

Federal Court



Cour fédérale

Federal Court issues first decision under Quebec’s *Code of Civil Procedure*

Ottawa, October 21, 2020 – A decision was issued today by Justice Sébastien Grammond of the Federal Court in file T-1914-19, *M.S. v. Her Majesty the Queen*.

The applicant in this case, whose identity is confidential, sought leave to institute a class action on behalf of all parents who have been deprived of the Canada Child Benefit and other allowances because their child was placed with a child welfare agency, while staying with them “part time.” In these circumstances, the Canada Revenue Agency ceases paying the benefits at issue and instead pays an allowance to the child welfare agency.

Justice Grammond denied leave to institute a class action, because the matter falls under the exclusive jurisdiction of the Tax Court of Canada. He nevertheless invited the competent authorities to consider the problematic situation that gave rise to the application.

This is the first decision issued by the Federal Court under the pilot project on procedural bijuralism. When both parties to a proceeding are represented by a member of the Barreau du Québec, this project allows Quebec’s *Code of Civil Procedure* to be substituted for the *Federal Courts Rules*.

In his decision, Justice Grammond made the following comments regarding the rationale for the pilot project:

[43] By initiating this pilot project, the Federal Courts acknowledge the significant differences in the expression of procedural law in Quebec and in the other Canadian provinces and territories. [...] Because of these differences, Quebec lawyers—especially those who appear only occasionally before the Federal Courts—may find it difficult to comply with the Rules. To promote better access to justice, the pilot project aims at removing these hurdles by allowing the Code to be substituted for the Rules.

In his remarks on September 5, 2019, announcing the launch of the pilot project, Chief Justice Paul Crampton noted: “The pilot project was inspired by a desire for a closer connection with Quebec jurists. It is consistent with our intention to provide improved access to justice in the general context of Canadian bijuralism, by making practice before the federal courts more familiar and accessible to Quebec counsel.”

For the initial pilot project announcement, see:

[Federal Courts announce procedural bijuralism pilot project](#)

For information regarding the procedure under the pilot project, see:

- [Notice to the parties and the profession](#)
- [Information document for the parties](#)
- [Consent form](#)

A copy of the decision can be obtained via the Web site of the Federal Court:
<https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/487240/index.do>.