



Ottawa, May 30, 2022 – A decision was issued today by Justice Richard Mosley of the Federal Court in file 2022 FC 645:

**IN THE MATTER OF AN APPLICATION FOR JUDICIAL AUTHORIZATIONS
PURSUANT TO SECTION 11.13 OF THE *CSIS Act*, RSC 1985, c C-23**

Summary: For the first time, the Federal Court has issued judicial authorizations for the Canadian Security Intelligence Service to retain Canadian datasets pursuant to section 11.13 of the *Canadian Security Intelligence Service Act* [*CSIS Act*].

This was the first application for judicial authorizations for the retention of datasets. Parliament created the dataset regime with amendments to the *CSIS Act* in June 2019.

The *CSIS Act* defines a dataset as a collection of information stored as an electronic record and characterized by a common subject matter. The dataset regime applies only to datasets that contain personal information and that does not directly and immediately relate to activities that represent a threat to the security of Canada. The information therefore does not fall within CSIS' section 12 mandate. For a dataset relating to Canadians or persons within Canada, it must fall within a preapproved class of datasets authorized for collection by the Minister of Public Safety and which have been approved as reasonable after review by the Intelligence Commissioner.

Following the acquisition of a Canadian dataset, until an authorization to retain is approved, CSIS cannot query the information for intelligence purposes except in exigent circumstances where life, individual safety or perishable information of significant value to national security is at risk of being lost. To retain a Canadian dataset, CSIS must obtain, with the Minister's approval, judicial authorization from the Federal Court. The Court must be satisfied that the dataset is likely to assist CSIS in the performance of its functions under the *CSIS Act*.

This application sought the retention of two Canadian datasets. Following receipt of oral evidence and submissions from the Attorney General of Canada (AGC) and the *amicus curiae* that had been appointed to assist the Court in its review of the application, the Court indicated that the authorizations would not be issued in the draft forms submitted. The Court was particularly concerned that the scope for CSIS to update and edit the datasets was too broad. The AGC submitted revised draft authorizations that limited the scope of the definition of the datasets and specified that they may only be updated in accordance with two conditions: first, CSIS is required to notify the Court of any update to the datasets, other than an update pertaining to contact information, and must place a hold on the updates should the Court require further information; second, a text be applied to any report querying or exploiting the dataset which describes the context in which the dataset was obtained to avoid any confusion about the nature and source of the information.

The Court was satisfied that the retention of the datasets was likely to assist CSIS in the performance of its duties or functions under the *CSIS Act* and authorized retention for a period of two (2) years.

A copy of the decision can be obtained via the [website](#) of the Federal Court:

<https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/521565/index.do>.