



L'ASSOCIATION DU
BARREAU CANADIEN

THE CANADIAN
BAR ASSOCIATION

December 11, 2024

Via email: mcu@justice.gc.ca

The Honourable Arif Virani, P.C., M.P.
Minister of Justice
284 Wellington Street
Ottawa, ON K1A 0H8

Dear Minister Virani:

Re: Courts Administration Service Funding

We write on behalf of the Canadian Bar Association members of the Federal Courts Bench and Bar Committee, the Tax Court of Canada Bench and Bar Committee, the Access to Justice Committee (CBA Committees), the Immigration Law Section, the Intellectual Property Law Section, the French Speaking Common Law members and the CBA Quebec Branch to express our support for the Courts Administration Service (CAS) off cycle budget request to access proper funding to comply with new and existing *Official Languages Act* (OLA) requirements and the unprecedented rise in case volumes and complexity of which immigration cases are the largest volume driver. We are particularly concerned with the 35 million dollar shortfall as reported in the National Post¹. We specifically address delays related to translation and immigration in the present letter.

The CBA Committees consist of CBA members representing areas of law in the core jurisdiction of the Federal Courts and Tax Court along with the promotion of access to justice to the poor and middle class. They provide a forum to discuss issues of court practice amongst the judges, the CAS, Justice Canada and lawyers that are of mutual concern to the bar and the bench. The Immigration Law Section has approximately 1,100 members across Canada practicing in all areas of immigration and refugee law and the French Speaking Common Law members represents and supports the interests of francophone members of the CBA who live in common law provinces and territories. The Intellectual Property Law Section deals with law and practice relating to all forms of ownership, licensing, transfer and protection of intellectual property and related property rights.

The amendments to OLA expanded the obligation of courts to render decisions of “precedential value” available simultaneously in both official languages as of June 2024. We understand that to comply with new and existing OLA obligations, CAS applied for funding asking for \$37.7M over 3 years, and \$15M of ongoing funding. In the 2024 Federal Budget, CAS received \$9.6M, equally distributed over the next 3 years, with no ongoing funding. This investment represents 25% of the OLA budget request.

¹ National Post, December 5, 2024 : [online](#)

With current funding levels, CAS will not be able to adequately support the Courts to simultaneously issue cases of precedential value in both official languages as contemplated by Bill C-13. Specifically, there will be delays in translation and revision, and the growth in translation backlogs for non-precedential decisions will likely also continue to increase beyond its present 2-year delay. This will limit access to justice in both languages and likely raise concerns from official languages communities, the Bar and the Commissioner of Official Languages.

Moreover, we understand that the lack of funding and rising caseloads poses a significant challenge to the ongoing operations of the four national Courts and CAS's ability to maintain core operations. This in turn directly impacts access to justice and raises serious concerns about the integrity of the justice system, as well as the public's trust in it. For example, immigration cases have quadrupled since pre-COVID, moving from an average of about 6,000 cases per year in the five years before the pandemic to an expected 24,000 cases in 2024. We understand that, without adequate funding, the Courts will be forced to reduce services both in terms of number of hearings and support to litigants. They could see case reductions of 400 per year with the backlog growing by 20% to 30% per year.

Further, the Government committed in Budget 2019 to enhance the integrity of Canada's borders and asylum system by permanently increasing the complement of Federal Court (FC) judges. Temporary funding for the required administrative services ended in March 2023, and CAS was not included in subsequent, ongoing funding requests and renewals in this area. Currently, the FC Registry is unable to process 47% of applications within the 48-hour service standard, which can add 3 to 30 days to the overall time a file is active. This sometimes prevents judges from getting documents in advance to prepare for hearings or leads them to write decisions after matters have already been discontinued. Renewed and permanent funding is needed to enable CAS to maintain its current, proportional level of support for hearings and dispositions of cases, which will in turn help in the achievement of a timelier resolution of cases by the FC, supporting the integrity of the immigration system.

Thank you for your time and consideration. If you have any further questions or concerns, please do not hesitate to contact the undersigned. We would be pleased to meet with you to discuss further.

Yours truly,

(original letter signed by Julie Terrien for Jonathan Pierre-Etienne, Jordana Sanft, Marie-France Dompierre, Jennifer Khor, Kamaljit Kaur Lehal, Andrew M. Shaughnessy and Denis Frawley)

Jonathan Pierre-Etienne
President, CBA Quebec Branch

Kamaljit Kaur Lehal
Chair, Immigration Law Section

Jordana Sanft
Chair, Federal Courts Bench and Bar Cmte

Andrew M. Shaughnessy
Chair, Intellectual Property Law Section

Marie-France Dompierre
Chair, Tax Court of Canada Bench and Bar Cmte

Denis Frawley
Chair, French Speaking Common Law Members Section

Jennifer Khor
Chair, Access to Justice Subcommittee

cc. Carreau, Darlene : Darlene.Carreau@cas-satj.gc.ca