

Federal Court



Cour fédérale

Ottawa, March 28, 2024 – Justice Sébastien Grammond of the Federal Court issued a decision today in files T-611-23 and T-589-23:

**IN THE MATTERS OF
METIS SETTLEMENTS GENERAL COUNCIL
v.
THE MINISTER OF CROWN-INDIGENOUS RELATIONS AND THE MÉTIS
NATION OF ALBERTA ASSOCIATION
and
FORT MCKAY MÉTIS NATION ASSOCIATION
v.
THE MINISTER OF CROWN-INDIGENOUS RELATIONS AND THE MÉTIS
NATION OF ALBERTA ASSOCIATION**

Summary: Canada and the Métis Nation of Alberta [MNA] entered into an Agreement to recognize the self-government of a collectivity called the “Métis Nation within Alberta”. The Agreement recognizes the MNA as the exclusive representative of the Métis Nation within Alberta, in particular for the exercise of its rights protected by section 35 of the *Constitution Act, 1982*.

Canada did not consult the applicants, the Métis Settlements General Council and the Fort McKay Métis Nation Association, before entering into the Agreement. The applicants each assert section 35 rights independently of the MNA. They said that they are affected by the Agreement, because it includes them against their will in the definition of the Métis Nation within Alberta and therefore grants the MNA the exclusive power to assert their section 35 rights vis-à-vis Canada. They applied for judicial review of the Agreement, based on Canada’s breach of its duty to consult them.

The Court granted their applications. In the ordinary meaning of its terms, the Agreement defines the Métis Nation within Alberta as including the applicants. Consequently, it grants the MNA a monopoly over the applicants’ asserted section 35 rights. What it exclusively grants to the MNA, it necessarily withholds from the applicants. It prevents the applicants from negotiating separately with Canada for the recognition of their rights, effectively forcing them to assert their rights before the courts. These effects, which are far from speculative, triggered Canada’s duty to consult the applicants before entering into the Agreement. Canada’s complete lack of consultation with the applicants required the Court to quash the offending provisions of the Agreement.

The decision is posted on the [News Bulletins](#) page of the Federal Court website.