice – and she's experienced the wider resonance of what diversity means.

“I have been struck, after I was appointed to the bench, by how many people who I didn't know came up to me and told me how important my appointment was to them, and the impact it had on them,” Chief Justice Khullar said. “And I was actually quite taken back. I had not appreciated the impact that would have.”



Alberta's Chief Justice, the Honourable Ritu Khullar.

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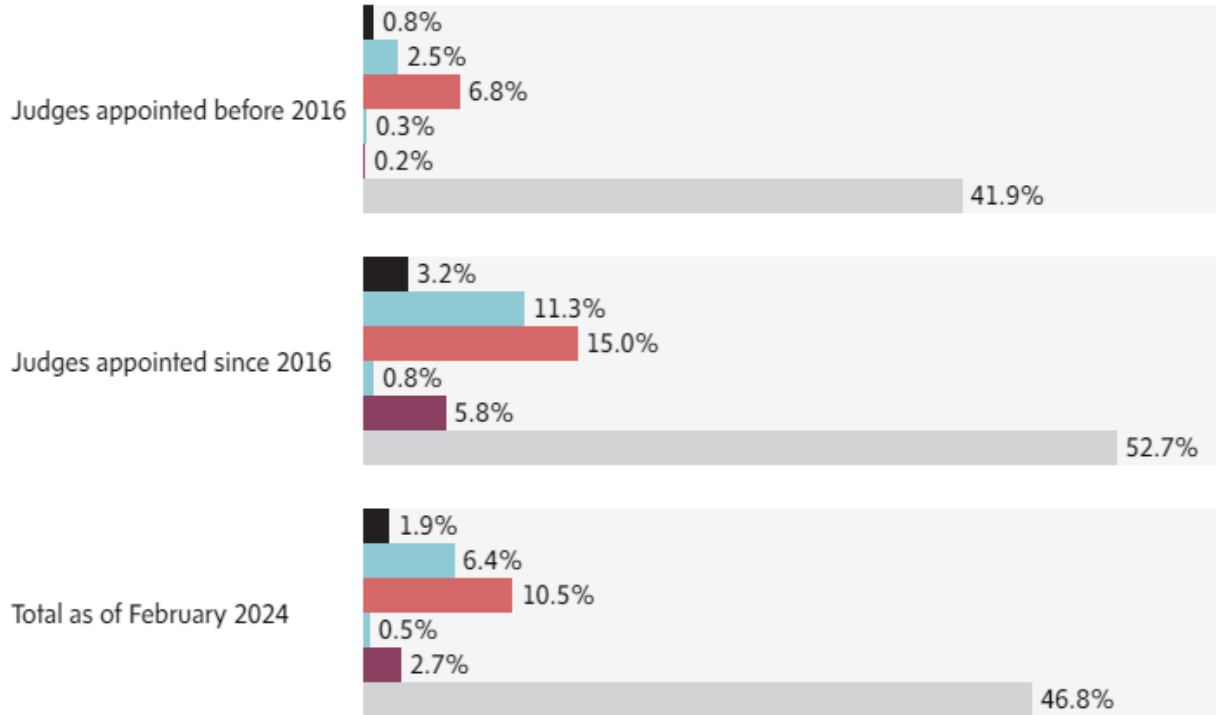
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A more diverse bench

Canada's top courts today are overseen by a more diverse group of judges, following the federal government's 2016 changes to the judicial hiring process

● Indigenous ● Racialized ● Ethnic/other cultural group ● Disability ● 2SLGBTQI+ ● Woman



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